

July 16, 2007

City Council Meeting
July 24, 2007

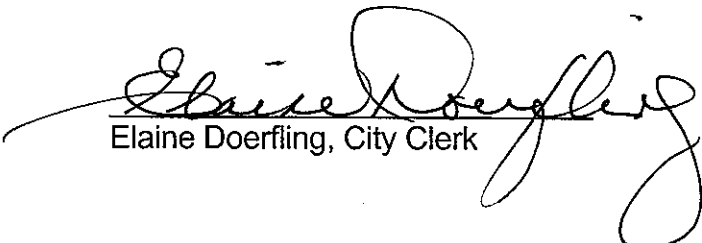
Mayor and Members
of the City Council

ORDINANCE NO. 07-1284 - "AN ORDINANCE OF THE CITY OF HERMOSA BEACH, CALIFORNIA, AMENDING PROCEDURAL PROVISIONS PERTAINING TO THE FILING OF CLAIMS AGAINST THE CITY AND AMENDING THE MUNICIPAL CODE."

Submitted for **adoption** and **waiver of full reading** is Ordinance **No. 07-1284** relating to the above subject.

At the meeting of June 26, 2007, the Ordinance was presented to the City Council for consideration and introduced by the following vote:

AYES:	Bobko, Reviczky, Tucker, Mayor Keegan
NOES:	None
ABSENT:	Edgerton
ABSTAIN:	None


Elaine Doerfling, City Clerk

Noted:



Stephen R. Burrell, City Manager

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ORDINANCE NO. 07-1284

**AN ORDINANCE OF THE CITY OF HERMOSA BEACH, CALIFORNIA,
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, CALIFORNIA,
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

1 **3.08.010 Claims against the City; Suits.**

2 (a) All claims against the City for money or damages not otherwise governed by the Tort
3 Claims Act or another state law ("claims") shall be presented within the time and in the manner
4 prescribed by Part 3 of Division 3.6 of Title 1 of the California Government Code (commencing
5 with Section 900 thereof) for the claims to which that Part applies by its own terms, as those
6 provisions now exist or shall hereafter be amended and also as provided in this section.

7 (b) All claims shall be made in writing and verified by the claimant or by his or her
8 guardian, conservator, executor or administrator. No claims may be filed on behalf of a class of
9 persons unless verified by every member of that class as required by this paragraph.

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

12 **3.08.020 Limited settlement authority**

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

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

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

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

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

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

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

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

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SECTION 8. This Ordinance shall become effective and be in full force and effect from and after thirty (30) days of its final passage and adoption.

SECTION 9. Prior to the expiration of fifteen (15) days after the date of its adoption, the City Clerk shall cause this Ordinance to be published in the Easy Reader, a weekly newspaper of general circulation published and circulated, in the City of Hermosa Beach in the manner provided by law.

SECTION 10. The City Clerk shall certify to the passage and adoption of this Ordinance, shall enter the same in the book of original Ordinances of said city, and shall make minutes of the passage and adoption thereof in the records of the proceedings of the City Council at which the same is passed and adopted.

PASSED, APPROVED and ADOPTED this 24th of July 2007 by the following vote:

- AYES:
- NOES:
- ABSENT:
- ABSTAIN:

PRESIDENT of the City Council and **MAYOR** of the City of Hermosa Beach, California

ATTEST:

APPROVED AS TO FORM:

City Clerk

City Attorney