



TOWN OF APPLE VALLEY

TOWN COUNCIL STAFF REPORT

To: Honorable Mayor and Town Council **Date:** September 11, 2018

From: Douglas B. Robertson, Town Manager **Item No:** 6
Town Manager's Office

Subject: AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF APPLE VALLEY, CALIFORNIA, AMENDING SECTION 3.16.010 OF CHAPTER 3.16 OF TITLE 3 OF THE APPLE VALLEY MUNICIPAL CODE RELATING TO CLAIMS FOR MONEY OR DAMAGES

T.M. Approval: _____ **Budgeted Item:** Yes No N/A

RECOMMENDED ACTION:

- A. Move to **WAIVE** reading of Ordinance 503 in its entirety and read by title only.
- B. Move to **INTRODUCE** Ordinance No. 503 – An Ordinance of the Town Council of The Town of Apple Valley, California, Amending Section 3.16.010 of Chapter 3.16 of Title 3 of the Apple Valley Municipal Code Relating to Claims for Money or Damages.

BACKGROUND:

Section 3.16.010 of Chapter 3.16 of the Apple Valley Municipal Code sets forth a procedure by which persons may file claims against the Town to recover money or damages. Section 3.16.010 was adopted in 1988 and has remained unchanged since June 2000. Over time, Chapter 3.16's provisions related to claims have become outdated.

DISCUSSION:

The California Government Claims Act (Government Code, § 900 et seq.) (the "Act") generally governs claims against cities for money or damages. The Act provides detailed procedures for how and when a claim must be presented (6 months or 1 year from accrual, depending on the claim), deadlines for when the Town must act upon a claim (45 days from presentation), and statutes of limitations to file a lawsuit after the Town denies a claim. (Gov. Code, §§ 911.2(a), 911.6(a)). For all practical purposes, the Town has been following the Act when it processes a claim.

Certain types of claims are not generally covered by the Act, such as (i) local tax, assessment or fee refunds, (ii) claims by public employees for fees, salaries, wages, expenses, etc., and (iii) claims for money sought from the Town by the State or another local public entity. (Gov. Code, § 905). When these types of claims are not governed by another statute or regulation, the Act allows cities, including the Town, to address them by local ordinance, provided that: (i) the ordinance does not set a shorter time to file a claim than provided in the Act and (ii) the ordinance does not give the Town more time to act on a claim than provided in the Act. (Gov. Code, § 935). The proposed Ordinance sets forth clear procedures for handling such claims.

In addition, the proposed Ordinance delegates the authority to the Town Manager, her/his designee, or a third-party claims administrator to review all claims for sufficiency and to reject any claims that do not comply with the Act or Section 3.16.010, as applicable. The Town Council has already delegated this authority pursuant to Resolution 2010-55. This delegation is authorized pursuant to Government Code section 911.3 (a).

Furthermore, the proposed ordinance delegates the authority to the Town Manager or her/his designee to allow, compromise, or settle claims up to a value of fifty thousand dollars (\$50,000) consistent with the Town Manager's spending authority under Chapter 3.12 of the Apple Valley Municipal Code. This delegation is authorized pursuant to Government Code section 935.4.

CEQA:

The Ordinance is not subject to environmental review under the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) (the activities will not result in a direct or reasonably foreseeable indirect physical change in the environment), 15060(c)(3) (the activities are not "projects" as defined in Section 15378) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because they have no potential for resulting in physical change to the environment, directly or indirectly and 15061(b)(3) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it can be seen with certainty that it will not have a significant effect or physical change to the environment.

FISCAL IMPACT

No financial impact is anticipated for the adoption of the proposed Ordinance.

ATTACHMENT:

Ordinance No. 503

ORDINANCE NO. 503

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF APPLE VALLEY, CALIFORNIA, AMENDING SECTION 3.16.010 OF CHAPTER 3.16 OF TITLE 3 OF THE APPLE VALLEY MUNICIPAL CODE RELATING TO CLAIMS FOR MONEY OR DAMAGES

WHEREAS, Section 3.16.010 of Chapter 3.16 of Title 3 of the Apple Valley Municipal Code relates to the handling of claims for money or damages against the Town of Apple Valley; and

WHEREAS, the Town of Apple Valley has not significantly updated the Municipal Code provisions relating to claims and demands since 2000; and

WHEREAS, the Town wishes to update the Municipal Code to conform to current practice and to include certain claims settlement authority limits.

NOW, THEREFORE, THE TOWN COUNCIL OF THE TOWN OF APPLE VALLEY DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. Chapter 3.16 of Title 3, Section 3.16.10 of the Town of Apple Valley Municipal Code is hereby amended to read in its entirety as follows:

“ **3.16.10 Claims for money or damages.**

- A. As a prerequisite to bringing suit against the Town or any officer, department, commission or board of the Town, any and all claims against the Town for money or damages that are not governed by the California Tort Claims Act, Government Code section 900 et seq. or another state law (collectively “Claims”) shall be presented and acted upon in accordance with the California Tort Claims Act, as those provisions now exist or shall hereafter be amended, and as further provided in this Section. For purposes of this Section, Claims shall include, but not be limited to, any and all claims for refund of taxes, assessments, fees, rates, charges, or any other exactions.
- B. All Claims shall be made in writing and verified by the claimant or by his or her guardian, conservator, executor or administrator. All Claims shall contain the information required by California Government Code Section 910, as it may be amended from time to time. All Claims shall be made on forms prescribed by or acceptable to the Town Manager or her/his designee.
- C. In accordance with Government Code Sections 935(b), 945.6, and 946, all Claims (including those subject only to the California Tort Claims Act) shall be presented and acted upon by the Town prior to the filing of any action on such Claims, and no Claim may be maintained by any person who has not complied with the requirements of this Section.

- D. Any action brought against the Town upon any Claims shall conform to the requirements of Government Code Sections 940 through 949. Any action brought against any employee of the Town shall comply with the requirements of Sections 950 through 951 of the California Government Code.
- E. The Town Manager, her/his designee, or a third-party claims administrator (if authorized by Town Council Resolution) is delegated the responsibility to review all Claims (including those subject only to the California Tort Claims Act) for sufficiency and is authorized to reject any and all Claims that do not comply with the requirements of the California Tort Claims Act and this Section.
- F. The Town Manager or her/his designee may at her/his discretion allow, compromise, or settle Claims (including those subject only to the California Tort Claims Act) as may be appropriate if the amount to be paid pursuant to such allowance, compromise, or settlement does not exceed fifty thousand dollars (\$50,000).
- G. Prior to seeking judicial relief with respect to a dispute regarding a tax, fee or other charge imposed by the Town, an aggrieved taxpayer, fee payer or other person must: (i) exhaust any administrative remedies specified by any other provision of this Code or other applicable law; (ii) pay the full amount owed, including applicable penalties and interest; and (iii) present a Claim for refund as set forth in this Section. For purposes of this Subsection, the term "Town" shall include any agency, district, or entity formed or governed by the Town."

Section 2. Except as expressly amended hereby, all other provisions of Chapter 3.16 of Title 3 of the Apple Valley Municipal Code shall remain in effect.

Section 3. Severability. If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this ordinance, or any part thereof is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portion of this ordinance or any part thereof. The Town Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase thereof, irrespective of the fact that any one or more section, subsection, subdivision, paragraph, sentence, clause or phrase be declared unconstitutional.

Section 4. Effective Date. This Ordinance shall become effective thirty days from and after its adoption.

Section 5. Notice of Adoption. The Town Clerk of the Town of Apple Valley shall certify to the adoption of this Ordinance and cause publication to occur in a newspaper of general circulation and published and circulated in the Town in a manner permitted under Section 36933 of the Government Code.

APPROVED and **ADOPTED** by the Town Council and signed by the Mayor and attested by the Town Clerk this ____ day of September 2018.

Art Bishop, Mayor

ATTEST:

La Vonda M-Pearson, Town Clerk

APPROVED AS TO FORM:

John Brown, Town Attorney

APPROVED AS TO CONTENT:

Douglas B. Robertson, Town Manager