

## FREQUENTLY ASKED QUESTIONS

### TEXAS TORTS CLAIMS ACT



#### WHAT IS THE TEXAS TORTS CLAIMS ACT?

The Texas Tort Claims Act (TTCA or Act) is a set of state statutes that determine when a city or other governmental entity may be liable for accidents or intentional acts that cause property damage or personal injury. The TTCA provides a partial waiver of immunity of the State of Texas and its various political subdivisions, including cities, counties, and school districts. Prior to the adoption of the Act, individuals could not recover damages from cities or other governmental units for injuries or damages caused by the actions of a government employee or officer in the performance of a governmental function. Sovereign immunity (state) and governmental immunity (local governments like cities and counties) serve several purposes. It protects the expense of time and money caused by private litigation and encourages forthright action by public officials. It also protects the government from fraudulent or frivolous suits.

In 1969, the Texas Legislature enacted the TTCA. The TTCA waived immunity for a governmental entity that was engaged in a governmental function. A governmental unit in the state is liable for:

- (1) property damage, personal injury, and death proximately caused by the wrongful act or omission or the negligence of an employee acting within the scope of employment if:
  - (A) the property damage, personal injury, or death arises from the operation or use of a **motor-driven vehicle or motor-driven equipment**; *and*
  - (B) the employee would be personally liable to the claimant according to Texas law; *and*
- (2) personal injury and death so caused by a **condition or use of tangible personal or real property** if the governmental unit would, were it a private person, be liable to the claimant according to Texas law.

Tex. Civ. Prac. & Rem. Code § 101.021

#### WHAT DOES THIS MEAN?

Generally, local governments, municipalities (cities), counties, towns, and other political subdivisions of the state are immune from most liability under governmental immunity. However, the local government can be liable for certain acts if it waives its immunity by statute. In our state, this statute is the Texas Tort Claims Act (TTCA), which permits suit against governmental entities in limited, specific circumstances.

#### WHEN IS THE CITY LIABLE FOR PROPERTY DAMAGE?

As a governmental entity, the City is liable for property damage only when the use or operation of a motor-driven vehicle or motor-driven equipment causes property damage, injury, or death.

#### WHAT DOES “MOTOR-DRIVEN VEHICLE” OR “MOTOR-DRIVEN EQUIPMENT” MEAN?

This means any equipment or machinery that needs a motor to operate. Some examples of motor-driven vehicles or motor-driven equipment are excavators, backhoes, bulldozers, trash collection trucks, and City vehicles.

#### WHAT IS NOT CONSIDERED A “MOTOR-DRIVEN VEHICLE” OR “MOTOR-DRIVEN EQUIPMENT”?

Any tool that can operate without a motor and is used by hand, such as a wrench, spade, shovel, digging bar, hammer, and hand saw.



### **WHAT ARE SOME COMMON ISSUES THE CITY HAS NO LIABILITY FOR UNDER THE TTCA?**

As a governmental entity, some of the common issues the City has NO liability for under the TTCA include, but are not limited to:

- damage resulting from driving through a pothole
- damage from a sewer backup
- damage from a water main break that is naturally occurring
- damage resulting from driving through a road hazard/debris (*e.g.*, rock bouncing off a truck or pothole, orange barricade, water valve lid)
- damage due to power outages and/or weather-related emergencies (*e.g.*, mandates by the Electric Reliability Council of Texas (ERCOT))

### **IF I NEED TO FILE A CLAIM, WHAT DO I NEED TO DO?**

If your injuries and/or property damages were caused by the use or operation of a motor-driven vehicle or motor-driven equipment by the City of Denton, you have 90-days from the date of loss to provide the City with a claim. A failure to timely submit this claim can prevent you from recovering any damages. You may mail your Notice of Claim to the below address:

**Risk Management  
City of Denton  
601 E. Hickory St, Ste. A – Human Resources  
Denton, TX 76205**

You can also submit the Notice of Claim form by email to:

[RiskManagement@CityofDenton.com](mailto:RiskManagement@CityofDenton.com)

### **HOW LONG WILL IT TAKE FOR MY CLAIM TO BE PROCESSED?**

Once a claim is received by the City of Denton, the claim goes through an investigation process. The City of Denton strives to respond to all claims within thirty (30) days from receipt.

If you have any questions about how to file a claim or the status of your claim, please contact:

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