

**CITY OF SULTAN  
WASHINGTON  
ORDINANCE NO. 1307-19**

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**AN ORDINANCE OF THE CITY OF SULTAN, WASHINGTON,  
AMENDING SMC 3.30 REGARDING CLAIMS AGAINST THE  
CITY; PROVIDING FOR SEVERABILITY; AND ESTABLISHING  
AN EFFECTIVE DATE**

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WHEREAS, the Legislature recently amended RCW 4.96.020 relating to claims for damages against the state and local governmental entities;

WHEREAS, the recent amendments in ESHB 1553 requires to the City to amend its claims procedure and the content of the Claim for Damages form; and

WHEREAS, the City Council desires to amend Chapter 3.30 of the Sultan Municipal Code to reflect the changes to RCW 4.96.020;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SULTAN, WASHINGTON,  
DO ORDAIN AS FOLLOWS:

Section 1. Sultan Municipal Code 3.30 is hereby amended to read as follows:

**Chapter 3.30  
CLAIMS AGAINST THE CITY**

Sections:

- 3.30.010 Filing.
- 3.30.020 Contents of claim – Filing on behalf of claimant.
- 3.30.030 Bar to action.
- 3.30.040 Action maintained.
- 3.30.050 Duties of city clerk
- 3.30.060 Duties of city attorney.
- 3.30.070 Manner of processing claims.
- 3.30.080 Defense of city officers and employees.
- 3.30.090 Recovery of losses.
- 3.30.100 Establishment of insurance claims fund.
- 3.30.110 Authority for payment.
- 3.30.115 Conflict with insurance policies.
- 3.30.120 Invalid claim – Action prohibited.

### **3.30.010 Filing.**

Claims for damages against the city, and/or its officers, employees, or volunteers, acting in such capacity, shall be filed with the city clerk, who is hereby appointed the city's agent to receive claims. The city clerk's office is located 319 Main Street, Sultan Washington 98294. The clerk's office is open to the public Monday through Friday, between the hours of 8:00 a.m. and 5:00 p.m., except holidays. The city clerk shall immediately forward copies of such claims to the city's insurance company and/or the attorney.

### **3.30.020 Contents of claim – Filing on behalf of claimant.**

No action shall be commenced against the City in which monetary damages are being claimed until a written Claim for Damages has been presented to and filed with the City Clerk. Such a claim must name the claimant, include the claimant's address, specify the date and location of the claimed loss, describe any alleged act or omission on the part of the City and the basis upon which liability is being asserted against the City, identify any known witnesses, detail the nature and extent of the injury or damage sustained and state the amount being claimed. The claim form must be signed by the claimant or an authorized representative prior to its filing.

A lawsuit based upon the allegations of a Claim for Damages may not be instituted against the City within 60 days of the filing of such claim.

### **3.30.030 Bar to action.**

The omission to present any claim for damages or injuries against the city in the manner or within the time this chapter provides shall be a bar to any action against the city therefor.

### **3.30.040 Action maintained.**

No action shall be maintained against the city for any claim for damage or injuries until presentation and filing of such claim to the city clerk of Sultan.

### **3.30.050 Duties of City Clerk .**

Upon presentation of any claim for damages or injuries against the city, the City Clerk shall indelibly mark on such claim the date of receipt and shall forthwith deliver a true and complete copy in the appropriate manner per SMC 3.30.070.

### **3.30.060 Duties of city attorney.**

The law department shall promptly examine all claims for damages or injuries against the city submitted to it by the City Clerk of the city. The law department is authorized to conduct such investigation into the facts, circumstances and law relative to any claim for damages or injuries against the city as he, in the exercise of his discretion, may deem necessary. Such investigations may be conducted by the risk manager or claims investigators under the city attorney's directions.

### **3.30.070 Manner of processing claims.**

The City Clerk shall process claims for damages or injuries in accordance with the City's insurance policy and refer all claims to the insurance company. Claims not covered by the insurance policy, shall be referred to the City Attorney for processing.

### **3.30.080 Defense of city officers and employees.**

A. Purpose. The purpose of this section is to protect city officers, employees and their marital communities from personal liability for acts committed by such officers and employees within the scope of their official city duties.

B. Determinations of Scope and Status. The city attorney shall determine any and all questions relating to the following issues:

1. Whether acts performed by a city officer or employee were within the scope of that person's official city duties; and

2. Whether for purposes of the issues raised by a claims lawsuit, a particular person is in fact, a city officer or employee.

C. Responsibility for Defense. Where a city officer, employee, or the marital community of such officer or employee is sued in a claims lawsuit for an act or alleged act falling within the scope of the officer's or employee's official duties, the city attorney shall be responsible for defense of that person or community in accordance with the procedure specified within this title.

D. Exclusions. This section shall not apply where a claims lawsuit is covered by insurance or where a claims lawsuit arises out of a city officer's or employee's use of his personal vehicle.

E. Possible Conflicts. Where a possible conflict exists between the city and a city official or employee acting within the scope of his or her official duties, and where both are named as parties in the same claims lawsuit, the city attorney may decline to represent that person and his or her marital community. In such cases where the city attorney declines representation, the city shall be responsible for payment of reasonable attorney's fees and costs incurred in the defense of the city officer or employee.

### **3.30.090 Recovery of losses.**

A. Actions for Recovery. The city attorney may be responsible for bringing all actions, including claims and lawsuits, for recovery of the losses to the city arising out of the acts of others. Such losses may include property damages or losses which impact on the city as a result of personal injuries to city officers or employees. In addition, the city attorney may join the city of Sultan as a party with any third party in a lawsuit involving recovery of loss to the city of Sultan.

B. Allocation of Recoveries. Any moneys recovered by the city attorney on account of losses to the city shall be paid to the departmental fund which has expended funds and/or materials as a result of the loss. Any moneys in excess of those so expended shall be transferred to the insurance claims fund.

**3.30.110 Authority for payment.**

Approval or settlement according to SMC 3.30.070 shall be approved for payment by the City Clerk.

**3.30.115 Conflict with insurance policies.**

Nothing contained in this chapter shall be construed to modify or amend any provision of any policy of insurance wherein the city of Sultan or any official or employee thereof is the named insured. In the event of any conflict between this chapter and the provisions of any such policy of insurance, the policy provision shall be controlling

**3.30.120 Invalid claim – Action prohibited.**

Neither the city council nor any department or officer or authority shall allow, make valid or in any manner recognize any demand against the city which was not at the time of its creation a valid claim against the city; nor shall they, or any of them, allow or authorize to be paid any demands which without such action would be invalid or which shall have been barred by any statute of limitations or for which the city was never liable; and any such action shall be null and void.

Section 2. Severability. Should any section, paragraph, sentence, clause or phrase of this Ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this Ordinance be pre-empted by state or federal law or regulation, such decision or pre-emption shall not affect the validity of the remaining portions of this Ordinance or its application to other persons or circumstances.

Section 3. Effective Date. This Ordinance shall be published in the official newspaper of the City, and shall take effect and be in full force five (5) days after the date of publication.

**ADOPTED BY THE CITY COUNCIL AT A REGULAR MEETING THEREOF ON THE 9<sup>th</sup> DAY OF MAY, 2019.**

CITY OF SULTAN

  
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John Seehuus, Mayor

ATTEST/AUTHENTICATED:

  
\_\_\_\_\_  
Tami Pevey, City Clerk

Approved as to form:

  
\_\_\_\_\_  
Hilary Graber, City Attorney

Published:  
Effective: