

City of Hot Springs, Arkansas

CLAIMS PAYMENT POLICY

I. PURPOSE.

From time to time, water or sewer line breaks, pump station overflows, accidents within the public rights-of-way or similar incidents occur causing damage to private property (real and personal) or injury to persons. The purpose of this policy is to establish a fair and consistent method of consideration of such claims. In order to avoid misunderstandings, city employees and officials should take care not to make commitments to any party except in accordance with this policy. Ordinance No. 4443 authorizes the payment of such claims if approved by the City Manager or Board of Directors.

II. PRACTICE.

When property damage occurs as the result of an incident alleged to be the fault of city operations, the authorized city personnel should take such immediate action as necessary to mitigate any further damage. This may include engaging outside contractors on an emergency basis as needed in accordance with the emergency repair procedures of the city's purchasing procedure. Such emergency actions should be limited to the actions necessary to stabilize the immediate situation to the extent that city operations or systems are involved. In case of personal injury, city personnel should not authorize payment for any emergency services beyond notification of emergency medical services (e.g., calling E-911). Contacting emergency medical services by city personnel does not obligate the city to pay for such services.

Once damage is mitigated (e.g., break fixed and water evacuated) city personnel should assess the damage and make a complete report to the appropriate department head and the City Manager. City personnel on site should also advise the aggrieved party of the city's process in handling damage or injury claims including providing a copy of the "Notice Regarding Tort Claims" card and how they may assert a claim for consideration by the City Manager or Board of Directors.

III. PROCEDURE.

The following procedure should be followed in resolving property damage or injury claims.

- (a) Initial contact. The appropriate city department head or the City Treasurer should, as soon as possible following the incident, provide a city claim form and submission instructions to the aggrieved party and inform the party of the city's claim consideration procedure. The aggrieved party should also be advised that the city will only pay such claims as may be approved by the City Manager or Board of

Directors.

- (b) Insured claims. Should a property damage or personal injury claim be approved for payment, the amount of payment shall not exceed the amount of the aggrieved party's insurance deductible. In this regard, the claimant shall include, with their claim, appropriate documentation from their insurance company illustrating the total amount paid as a result of the incident and the deductible amount to be paid by the claimant. Payment by the city for approved personal injury claims shall be limited to the claimant's documented out-of-pocket (non-reimbursable) medical expenses only. Out-of-pocket personal injury expenses shall be presented as a total and final claim prior to consideration by the City Manager or Board of Directors.
- (c) Uninsured claims. Uninsured claims shall be considered by the City Manager or Board of Directors on a case-by-case basis. Complete documentation (receipts, invoices, etc.) of the claimant's out-of-pocket expenses must be submitted with the claim form. Claimants must attach a notarized statement attesting that they have no insurance coverage.
- (d) Claim approval levels. In accordance with Ordinance No. 4446, claims of \$5,000 or less may be considered by the City Manager. Claims exceeding \$5,000 must be approved by the Board of Directors. If circumstances are of such an extreme nature that consideration cannot wait until the next Board meeting, action may be taken under the City Manager's emergency authority and a report made to the Board as soon as possible.
- (e) Items not considered. Loss of time, pain, and suffering or other such personal expenses shall not be considered for payment by the city. Payment for approved property damage claims shall be limited to claimant's documented out-of-pocket (non-reimbursable) expense only. Loss of use of property, temporary replacement of property, and other such indirect expenses shall not be considered for payment.
- (f) Appeals. Should a claimant not be willing to settle a claim pursuant to these procedures, a final and best resolution should be proposed by the appropriate department head after consultation with the City Manager. The claimant should be advised of his/her right to appeal to the Board of Directors. Claimant appeals to the Board should be effected by contacting the City Clerk's office and completing an "Agenda Request" form.

IV. TORT IMMUNITY.

Nothing contained herein shall be considered to be a waiver of any immunity from liability granted to the City by the laws of the State of Arkansas. Pursuant to state law, the City bears no responsibility for tort claims; however, such claims may be considered by the City Manager (under aggregate total of \$5,000) or by the Board of Directors (over aggregate total of \$5,000) and remuneration may or may not be provided. Please be advised that no other officer or employee of the City may obligate the City or otherwise agree to any terms or conditions regarding a claim for damages, and any emergency or immediate actions taken by

any officer or employee to mitigate or provide relief in no way obligates the City to further consideration or remuneration.

V. POLICY WAIVER.

The Board of Directors reserves the right to waive any provisions of this policy in unusual or unique circumstances when strict adherence would not be in the best interest of the public generally.

VI. EFFECTIVE DATE.

This administrative policy shall be effective from and after September 1, 2008. All previous editions are hereby suspended. Revisions and amendments, if necessary, shall be issued by the City Manager.


KENT A. MYERS
City Manager

September 1, 2008

CITY OF HOT SPRINGS CLAIM FORM

Name _____ Date _____

Address _____ Phone _____

Street/P.O. Box

City, State, Zip

Return to: City of Hot Springs
Attn: Dorethea Yates (321-6825)
P. O. Box 6300
Hot Springs, AR 71902

Amount of Claim \$ _____ (Attach estimates, paid bills, etc.)

DESCRIPTION OF CLAIM (Describe, in detail, the nature of your claim, location of incident, date, time, etc. Attach additional sheets, if necessary.)

For what reasons do you feel the city should pay this claim?

I hereby acknowledge that the information provided above is true and correct to the best of my knowledge.

Claimant Signature

FOR CITY USE ONLY			
Department Recommendation		City Manager Authorization	
<input type="checkbox"/> Approved	<input type="checkbox"/> Denied	<input type="checkbox"/> Approved	<input type="checkbox"/> Denied
<input type="checkbox"/> Modified		<input type="checkbox"/> Modified	
Comments:		Comments:	
_____ Department Head	_____ Date	_____ City Manager	_____ Date

NON-INSURED / INSURED AFFIDAVIT

I, _____, do hereby state, under penalty of perjury that:

____ I do not have any insurance that will pay for any expense incurred as a result of the incident that prompted this claim.

OR

____ My insurance has paid for the expense incurred as a result of the incident that prompted this claim except for a deductible amount of \$_____.

OR

____ I do have insurance that would pay for expenses incurred as a result of the incident that prompted this claim, however I choose to not utilize my insurance for the following reason(s) _____

The deductible for this insurance is \$_____.

Claimant's Signature

Date

STATE OF _____
COUNTY OF _____

Subscribed and sworn to before me this _____ day of _____, 20____.

Notary Public

My commission expires: _____