

CITY OF OAKLAND
OFFICE OF THE CITY CLERK
OAKLAND
AGENDA REPORT

2007 SEP 27 PM 6:36

TO: Office of the City Administrator
ATTN: Deborah A. Edgerly
FROM: Finance and Management Agency
DATE: October 9, 2007

RE: **Ordinance Amending Chapter 1.20 of the Oakland Municipal Code to Establish and Codify Requirements for Claims for Money or Damages against the City Of Oakland That Are Not Otherwise Governed by the Claims Presentation Provisions of the Government Claims Act, California Government Code Sections 900 et seq., or Other State Law**

SUMMARY

An administrative amendment to Chapter 1.20 of the Oakland Municipal Code is recommended to require claims against the City for money or damages that are not otherwise governed by the Government Claims Act, California Government Code sections 900 et. seq. or other state law. The proposed amendment will specify requirements and procedures for all persons claiming money or damages from the City.

FISCAL IMPACT

There are no data from which to provide an estimate of fiscal impact. However, adopting specific requirements and procedures for all claims will limit the City's liability to one year from the date of accrual of a claim.

BACKGROUND

The Government Claims Act, California Government Code sections 900 et. seq., establishes the general rule that public entities must be given notice of claims for money or damages. Such claim presentation requirements facilitate prompt investigation and possible early settlement of claims. Early notice of claims also allows the City to make suitable fiscal adjustments and provides opportunities to take corrective measures to avoid reoccurrence and future liability. Government Code section 905 lists several exceptions to the generally mandated claim requirements. However, under Government Code section 935, claims that are excepted under section 905 are subject to the claim requirements and procedures that are established by ordinances adopted by local public entities, including charter cities.

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KEY ISSUES AND IMPACTS

It is in the best interests of the City of Oakland to establish and codify clearly defined claim requirements and procedures for presentation of all claims against the City for money or damages.

SUSTAINABLE OPPORTUNITIES

Economic: A modified ordinance will ensure prompt notice of and limit liability for claims against the City.

Environmental: There are no environmental opportunities resulting from the recommended changes to the Ordinance.

Social Equity: The new, clear claim requirements and procedures will ensure fair and equitable treatment of all claimants.

DISABILITY AND SENIOR CITIZEN ACCESS

There are no impacts on disability and senior access from the recommended changes to the Ordinance.

RECOMMENDATION AND RATIONALE


Staff recommends the City Council approve the proposed ordinance amending Chapter 1.20 of the Oakland Municipal Code to establish and codify the claim requirements and procedures for claims for money or damages against the City not otherwise governed by state law.

These amendments to Chapter 1.20 of the Oakland Municipal Code will clarify and improve administration of claims against the City of Oakland.

ACTION REQUESTED OF THE CITY COUNCIL

Staff recommends the City Council approve the ordinance amending Chapter 1.20 of the Oakland Municipal Code to establish and codify the claim requirements and procedures for claims for money or damages against the City of Oakland.

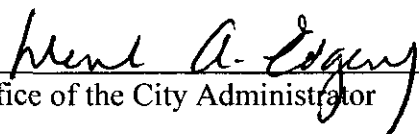
Respectfully submitted,



William E. Noland
Director, Finance and Management Agency

Prepared by:
Terry Adelman, Revenue Manager
Revenue Division

APPROVED AND FORWARDED TO THE
FINANCE AND MANAGEMENT COMMITTEE:



Office of the City Administrator

Item: _____
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FILED
OFFICE OF THE CITY CLERK

Scott R. Jackson
City Attorney

OAKLAND CITY COUNCIL

2007 SEP 27 PM 6:36
ORDINANCE NO. _____ C.M.S.

Introduced by Councilmember _____

AN ORDINANCE AMENDING CHAPTER 1.20 OF THE OAKLAND MUNICIPAL CODE TO ESTABLISH AND CODIFY REQUIREMENTS FOR CLAIMS FOR MONEY OR DAMAGES AGAINST THE CITY OF OAKLAND THAT ARE NOT OTHERWISE GOVERNED BY THE CLAIMS PRESENTATION PROVISIONS OF THE GOVERNMENT CLAIMS ACT, CALIFORNIA GOVERNMENT CODE SECTIONS 900 ET SEQ., OR OTHER STATE LAW.

WHEREAS, early notice of claims against the City facilitates prompt investigation and possible early settlement of claims, allows the City to make reasonable and necessary fiscal adjustments, and provides opportunities to take corrective action to avoid repeat occurrences and future liability; and

WHEREAS, the City Council of the City of Oakland desires to establish and codify requirements for all claims for money or damages against the City of Oakland not otherwise governed by Government Claims Act, California Government Code sections 900 et seq. ; and

WHEREAS, such locally adopted claim requirements and procedures are authorized and enforceable pursuant to Government Code section 935; now, therefore,

THE COUNCIL OF THE CITY OF OAKLAND DOES ORDAIN AS FOLLOWS:

SECTION 1. The City Council finds and determines the forgoing recitals to be true and correct and hereby adopts and incorporates them into this Ordinance.

SECTION 2: The Municipal Code is hereby amended to add, delete, or modify sections as set forth below (section numbers and titles are indicated in **bold type**; additions are indicated by underscoring and deletions are indicated by ~~strike-through type~~; portions of the regulations not cited or not shown in underscoring or strike-through type are not changed.

SECTION 3. Chapter 1.20 of the Municipal Code is hereby amended in its entirety to read as follows:

Chapter 1.20 ADMINISTRATIVE APPEALS; CLAIMS FOR MONEY OR DAMAGES

1.20.010 Statute of limitations.

The limitation period provided pursuant to Code of Civil Procedure Section 1094.6 shall apply to all petitions filed seeking judicial review of administrative determinations made by any commission, board, officer or agent of the city.

1.20.020 Claims.

(a) Authority

This ordinance is enacted pursuant to Section 935 of the California Government Code.

(b) Claims Required

All claims against the City for money or damages not otherwise governed by the claim presentation requirements Government Claims Act, California Government Code Sections 900 et seq., or another state law (hereinafter in this ordinance, "claims") shall and be presented within the time, and in the manner, prescribed by Part 3 of Division 3.6 of Title 1 of the California Government Code (commencing with Section 900 thereof) for the claims to which that Part applies by its own terms, as those provisions now exist or shall hereafter be amended, and as further provided by this ordinance.

(c) Form of Claim

All claims shall be made in writing and verified by the claimant or by his or her guardian, conservator, executor or administrator. No claim may be filed on behalf of a class of persons unless verified by every member of that class as required by this section. In addition, all claims shall contain the information required by California Government Code Section 910.

(d) Claim Prerequisite to Suit

In accordance with California Government Code Sections 935(b) and 945.6, all claims shall be presented as provided in this section and acted upon by the city prior to the filing of any action on such claims and no such action may be maintained by a person who has not complied with the requirements of subdivision (b) of this section.

(e) Suit

Any action brought against the city upon any claim or demand shall conform to the requirements of Sections 940-949 of the California Government Code. Any action brought against any

employee of the city shall conform with the requirements of Section 950-951 of the California Government Code.”

SECTION 4. Severability. Should any provision of this Ordinance, or its application to any person or circumstance, be determined by a court of competent jurisdiction to be unlawful, unenforceable or otherwise void, that determination shall have no effect on any other provision of this Ordinance or the application of this Ordinance to any other person or circumstance and, to that end, the provisions hereof are severable.

SECTION 5. Effective Date; Transitional Clause. This Ordinance shall take effect thirty days after adoption as provided by Government Code Section 36937. However, any claim that would have been timely if presented on the day before this Ordinance becomes effective which claim would be untimely under the requirements of this Ordinance may, notwithstanding this Ordinance, be presented not later than the 45th day after the adoption of this Ordinance.

IN COUNCIL, OAKLAND, CALIFORNIA, _____, 20____

PASSED BY THE FOLLOWING VOTE:

AYES - BROOKS, BRUNNER, CHANG, KERNIGHAN, NADEL, QUAN, REID, and PRESIDENT DE LA FUENTE

NOES -

ABSENT -

ABSTENTION -

ATTEST: _____
LaTonda Simmons
City Clerk and Clerk of the Council
of the City of Oakland, California

NOTICE AND DIGEST

AN ORDINANCE AMENDING CHAPTER 1.20 OF THE OAKLAND MUNICIPAL CODE TO ESTABLISH AND CODIFY REQUIREMENTS FOR CLAIMS FOR MONEY OR DAMAGES AGAINST THE CITY OF OAKLAND THAT ARE NOT OTHERWISE GOVERNED BY THE CLAIMS PRESENTATION PROVISIONS OF THE GOVERNMENT CLAIMS ACT, CALIFORNIA GOVERNMENT CODE SECTIONS 900 ET SEQ., OR OTHER STATE LAW.

This Ordinance amends Chapter 1.20 of the Oakland Municipal Code to require claims against the City for money or damages that are not otherwise governed by the Government Claims Act, California Government Code sections 900 et. seq. or other state law. The proposed amendment will specify requirements and procedures for all persons claiming money or damages from the City.