

ORDINANCE ¹⁹⁹⁹1099-09-21-003

AN ORDINANCE OF THE CITY OF Kempner, TEXAS, REQUIRING NOTICE TO THE CITY COUNCIL OF ANY AND ALL CLAIMS AGAINST THE CITY; PROVIDING MANNER THAT NOTICE IS TO BE GIVEN; PROVIDING THAT THE NOTICE MAY NOT BE WAIVED; AND PROVIDING THAT THE TIMELY FILING OF NOTICE OF ANY CLAIM AND REFUSAL OF SAME BY THE CITY COUNCIL IS A CONDITION PRECEDENT TO THE INSTITUTION OF ANY SUIT; AND PROVIDING A FOR RELATED MATTERS.

WHEREAS, the City Council of the City of Kempner, Texas (herein the "City") is the ultimate repository of authority of the City;

WHEREAS, the City Council manages and controls the finances, properties, contractual obligations and the policies of the City;

WHEREAS, the City, in the course of operating and employing workers, has claims arise in the nature of contracts, torts, property damage, personal injury, wrongful death, equitable relief, as well as an array of other diverse claims that may from time to time arise;

WHEREAS, the City finds that the best interest of the City, tax paying citizens, and the claimants would be best served by the City Council being expeditiously informed of the details of any and all claims so that the City is given an opportunity to investigate as soon as possible after an incident in order to procure statements and other relevant information;

WHEREAS, the expeditious resolution of claims against the City without resort to the expense of litigation is in the best interest of the City, the citizens and the claimant; and

WHEREAS, in order for the City to assess the merits of any damage, destruction or injury, the City Council must have current, accurate and factual documentation from persons asserting such claims.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF Kempner, TEXAS, THAT:

Section 1. Notification Requirements. Before the City of Kempner shall be liable in any suit, including suits for damages, injury or destruction to property of any kind or nature or for damages, torts or injuries to persons of any kind or nature, in the event the injury results in death or injuries to another, the person or persons who may have a cause of action under the law by reason of such death or injury, shall, within sixty (60) days or for good cause shown within six (6) months from the date the damage or injury was received, serve written notice upon the Mayor and City Council which includes all of the following information:

1. The date and time when the injury or damage occurred and the location of the incident.

2. The nature of the damage or injury sustained.
3. The apparent extent of the damage or injury sustained.
4. A specific and detailed statement of the facts of the incident and under what circumstances the damage or injury occurred.
5. The amount for which each claimant will settle.
6. The actual place of residence of each claimant by street, number, city and state on the date the claim is presented and the actual residence of such claimant for the six months immediately preceding the incident.
7. In the case of personal injury, tort claims, or death, the names and addresses of all persons who, according to the knowledge or information of the claimant, witnessed the happening of the injury or any part thereof and the names of the doctors, if any, to whose care the injured person is committed.
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8. In the case of property damage, the location of the damaged property at the time the claim was submitted along with the names and addresses of all persons who witnessed the incident or any part thereof or who have relevant information.

Section 2. Suits. No suit of any nature whatsoever shall be instituted or maintained against the City unless the plaintiff(s) therein shall ever prove that prior to the filing of the original petition the plaintiff(s) complied with the notification requirements set forth herein and did thereby request from the City Council the redress, satisfaction, compensation, or relief demanded in such suit, and that the same was by vote of the City Council refused.

Section 3. Service. All notices required herein must be served upon the Mayor and the City Council by certified mail or by personally serving said persons. All such notices shall be effective only when actually received. The claimant must prove that service upon the appropriate persons was perfected as herein required.

Section 4. Failure to Notify. Failure to notify the Mayor and City Council within the time and manner provided herein shall exonerate, excuse and exempt the City from any liability whatsoever.

Section 5 Waiver. No person may waive the notification requirements established herein. Actual knowledge of the incident shall not constitute a waiver of the requirement of a written notification and service of such notice.

Section 6. Severability: It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses and phrases of this Ordinance are severable and, if any phrase, sentence, paragraph or section of this Ordinance should be declared invalid by the final judgment or decree of any court of competent jurisdiction, such invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Ordinance, since the same would have been enacted by the City Council without the incorporation of this ordinance of any such invalid phrase, clause, sentence, paragraph or section. If any provision of this Ordinance shall be adjudged by a court of competent jurisdiction to be invalid, the invalidity shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision, and to this end the provisions of this Ordinance are declared

to be severable.

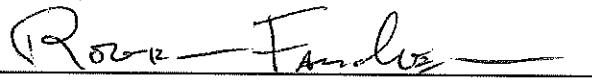
Section 7. Emergency. The City Council hereby finds and declares that the adoption, passage and immediate enforcement of this ordinance is an emergency and is necessary for the preservation and protection of the City and its citizens.

Section 8. Effective Date. This Ordinance shall be in force and effect from and after its passage on the date shown below.

Section 9. Open Meetings. It is hereby officially found and determined that the meeting at which this ordinance is passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act, *Chapt. 511, Tex. Gov't. Code.*

PASSED AND APPROVED this the 21st day of September, 1999.

City of _____, Texas
Kempner,



Roger Fancher, Mayor

ATTEST:


City Secretary, Frances Spinney