

June 21, 2007

Regular Council Meeting  
June 26, 2007

Mayor and Members  
of the City Council

**CONSIDERATION OF AN ORDINANCE GOVERNING CLAIMS FILED AGAINST  
THE CITY**

**RECOMMENDATION:**

It is recommended that the City Council consider adoption of an ordinance governing claims filed against the City that are otherwise not governed by the California Government Code.

**BACKGROUND:**

The California Government Code – Sections 900 *et seq.* – sets forth the procedural requirements for the filing of claims for damages against cities for certain types of injuries. The Code allows cities to establish their own procedural requirements for claims for injuries not covered in those sections.

This ordinance would make the Government Code procedures applicable to all other types of claims. It would preclude class claims and it would limit claims for tax refunds to one year.

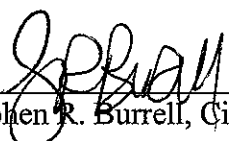
The Municipal Code currently gives authority to the City Manager and City Attorney to settle claims within the jurisdiction of the small claims court (i.e. \$5,000). This ordinance makes language improvements to this provision, but no substantive changes.

**RECOMMENDATION:**

It is recommended that the City Council introduce the attached ordinance on first reading.

  
\_\_\_\_\_  
Michael Jenkins, City Attorney

Noted:

  
\_\_\_\_\_  
Stephen R. Burrell, City Manager

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE CITY OF HERMOSA BEACH  
AMENDING PROCEDURAL PROVISIONS PERTAINING  
TO THE FILING OF CLAIMS AGAINST THE CITY AND  
AMENDING THE HERMOSA BEACH MUNICIPAL CODE

The City Council of the City of Hermosa Beach does hereby ordain as follows:

Section 1. Findings and Intent. The City Council makes the following findings with respect to the adoption of this Ordinance:

A. The Tort Claims Act (Government Code Section 810 *et seq.*) provides, with certain exceptions, that no suit for money or damages may be brought against the City unless a claim has been timely presented to and denied by the City. The Tort Claims Act provides that local ordinances shall govern those claims that are excluded by the Act and that are not expressly governed by another state statute.

B. The time periods and procedures for presenting a claim set forth in this Ordinance apply to all existing claims against the City whether or not yet presented to or denied by the City, that are excluded by the Act, and that are not expressly governed by state statute. If application of this Ordinance would extinguish an existing claim, the deadline by which to present that claim shall be as provided in Section 7 of this Ordinance. This Ordinance will not extinguish existing claims without first providing a reasonable period for the presentation of those claims.

C. It is the intent of this Ordinance to establish uniform claims presentation requirements for all claims and suits against the City and to establish requirements and deadlines consistent with the Tort Claims Act, including but not limited to Government Code Sections 911.2, 945.6 and 946.

Section 2. Chapter 3.08 of Title 3 of the Hermosa Beach Municipal Code is amended in its entirety to read:

**Chapter 3.08**

**CLAIMS AGAINST THE CITY**

**3.08.010 Claims against the City; Suits.**

(a) All claims against the city for money or damages not otherwise governed by the Tort Claims Act or another state law ("claims") shall 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 also as provided in this section.

(b) All claims shall be made in writing and verified by the claimant or by his or her guardian, conservator, executor or administrator. No claims may be filed on behalf

of a class of persons unless verified by every member of that class as required by this paragraph.

(c) In accordance with Government Code Sections 935(b) and 945.6, all claims shall be presented as provided in this subsection prior to the filing of suit on such claims.

### **3.08.020 Limited settlement authority**

The City Manager, with the approval of the City Attorney, is authorized to settle or compromise any monetary claim or litigation against the city or any officer or employee thereof, without the prior consent of the city council, in an amount not to exceed the then current jurisdictional limit of the small claims court, as to any individual claimant. The City Manager, with the approval of the City Attorney, is further authorized to settle or compromise any claim that is less than the then current jurisdictional limit of the small claims court that the city may have against any person. The City Manager is authorized to execute and deliver any instrument necessary to effectuate a settlement or compromise permitted in this section.

Section 3. Paragraph A. of Section 3.32.120 of Chapter 3.32, Title 3 of the Hermosa Beach Municipal Code is amended to read:

- A. Whenever the amount of any tax, interest or penalty has been overpaid or paid more than once or has been erroneously or illegally collected or received by the city, it may be refunded as provided in this section, providing a claim in writing therefore is timely filed in accordance with the requirements of section 3.08.010.

Section 4. Paragraph A. of Section 3.36.170 of Chapter 3.36, Title 3 of the Hermosa Beach Municipal Code is amended to read:

- A. Whenever the amount of any tax has been overpaid or paid more than once or has been erroneously or illegally collected or received by the city, it may be refunded as provided in this section, providing a claim in writing therefore is timely filed in accordance with the requirements of section 3.08.010.

Section 5. Paragraph B. of Section 3.36.170 of Chapter 3.36, Title 3 is hereby deleted, and paragraphs C. and D. are hereby re-lettered as B. and C.

Section 6. If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unenforceable, such invalidity or unenforceability shall not affect the validity or enforceability of the remaining sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases of this Ordinance. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase hereof, irrespective of the fact that any one or more other sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases hereof be declared invalid or unenforceable.

Section 7. The provisions of this Ordinance shall be applicable to any claim against the city that has not expired on or before the effective date of this Ordinance. If the application of the time periods established by this Ordinance would extinguish an existing claim which is not otherwise time-barred, then the date by which that claim must be presented to the city shall be the sooner of: (i) the date the claims period would have expired with respect to that existing claim had this Ordinance not been enacted; or (ii) six months after the effective date of this Ordinance for claims described in the first sentence of Government Code Section 911.2 or one year after the effective date of this Ordinance for claims described in the second sentence of that Section. Nothing in this Ordinance shall be construed to extend the deadline for the presentation of any claim which deadline was established by statute, ordinance or other law in effect prior to the adoption of this Ordinance.

PASSED, APPROVED AND ADOPTED this \_\_\_\_ day of \_\_\_\_\_, 2007.

AYES:  
NOES:  
ABSTAIN:  
ABSENT:

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Mayor

ATTEST:

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City Clerk