



Agenda Report

File #: 18-2139

AGENDA REPORT REQUEST FOR CITY COUNCIL ACTION

DATE: 10/17/2018

TO: Honorable Mayor and City Council Members

FROM: Legal and Risk Management Department

SUBJECT:

City Council consideration of Ordinance No. 3284, first reading of an Ordinance amending Chapter 3.04 of the Corona Municipal Code to clarify the process regarding claims against the City.

RECOMMENDED ACTION:

That the City Council introduce by title only and waive full reading of Ordinance No. 3284, first reading of an Ordinance amending Chapter 3.04 of the Corona Municipal Code to clarify the process regarding claims against the City.

ANALYSIS:

The California Government Claims Act (Government Code, Sections 900 et seq.) (the "Act") generally governs claims against cities for money damages. Under the Act, before a lawsuit seeking money or damages may be filed against the City, the plaintiff must first present a claim to the City. There are specific claims (listed in Government Code Section 905), however, that are not automatically covered by the Act. When these types of claims are not governed by another statute or state regulation, the Act allows cities to establish their own claims presentation requirements for these types of claims. Requiring that a claim first be presented to the City can reduce the possibility of litigation by giving the City an opportunity to approve, deny or settle claims before they turn into actual lawsuits, as well as providing the City with constructive notice of threatened litigation in time to investigate the claims prior to litigation being filed.

The City has its own claims presentation ordinance, set forth in Chapter 3.04 of the Corona Municipal Code, which incorporates by reference the Act's procedures. By implementing CMC Chapter 3.04 and the Act, staff has acted on all claims but has been delegated authority to settle claims only up to \$25,000. The Legal and Risk Management Department has recently conducted a review of Chapter 3.04 and is recommending minor modifications to Chapter 3.04 to clarify the process for reviewing and handling claims against the City, including clarifying that all claims otherwise exempt pursuant to Section 905 of the Act are to be governed thereby and to clarify the authority for staff to act on all claims. The current wording in both regards is not as clear as it could be and should be expressly consistent with intent and practice. No changes to settlement authority are being recommended. The attached redline ordinance shows the recommended revisions.

COMMITTEE ACTION:

Not applicable.

STRATEGIC PLAN:

Not applicable.

FISCAL IMPACT:

There is no direct fiscal impact associated with the recommended action.

ENVIRONMENTAL ANALYSIS:

This action is exempt pursuant to Section 15061(b)(3) of the Guidelines for the California Environmental Quality Act (CEQA), which states that a project is exempt from CEQA if the activity is covered by the general rule that CEQA applies only to projects that have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. This action makes minor, clarifying changes to the City's process for handling claims against the City, and there is no possibility that adopting this Ordinance will have a significant effect on the environment. Therefore, no environmental analysis is required

PREPARED BY: JAMIE L. RAYMOND, CHIEF DEPUTY CITY ATTORNEY

REVIEWED BY: AMY RICH, RISK MANAGER

REVIEWED BY: DEAN DERLETH, CITY ATTORNEY/LEGAL AND RISK MANAGEMENT DIRECTOR

REVIEWED BY: KERRY D. EDEN, ASSISTANT CITY MANAGER/ADMINISTRATIVE SERVICES DIRECTOR

REVIEWED BY: MICHELE NISSEN, ASSISTANT CITY MANAGER TOR

SUBMITTED BY: DARRELL TALBERT, CITY MANAGER

EXHIBITS:

- 1. Ordinance No. 3284 (Redline)**
- 2. Ordinance No. 3284 (Final)**

ORDINANCE NO.

AN ORDINANCE OF THE CITY OF CORONA,
CALIFORNIA, AMENDING CHAPTER 3.04 OF THE
CORONA MUNICIPAL CODE TO CLARIFY THE
PROCESS REGARDING CLAIMS AGAINST THE CITY

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

SECTION 1. Chapter 3.04 (Claims Against the City) of Title 3 (Revenue and Finance) of the Corona Municipal Code is hereby amended in its entirety to read as follows:

**"CHAPTER 3.04
CLAIMS AGAINST THE CITY**

Sections

- 3.04.010 Authority; state provisions applicable.
- 3.04.020 Claims required.
- 3.04.030 Form of claim; filing.
- 3.04.040 Claims processing.
- 3.04.050 Suit.

3.04.010 Authority; state provisions applicable.

The provisions of this chapter recognize that the general claim procedures applicable to local public agencies, including this city, are governed by the provisions of the Cal. Gov't Code, commencing with § 900 and following ("State Government Claim Procedures").

3.04.020 Claims required.

Pursuant to the authority contained in Cal. Gov't Code § 935, the following procedures are established for claims against the city for money or damages, including all claims that are excepted by Cal. Gov't Code § 905, provided that such claims are not governed by any other state or local laws.

(A) **Employee claims.** ~~Notwithstanding~~ Pursuant to Cal. Gov't Code § 935 and notwithstanding the exceptions contained in Cal. Gov't Code § 905, all claims by public officers or employees for fees, salaries, wages, overtime pay, holiday pay, compensating time off or vacation pay, sick leave pay and any other expenses or allowances claimed due from the city, when a procedure for processing such claims is not otherwise provided by state or local laws, shall be presented within the time limitations and in the manner prescribed by Cal. Gov't Code §§ 910

through 915.2 and shall otherwise comply with all other applicable provisions of the State Government Claim Procedures. The claims shall further be subject to the provisions of Cal. Gov't Code § 945.4 relating to the prohibition of suit in the absence of presentation of claims and action thereon by the Council.

(B) **Contract and other claims.** ~~In addition Pursuant to the requirements of division (A) of this section~~ Cal. Gov't Code § 935 and notwithstanding the exceptions set forth in Cal. Gov't Code § 905, all other claims for money or damages that are excepted by Cal. Gov't Code § 905, including such, without limitation, claims concerning contracts, against the city for damages or money when a procedure for processing such claims is not otherwise provided by state or local laws, shall be presented within the time limitations and in the manner prescribed by Cal. Gov't Code §§ 910 through 915.2, and shall otherwise comply with all other applicable provisions of the State Government Claim Procedures. The claims shall further be subject to the provisions of Cal. Gov't Code § 945.4 relating to the prohibition of suit in the absence of presentation of claims and action thereon by the Council.

3.04.030 Form of claim; filing.

(A) 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.

(B) All claims against the city shall be filed with the City Clerk. The City Manager or designee shall have the authority to ~~review and reject~~ act upon all claims, but shall only have authority to settle such claims, in whole or in part, up to the amount of \$25,000; provided, however, that the City Manager or designee shall present to the City Council any claims which he/she believes merit the Council's consideration for any reason. ~~All~~ The City Council shall settle all claims, in whole or in part, over \$25,000 ~~shall be presented and acted upon by the City Council.~~ To the greatest extent allowed by applicable law, no legal or other action may be maintained by a claimant who has not complied with this Chapter 3.04.

(C) The City Manager shall also have the authority to enter into an agreement for up to \$25,000 in order to avoid the filing of a claim under this Chapter 3.04 and applicable law, when in the opinion of the City Manager the claim could raise disputable legal issues and the settlement is in the best interests of the city for economic or other reasons, and when in the opinion of the City Attorney there is adequate consideration for the agreement. All such agreements shall be in a form approved by the City Attorney, and shall provide waiver and indemnity for any such potential claims.

3.04.040 Claims processing.

~~(A)~~ All claims filed with the City Clerk shall be processed in accordance with the Risk Management Procedure Manual, as may be amended from time to time.

~~(B) All claims made ineffective by the passage of Ordinance No. 2769 will have their timeliness extended by 180 days after date of passage of that ordinance.~~

3.04.050 Suit.

Any action brought against the city upon any claim or demand shall conform to the requirements of Cal. Gov't Code §§ 940 through 949. Any action brought against any employee of the city shall conform with the requirements set forth in Cal. Gov't Code §§ 950 through 951. All actions shall also comply with all other applicable provisions of the State Government Claim Procedures."

SECTION 2. This action is exempt pursuant to Section 15061(b)(3) of the Guidelines for the California Environmental Quality Act (CEQA), which states that a project is exempt from CEQA if the activity is covered by the general rule that CEQA applies only to projects that have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. This action makes minor, clarifying changes to the City's process for handling claims against the City, and there is no possibility that adopting this Ordinance will have a significant effect on the environment. Therefore, no environmental analysis is required.

SECTION 3. If any section, subsection, subdivision, sentence, clause, or phrase in this Ordinance or any part thereof is for any reason held to be unconstitutional or invalid, ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Ordinance or any part thereof. The City Council hereby declares that it would have adopted each section irrespective of the fact that any one or more subsections, subdivisions, sentences, clauses, or phrases be declared unconstitutional, invalid, or ineffective.

SECTION 4. This Ordinance shall supersede all other previous City Council resolutions and ordinances that may conflict with, or be contrary to, this Ordinance.

SECTION 5. In accordance with California Government Code section 36933(a), within fifteen days after its passage the City Clerk shall cause this Ordinance to be published at least once, with the names of those City Council members voting for or against it, in a newspaper of general circulation published and circulated within the City. If there is no such newspaper, the City Clerk shall cause the Ordinance to be posted in at least three public places in the City or published in a newspaper of general circulation printed and published in the county and circulated in the City.

SECTION 6. This Ordinance shall become effective thirty (30) days from and after its final passage.

PASSED, APPROVED AND ADOPTED this ____ day of _____, 2018.

Mayor of the City of Corona, California

ATTEST:

City Clerk of the City of Corona, California

CERTIFICATION

I, Sylvia Edwards, City Clerk of the City of Corona, California, do hereby certify that the foregoing Ordinance was regularly introduced at a regular meeting of the City Council of the City of Corona, California duly held the ____ day of _____ 2018 and adopted by the City Council of the City of Corona, California, at a regular meeting thereof held on the ____ day of _____ 2018, by the following vote:

AYES:

NOES:

ABSTAINED:

ABSENT:

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the City of Corona, California, this ____ day of _____ 2018.

City Clerk of the City of Corona, California

(SEAL)

ORDINANCE NO.

**AN ORDINANCE OF THE CITY OF CORONA,
CALIFORNIA, AMENDING CHAPTER 3.04 OF THE
CORONA MUNICIPAL CODE TO CLARIFY THE
PROCESS REGARDING CLAIMS AGAINST THE CITY**

**THE CITY COUNCIL OF THE CITY OF CORONA DOES ORDAIN AS
FOLLOWS:**

SECTION 1. Chapter 3.04 (Claims Against the City) of Title 3 (Revenue and Finance) of the Corona Municipal Code is hereby amended in its entirety to read as follows:

**“CHAPTER 3.04
CLAIMS AGAINST THE CITY**

Sections

- 3.04.010 Authority; state provisions applicable.**
- 3.04.020 Claims required.**
- 3.04.030 Form of claim; filing.**
- 3.04.040 Claims processing.**
- 3.04.050 Suit.**

3.04.010 Authority; state provisions applicable.

The provisions of this chapter recognize that the general claim procedures applicable to local public agencies, including this city, are governed by the provisions of the Cal. Gov't Code, commencing with § 900 and following (“State Government Claim Procedures”).

3.04.020 Claims required.

Pursuant to the authority contained in Cal. Gov't Code § 935, the following procedures are established for claims against the city for money or damages, including all claims that are excepted by Cal. Gov't Code § 905, provided that such claims are not governed by any other state or local laws.

(A) **Employee claims.** Pursuant to Cal. Gov't Code § 935 and notwithstanding the exceptions contained in Cal. Gov't Code § 905, all claims by public officers or employees for fees, salaries, wages, overtime pay, holiday pay, compensating time off or vacation pay, sick leave pay and any other expenses or allowances claimed due from the city, when a procedure for processing such claims is not otherwise provided by state or local laws, shall be presented within the time limitations and in the manner prescribed by Cal. Gov't Code §§ 910 through 915.2 and shall

otherwise comply with all other applicable provisions of the State Government Claim Procedures. The claims shall further be subject to the provisions of Cal. Gov't Code § 945.4 relating to the prohibition of suit in the absence of presentation of claims and action thereon by the Council.

(B) **Contract and other claims.** Pursuant to Cal. Gov't Code § 935 and notwithstanding the exceptions set forth in Cal. Gov't Code § 905, all other claims for money or damages that are excepted by Cal. Gov't Code § 905, including, without limitation, claims concerning contracts, when a procedure for processing such claims is not otherwise provided by state or local laws, shall be presented within the time limitations and in the manner prescribed by Cal. Gov't Code §§ 910 through 915.2 and shall otherwise comply with all other applicable provisions of the State Government Claim Procedures. The claims shall further be subject to the provisions of Cal. Gov't Code § 945.4 relating to the prohibition of suit in the absence of presentation of claims and action thereon by the Council.

3.04.030 Form of claim; filing.

(A) 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.

(B) All claims against the city shall be filed with the City Clerk. The City Manager or designee shall have the authority to act upon all claims, but shall only have authority to settle such claims, in whole or in part, up to the amount of \$25,000; provided, however, that the City Manager or designee shall present to the City Council any claims which he/she believes merit the Council's consideration for any reason. The City Council shall settle all claims, in whole or in part, over \$25,000. To the greatest extent allowed by applicable law, no legal or other action may be maintained by a claimant who has not complied with this Chapter 3.04.

(C) The City Manager shall also have the authority to enter into an agreement for up to \$25,000 in order to avoid the filing of a claim under this Chapter 3.04 and applicable law, when in the opinion of the City Manager the claim could raise disputable legal issues and the settlement is in the best interests of the city for economic or other reasons, and when in the opinion of the City Attorney there is adequate consideration for the agreement. All such agreements shall be in a form approved by the City Attorney, and shall provide waiver and indemnity for any such potential claims.

3.04.040 Claims processing.

All claims filed with the City Clerk shall be processed in accordance with the Risk Management Procedure Manual, as may be amended from time to time.

3.04.050 Suit.

Any action brought against the city upon any claim or demand shall conform to the requirements of Cal. Gov't Code §§ 940 through 949. Any action brought against any employee of the city shall conform with the requirements set forth in Cal. Gov't Code §§ 950 through 951.

All actions shall also comply with all other applicable provisions of the State Government Claim Procedures.”

SECTION 2. This action is exempt pursuant to Section 15061(b)(3) of the Guidelines for the California Environmental Quality Act (CEQA), which states that a project is exempt from CEQA if the activity is covered by the general rule that CEQA applies only to projects that have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. This action makes minor, clarifying changes to the City’s process for handling claims against the City, and there is no possibility that adopting this Ordinance will have a significant effect on the environment. Therefore, no environmental analysis is required.

SECTION 3. If any section, subsection, subdivision, sentence, clause, or phrase in this Ordinance or any part thereof is for any reason held to be unconstitutional or invalid, ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Ordinance or any part thereof. The City Council hereby declares that it would have adopted each section irrespective of the fact that any one or more subsections, subdivisions, sentences, clauses, or phrases be declared unconstitutional, invalid, or ineffective.

SECTION 4. This Ordinance shall supersede all other previous City Council resolutions and ordinances that may conflict with, or be contrary to, this Ordinance.

SECTION 5. In accordance with California Government Code section 36933(a), within fifteen days after its passage the City Clerk shall cause this Ordinance to be published at least once, with the names of those City Council members voting for or against it, in a newspaper of general circulation published and circulated within the City. If there is no such newspaper, the City Clerk shall cause the Ordinance to be posted in at least three public places in the City or published in a newspaper of general circulation printed and published in the county and circulated in the City.

SECTION 6. This Ordinance shall become effective thirty (30) days from and after its final passage.

PASSED, APPROVED AND ADOPTED this ____ day of _____, 2018.

Mayor of the City of Corona, California

ATTEST:

City Clerk of the City of Corona, California

CERTIFICATION

I, Sylvia Edwards, City Clerk of the City of Corona, California, do hereby certify that the foregoing Ordinance was regularly introduced at a regular meeting of the City Council of the City of Corona, California duly held the ____ day of _____ 2018 and adopted by the City Council of the City of Corona, California, at a regular meeting thereof held on the ____ day of _____ 2018, by the following vote:

AYES:

NOES:

ABSTAINED:

ABSENT:

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the City of Corona, California, this ____ day of _____ 2018.

City Clerk of the City of Corona, California

(SEAL)