

CHAPTER 2 - ADMINISTRATION

Sec. 2-50. Claims Management; definitions.

(a) City - The City of Peoria and all its Council Members, Mayor, appointed officers and department heads, employees, agents (when acting within the scope of their authority), boards, commissions or other City created entities.

(b) City Manager means the City Manager of the City, or his or her designee.

(c) Claim - Any demand made for the payment of money damages from the City by any person or entity, in the nature of a tort or contract claim; excluding any demand based solely on the assertion of a claim within the jurisdiction of the personnel board, a demand relating solely to payment of wages earned and employment benefits granted to all employees; a demand arising solely out of any right or claim of superior title to property, its use or transfer, a demand based on taxes, or any solely non-monetary demand.

(d) Claim Costs- Any internal or external costs or expense incurred by the City, in response to any claim against the City, including insurance or bond policy costs, contractual services costs, legal defense costs and related consultant costs.

(e) Claims Management Program - the program administered by the Office of the City Attorney to procure insurance against claims and to pay claim costs arising out of claims based on the amounts appropriated by the City Council through the budget process.

(f) Diminution in Value Claim means a claim for just compensation, as defined in A.R.S. § 12-1136, as amended, for diminution in the fair market value of real property resulting from the enactment of a land use law that is not exempt under A.R.S. § 12-1134 (B), as amended, by the City that reduces existing rights to use, divide, sell, or possess private real property as of the date of the enactment. Such claims are permitted by A.R.S. § 12-1134, as amended.

(g) Employee Benefit Claim means a claim by an employee of the City, enrolled in an insurance benefit program provided by the City making a claim under such program for coverage of a service under the program provided by the City and for which the service is covered.

(h) Exempt land use law means a land use law that:

- (1) Limit or prohibit a use or division of real property for the protection of the public's health and safety, including rules and regulations relating to fire and building codes, health and sanitation, transportation or traffic control, solid or hazardous waste, and pollution control;
- (2) Limit or prohibit the use or division of real property commonly and historically recognized as a public nuisance under common law, including and land use law that prohibits unreasonable interference with the exercise of a right common to the general public;

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- (3) Are required by Maricopa County, Yavapai County, the State of Arizona, other political subdivisions thereof other than the City and over which the City has no legal control, or federal law;
- (4) Limit or prohibit the use or division of a property for the purpose of housing sex offenders, selling illegal drugs, liquor control, or pornography, obscenity, nude or topless dancing, and other adult oriented businesses if the land use laws are consistent with the constitution of Arizona and the United States;
- (5) Establish locations for utility facilities;
- (6) Do not directly regulate an owner's land;
- (7) Were enacted before December 5, 2006; or
- (8) Any regulation affecting real property that is not a land use law.
- (i) Insurance Reserve Fund- Any fund or account established by the City for the purposes of paying claims and claim costs.
- (j) Land use law means any statute, rule, ordinance, resolution or law enacted by the City that regulates the use or division of land or any interest in land or that regulates accepted farming or forestry practices. Land use law specifically excludes (without limitation): administrative rules of the City not adopted by the City Council; development fees levied under the authority granted by A.R.S. § 9-463.05; approval of a preliminary and/or final plat; conditions and issuance of building, utility, fire, grading, drainage and engineering permits and site plans and minor amendments of planned zoning districts under the zoning ordinance of the city..
- (k) Owner means the holder of fee title to the real property that is the subject of the claim on the date at the time that the diminution in value is alleged to have occurred. Owner does not mean persons having less than fee title ownership.
- (l) SIR - Self-Insurance Retention.
- (m) Worker's Compensation: means a program of self insurance to cover injuries incurred by an employee of volunteer of the City while performing in the scope of their duties and as covered under the Arizona Worker's Compensation laws.

(Code 1977, § 3-2-6)

(Ord. 95-68, 8/29/95, Renumbered to Section 2-125.)

(Ord. 95-68, 8/29/95, Enacted)

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(Ord. No. 09-15, 06/02/09, Amended, Sec. 2-50 enacted g, enacted m, amended) SUPP 2009-2