ORDINANCE NO. 3728

AN ORDINANCE of the City Council of the City of Kent, Washington, amending section 2.97.010 of the Kent City Code, entitled "Claims, Presentment, Filing Process, and Appointed Agent," in order to implement ESHB 1553, adopted by the state legislature during its 2009 legislative session, which amends the tort pre-claim requirements of Ch. 4.96 RCW.

RECITALS

A. During its 2009 legislative session, the Washington State Legislature adopted Engrossed Substitute House Bill (ESHB) 1553 amending the tort pre-claim requirements set forth in RCW 4.96.020. The prior statute generally left the structure of that claim form to the agency’s discretion. However, with the adoption of ESHB 1553, the legislature amended the form and its requirements.

B. ESHB 1553 provides that a claim can be filed on a local government agency’s claim form, or a standard tort claim form that is available online by the Risk Management Division of the Washington State Office of Financial Management. While the City may create its own claim form and may request additional information beyond the state’s requirements, the City cannot deny a claim because it was not made on

Claim for Damages Form
Amend KCC 2.91.010
the City’s form or because it did not provide the additional information requested by the City.

C. This ordinance is necessary to amend section 2.96.010 of the Kent City Code to implement the provisions of ESHB 1553.

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

ORDINANCE

SECTION 1. - Amendment. Section 2.97.010 of the Kent City Code, entitled City Claims, is amended as follows:

Sec. 2.97.010. Claims, presentment, filing process, and appointed agent.
A. All claims for damages against the city shall be presented to and filed with the city council within the applicable period of limitations within which an action must be commenced. The city council hereby appoints as its agent to receive claims for damages filed under this section the city clerk, whose office is located within City Hall at 220 Fourth Avenue South, Kent, Washington 98032.

B. All claims for damages arising out of tortious conduct must be submitted on either the standard claim form maintained by the Risk Management Division of the Washington State Office of Financial Management, or on the City of Kent’s own claim form. Only one version of these claim forms need be presented to the City Clerk. At a minimum, the following information is required:
   1. The claimant’s name, date of birth, and contact information;
   2. A description of the conduct and the circumstances that brought about the injury or damage;
3. A description of the injury or damage;
4. A statement of the time and place that the injury or damage occurred;
5. A listing of the names of all persons involved and contact information, if known;
6. A statement of the amount of damages claimed; and
7. A statement of the actual residence of the claimant at the time of presenting the claim and at the time the claim arose.

C. The claim form must be signed either:
1. By the claimant, verifying the claim;
2. By the attorney-in-fact for the claimant, pursuant to a written power of attorney;
3. By an attorney admitted to practice in Washington state on the claimant's behalf; or
4. By a court-approved guardian or guardian ad litem on behalf of the claimant.

Specify:
1. The date, time and place the injury or damage occurred;
2. The conduct and circumstances which brought about the injury or damage;
3. The injury or damage incurred;
4. The amount of damages claimed;
5. Any alleged act or omission on the part of the city and the basis upon which liability is being asserted against the city;
6. The names of all persons involved and any known witnesses;
7. The name and actual residence of the claiming at the time of presenting and filing the claim and for a period of six (6) months immediately prior to the time the claim arose.

All claims must be signed by the claimant and notarized prior to filing. If the claimant is incapacitated from verifying, presenting, and filing.
the claim in the time prescribed or if the claimant is a minor, or is a nonresident of the state absent therefrom during the time within which the claim is required to be filed, the claim may be verified, presented, and filed on behalf of the claimant by any relative, attorney, or agent representing the claimant:

D. A claim is properly presented to the City Clerk when it is delivered in person or is received by the City Clerk by regular mail or by registered mail or certified mail, with return receipt requested.

ED. No action shall be commenced against the city for damages arising out of tortious conduct until sixty (60) calendar days have elapsed after the claim has first been presented to and filed with the city council’s agent thereof. The applicable period of limitations within which an action must be commenced shall be tolled during the sixty (60) calendar day period.

SECTION 2. - Severability. If any one or more section, subsections, or sentences of this ordinance are held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portion of this ordinance and the same shall remain in full force and effect.

SECTION 3. - Effective Date. This ordinance shall take effect and be in force thirty (30) days from and after its passage as provided by law.

Suzette Cooke, Mayor

ATTEST:

Brenda Jacober, City Clerk
APPROVED AS TO FORM:

TOM BRUBAKER, CITY ATTORNEY

PASSED:  18 day of August, 2009.
APPROVED:  18 day of August, 2009.
PUBLISHED:  22 day of August, 2009.

I hereby certify that this is a true copy of Ordinance No. 3928 passed by the City Council of the City of Kent, Washington, and approved by the Mayor of the City of Kent as hereon indicated.

BRENDRA JACOBER, CITY CLERK

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