
SALT LAKE CITY COUNCIL STAFF REPORT

DATE: May 16, 2006

SUBJECT: **Establishing a No-Fault Claims Ordinance for the Fire Department**

STAFF REPORT BY: Lehua Weaver

CC: Rocky Fluhart, Sam Guevara, DJ Baxter, Chief Charles Querry, Ed Rutan, Tim Rodriguez, Lyn Creswell

Currently, the Fire Department does not have a “no-fault claims” process for residents of the City to apply for financial reimbursement if damage occurs during response to a call. The proposed ordinance enacts a claims process that is mirrored after the Police Department’s no-fault claims ordinance. This would create a consistent system for handling all public safety related events. It is believed that having a no-fault claim process in place will help avoid litigation.

KEY ELEMENTS

Many of the details of the proposed process are identical to the process already in place with the Police Department, and much of the process is also similar to the no-fault claims process for the Department of Public Utilities. The Administration is proposing that the claim limit for the Fire Department would be \$1,000 per applicant, per incident and the annual budget would be limited to \$10,000. On average, a Police related claim is \$500, although it is anticipated that the Fire Department would not have as many claims as the Police Department.

Incidents in the past, which might have qualified for no-fault reimbursement, include responding to the wrong address or unit, forcing entry for a “welfare check” – when neighbors or family have not been able to get a response from the occupant – but the person just was not at home. This no-fault process would also cover the same types of incidents in the event of medical response.

This process would not necessarily cover any damage incurred during an emergency response, but primarily those in which personnel enter the wrong address or were provided with incorrect information.

In addition to a claim being denied if it is otherwise covered by insurance, a claim would also be denied if the property owner acted in an irresponsible or negligent manner. This would include refusal of access to the property. (Although in responding to fire emergencies, this is not common.)

As with the Police Department, the application process and procedure include:

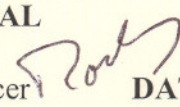

- Payment by the City through this no-fault process does not constitute an admission by the City of responsibility or liability for the event.
- The loss identified by the claim is not otherwise partially or fully covered by private insurance. (Any amount covered by private insurance would reduce the City’s payment by the corresponding amount. For example, if the loss is completely covered by private insurance, an application to the City for damages would not qualify.)

- An application must be filed within 180 days.
- Applications will be submitted to the Recorder's Office, who will refer it to the City's Risk Manager, who will work with the Fire Department for a recommendation.

MATTERS AT ISSUE

- 1. Regarding the budget for these claims, the Council may wish to ask whether the budget for this would be held within the Governmental Immunity Fund, or within the Fire Department. (This would also affect how these claims are budgeted for in the Police Department.)**
- 2. If the claims are to be paid by the Fire Department, the Council may wish to ask whether the costs are to be absorbed within the Fire Department's proposed budget for fiscal year 2006-07.**
- 3. The Council may wish to ask for further clarification on the 'welfare check' and the standard practice in other jurisdictions on whether the governmental entity covers the cost if the response is made upon request.**

COUNCIL TRANSMITTAL

TO: Rocky Fluhart, Chief Administrative Officer  **DATE:** April 3, 2006
FROM: Charles M. Querry, Fire Chief 
RE: No-Fault Fire Department Ordinance

STAFF CONTACT: Tim Rodriguez, Risk Manager, at 535-6020 or
tim.rodriguez@slcgov.com
Lyn Creswell, Senior City Attorney, at 535-7772 or
lyn.creswell@slcgov.com

DOCUMENT TYPE: Ordinance

RECOMMENDATION: That the City Council adopt the Ordinance

BUDGET IMPACT: Ordinance limits claims to one thousand dollars (\$1,000) per applicant, per incident; and limits funding to ten thousand dollars (\$10,000) per fiscal year. The Ordinance follows a similar ordinance for the Police Department. The Police Department experience under their Ordinance is about \$1,500 per fiscal year. During the current fiscal year, one claim arising from the Fire Department would have qualified under the Ordinance.

DISCUSSION:

Issue Origin: The City has no-fault ordinance for a number of city departments. Recent claims experience suggests that a no-fault ordinance is needed for the Fire Department.

Analysis: Both the fire and police departments have prior claims involving forced entry into residential properties. In such cases, neither the resident nor the city is at fault. The police department finds that a limited no-fault ordinance reduces the potential for litigation and reduces claims administrative costs. The city should treat claims arising from public safety activities similarly.

PUBLIC PROCESS:

Consider by the City Council.

RELEVANT ORDINANCES:

The Ordinance is modeled off City Code 3.38, No-Fault Police Claims.

SALT LAKE CITY ORDINANCE

No. _____ of 2006

(Enacting New Chapter 3.39 of the Salt Lake City Code
Regarding No-Fault Fire Department Claims)

AN ORDINANCE ENACTING CHAPTER 3.39, SALT LAKE CITY CODE,
REGARDING NO-FAULT FIRE DEPARTMENT CLAIMS.

Now, Therefore, be it ordained by the City Council of Salt Lake City, Utah, as follows:

SECTION 1. That Chapter 3.39 of the SALT LAKE CITY CODE, pertaining to No-Fault Fire Department claims, shall be, and the same hereby is, enacted to read as follows:

Chapter 3.39

NO-FAULT FIRE DEPARTMENT CLAIMS

3.39.010 Short Title:

The ordinance codified in this chapter shall be known as the NO-FAULT FIRE DEPARTMENT CLAIMS ORDINANCE.

3.39.020 Purpose:

It is the purpose of this chapter to compensate persons for property damage sustained as a result of lawful Salt Lake City Fire Department activities, regardless of fault, within the restrictions and limitations of this chapter.

3.39.030 Definitions:

Unless the context specifically indicates otherwise, the following terms and phrases, as used in this chapter, shall have the meanings hereinafter designated:

- A. "City" means Salt Lake City Corporation, a political subdivision of the state.
- B. "City attorney" means the city attorney or his/her designee.

C. "Person or applicant" means any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, or any other legal entity (except the United States government or any of its agencies, the state and any of its political subdivisions) or their legal representatives, agents, or assigns.

D. "Political subdivision" means any political subdivision of the state, including state departments and agencies, cities, towns, counties, and school districts.

3.39.040 Administration And Establishment Of Regulations:

The city attorney may establish regulations sufficient to provide for the handling of such claims and disbursements of those funds that are set aside for payment of claims under this chapter.

3.39.050 Reimbursement-Application-Time Limitations:

All applications for reimbursement under this chapter must be submitted to the city recorder within one hundred eighty (180) days after the incident occurs.

3.39.060 Application-Investigation And Recommendations:

Applications received by the city recorder shall be referred to the city's risk manager. The risk manager shall then forward the application to the fire department for investigation and recommendation. The city attorney shall make a determination as to whether or not to pay, under the criteria of this chapter. All payments authorized by the city attorney shall be made solely from funds to be set aside under this chapter.

3.39.070 Criteria For Payment:

A. The determination as to whether to make payments for loss under this chapter shall be based on the following criteria:

1. The eligible applicant suffered an otherwise uninsured property loss caused by fire department activities, under circumstances where the applicant acted responsibly and non-negligently to avoid the loss; and
2. The loss must be adequately substantiated;
3. There are budgeted and unencumbered funds available to pay the claim.

B. The following shall result in the denial of an application:

1. Application is not timely submitted;
2. Loss is fully covered by private insurance;
3. Applicant is ineligible under the terms of this chapter;
4. Loss was proximately caused by irresponsible or negligent act of the applicant, applicant's agent, or member of applicant's business or household;
5. Loss or eligibility is unsubstantiated;
6. The applicant knew or should have known that illegal activities were taking place on their premises.

C. The following shall result in reduction of payment:

1. Loss partially covered by insurance;
2. Loss exceeds funding limits or payment caps of this chapter;
3. Applicant did not cause the problem, but failed to act responsibly, and non-negligently to minimize the loss.

3.39.080 Maximum Payments:

Payments under this chapter shall be limited by the following restrictions:

- A. One thousand dollars (\$1,000.00) per applicant, per incident;
- B. One payment per applicant, per year.

C. The maximum funding limit of ten thousand dollars (\$10,000.00) per fiscal year, regardless of the number of claims involved.

3.39.090 Payment Does Not Imply Liability:

A. Any payment made under this chapter shall not be construed as an admission of nor does it imply any negligence or legal responsibility on the part of the city for any purpose.

B. This chapter shall not in any way supersede, change, or abrogate the state governmental immunity act, or its successor, and its application to the city or establish in any person a right to sue the city.

C. Any payment made under this chapter and accepted shall constitute a full and complete release of any and all claims against the city, its officers, employees, and agents arising from the incident.

3.39.100 Annual Budget Expenditure:

The Fire Department is authorized to request the appropriations of sufficient funds, not to exceed ten thousand dollars (\$10,000.00), to make the foregoing payments.

3.39.110 Claims From Other Governmental Agencies:

Notwithstanding any other provisions of this chapter, no application shall be accepted from the United States or any of its departments or agencies, the state, or any of its political subdivisions.

SECTION 2. This ordinance shall take effect immediately upon the date of its first publication.

Passed by the City Council of Salt Lake City, Utah this _____ day of _____, 2006.

CHAIRPERSON

ATTEST:

CHIEF DEPUTY CITY RECORDER

Transmitted to Mayor on _____.

Mayor's Action: _____ Approved. _____ Vetoed.

MAYOR

ATTEST:

CHIEF DEPUTY CITY RECORDER

(SEAL)

Bill No. _____ of 2006.

Published: _____.

APPROVED AS TO FORM
Salt Lake City Attorney's Office
Date 3 APRIL 2006
By S. Cresswell