

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

AN ORDINANCE OF THE CITY OF FOSTER CITY REPEALING AND REPLACING CHAPTER 1.12, "PROCEDURE AND LIMITATIONS PERIOD FOR FILING CLAIMS" OF THE FOSTER CITY MUNICIPAL CODE TO REVISE THE CLAIM PRESENTATION TIMELINE AND MAKE EDITS TO CONFORM TO THE GOVERNMENT CLAIMS ACT AND DELEGATE AUTHORITY TO THE CITY MANAGER TO REVIEW, REJECT OR SETTLE CERTAIN CLAIMS

CITY OF FOSTER CITY

WHEREAS, in 2006, the City Council adopted Ordinance 534, which is codified in Chapter 1.12 of the Foster City Municipal Code, which established the procedures and time limitations for presentation of claims against the City, consistent with California Government Code section 935; and

WHEREAS, the City Council now desires to make various amendments to Chapter 1.12 to revise the claim presentation timeline and make edits to conform to the Government Claims Act and to delegate authority to the City Manager to review, reject or settle certain claims.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF FOSTER CITY DOES HEREBY ORDAIN AS FOLLOWS:

**Section 1.** Recitals. The foregoing recitals are true and correct and incorporated herein as findings which are the basis for the amendment.

**Section 2.** Repeal and Replace. Chapter 1.12 entitled "Procedure and Limitations Period for Filing Claims" within Title 1 of the Foster City Municipal Code is amended by repealing Chapter 1.12 in its entirety and replacing it to read as follows:

**Chapter 1.12**  
**PROCEDURE AND LIMITATIONS PERIOD FOR FILING CLAIMS**

Sections:

- 1.12.010 Authority.
- 1.12.020 Claims required.
- 1.12.030 Presentment of claims.
- 1.12.040 Form of claim.
- 1.12.050 Claim prerequisite to suit.
- 1.12.060 City action on claim.
- 1.12.070 Authority of City Manager.

**1.12.010 Authority.**

This Chapter is enacted pursuant to California Government Code Section 935.

**1.12.020 Claims required.**

All claims against the City for money, damages or tax or assessment refunds, not otherwise governed by the Government Claims Act, California Government Code Sections 810, et seq., or any other law of the state of California (hereinafter "claims") shall be governed by the provisions of this Chapter.

**1.12.030 Presentment of claims.**

All claims against the City for money or damages 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, as those provisions now exist or shall hereafter be amended. Unless otherwise provided by the California Government Code, a claim governed by this section shall be presented not later than one year after the accrual of the cause of action. A tax or assessment refund claim shall be deemed to accrue as of the date of payment of the tax or assessment.

**1.12.040 Form of claim.**

All claims shall be made in writing and verified by a claimant or by the claimant's guardian, conservator, executor or administrator. No claim may be filed on behalf of a class of persons unless verified by every member of the class. In addition, all claims shall contain the information required by California Government Code Section 910. Claims shall be made on a form provided by the City Clerk and shall be filed with the City Clerk.

**1.12.050 Claim prerequisite to suit.**

All claims shall be presented as provided in this chapter and acted upon by the City Council, or their designee, prior to the filing of any lawsuit or action on such claim, and no lawsuit or action shall be maintained by a person or entity that has not complied with this Chapter.

**1.12.060 City action on claim.**

The City Council, or their designee, shall act to approve or deny a claim within forty-five days of its presentment as required under this Chapter. Failure of the City Council, or their designee, to act within the time required shall be deemed a denial of the claim.

**1.12.070 Authority of City Manager.**

Pursuant to Government Code Section 935.4, the City Council designates and delegates authority to the City Manager and their designee to review all claims for sufficiency and to reject any and all claims. The City Council also delegates to the City Manager authority to allow, compromise, or settle claims for an amount up to and including \$25,000, as may be deemed appropriate by the City Manager in consultation with the City Attorney. The City Council shall have sole authority to allow, compromise, or settle claims for an amount in excess of \$25,000."

**Section 3. Severability.** If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council does hereby declare that it should have adopted the Ordinance and each section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

**Section 4. Environmental Determination.** The Ordinance is not a project within the meaning of Section 15378 of CEQA Guidelines because it has no potential for resulting in either a direct or a reasonably foreseeable indirect physical change in the environment, either directly or ultimately.

**Section 5. Publication.** This Ordinance shall be published in accordance with the law.

**Section 6. Effective Date.** This Ordinance shall take effect 30 days from the date of adoption.

**Section 7. Posting.** Within fifteen (15) days after the adoption of this Ordinance, the City Clerk shall have it posted in three (3) public places designated by the City Council.

This Ordinance was introduced on the 7<sup>th</sup> day of August, and passed and adopted on the 21<sup>st</sup> day of August, 2023, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

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JON FROOMIN, MAYOR

ATTEST:

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PRISCILLA SCHAUS, CITY CLERK