

AN ORDINANCE

Transparency and Oversight in Claims and Litigation

Summary: For the purpose of requiring the City of Everett City Solicitor Department to post on the City of Everett 's website certain claims against the City of Everett Police misconduct and unlawful discrimination; requiring the City of Everett City Solicitor department to report to the city council on certain litigation involving the City of Everett; prohibiting the City of Everett City Solicitor department from approving certain settlement agreements that require claimants to waive certain rights; defining certain terms, and generally relating to improved transparency and oversight of claims against the City of Everett.

#-1. Definitions.

(a) In general.

In this subtitle, the following terms have the meanings indicated.

(b) Agency.

(1) In general.

“Agency” means any department, board, commission, council, authority, committee, office, or other unit of city government.

(2) Inclusions.

“agency” also includes:

(i) City of Everett Parking Authority;

(ii) City of Everett Police Department;

(iii) City of Everett Libraries;

(iv) City of Everett Housing Authority;

(v) Any individual not embraced in a unit of city government who exercises authority comparable to that of the head of a unit of city government.

(c) Including.

“includes” or “including” means by way of illustration and not by way limitation.

(d) Employee.

(1) In general.

“Employee” means any employee of the city who is not an official.

(2) Inclusions.

“Employee” also means an employee of any agency or board included within the scope of paragraph (b) {“agency”} of this section.

(e) Official.

(1) In general.

“Official” means:

(i) An elected official;

(ii) The head of any department;

(iii) the head of any bureau or division within a department; or

(iv) any other individual in a unit of city government who, whether acting alone or as a member of a board acting jointly with other board members:

(a) has authority comparable to that of the head of a department or the head of a bureau or division;

(b) has decision-making authority in making city policy;

(c) has decision-making authority in the exercise of quasi-judicial, regulatory, licensing, inspecting, or auditing functions; or

(d) acts as a principal advisor to one who has the authority of the type listed.

(2) inclusions.

“official” also includes the chief executive officer, chief operating officer, chief financial officer, executive director, executive secretary, or administrator of any agency or board included within the scope of paragraph (b) {“agency”} of this section.

(f) police misconduct.

(1) in general.

“police misconduct” means any improper action taken by a City of Everett Police Officer in relation to the police officer’s official duties.

(2) inclusions.

“Police misconduct” includes any misconduct involving the use of force, assault, and battery, malicious prosecution, or false arrest or imprisonment.

(g) unlawful discrimination.

“unlawful discrimination” means any discriminatory act prohibited by local, state, or federal law.

§ #-2. Civil actions regarding the Police department.

(a) reports required.

The City of Everett City Solicitor department shall post on the City of Everett’s website semi-annual reports regarding all civil actions filed in city, state, or federal court against any agency, official, or employee involving allegations of police misconduct.

(b) information to be included.

The report posted on the City of Everett’s website shall include:

(1) the court in which the action was filed;

(2) the name of the attorney representing the plaintiff, if any;

(3) the date the action was filed;

(4) the nature of the plaintiff’s claims; and

(5) if the matter has been resolved:

(i) the manner and date of the resolution; and

(ii) whether the resolution included a payment to the plaintiff by the Mayor and City Council of the City of Everett and, if so, the amount of that payment.

(c) time and scope of the report.

The semi-annual reports required under this section must be posted as follows:

(i) on or before July 1, covering the preceding five-year period Through June 30 prior to the report date; and

(ii) on or before January 31, covering the preceding five-year period Through December 31 prior to the report date.

§ #-3. Civil actions regarding unlawful discrimination.

(a) reports required.

The City of Everett City Solicitor department shall post on the City of Everett's website semi-annual reports regarding all civil actions filed in city, state, or federal court against any agency, official, or employee involving allegations of unlawful discrimination.

(b) information to be included.

The report posted on the City of Everett's website shall include:

(1) the court in which the action was filed;

(2) the name of the attorney representing the plaintiff, if any;

(3) the date the action was filed;

(4) the nature of the plaintiff's claims; and

(5) if the matter has been resolved:

(i) the manner and date of the resolution; and

(ii) whether the resolution included a payment to the plaintiff by the Mayor and City Council of the City of Everett and, if so, the amount of that payment.

(c) time and scope of the report.

The semi-annual reports required under this section must be posted as follows:

(I) On or before July 1, covering the preceding five-year period through June 30 prior to the report date; and

(II) (ii) on or before January 31, covering the preceding five-year period through December 31 prior to the report date.

§ #-4. Report to City Council on significant litigation.

(a) significant litigation defined.

In this section, "significant litigation" means:

- (1) any suit, action, or legal proceeding in a state or federal court;
 - (2) in which an attorney in the City of Everett City Solicitor department is counsel of record or the City of Everett City Solicitor department has hired or is supervising outside counsel; and
 - (3) for which the monetary demand exceeds \$5,000 or for which an agency, official, or employee is demanded to take, continue, or discontinue a certain action or practice.
- (b) a quarterly report required.

Within 30 days after each calendar quarter, the city of Everett City Solicitor Department shall provide to the City Council a report on all significant litigation.

- (c) contents generally.

For each case, the report shall include:

- (i) the name of the case;
- (ii) a summary of the facts giving rise to the case;
- (iii) as applicable, the amount or course of action demanded;
- (iv) the case's current status; and
- (v) if the case has been resolved:
 - (a) the manner and date of the resolution; and
 - (b) whether the resolution included a payment to the plaintiff by the city and if so, the amount of that payment.

§ #-5. Non-disparagement clauses prohibited - certain claims.

- (a) City of Everett City Solicitor Department approval prohibited.

In any claim alleging police misconduct or unlawful discrimination against the Mayor and City Council of City of Everett or any agency, official, or employee, the City of Everett City Solicitor Department may not approve for the form or legal sufficiency any settlement agreement that contains a provision requiring a claimant to waive the claimant's right to make any statement concerning:

- (1) the Mayor and City Council of City of Everett;
- (2) any agency;

(3) any official or employee;

(4) the facts or circumstances of the claim; or

(5) the terms or conditions of the settlement agreement.

(b) enforcement prohibited.

The City of Everett City Solicitor department may not enforce or threaten to enforce any provision in a previously executed settlement agreement that would be prohibited under this section.