

ARTICLE 1.800 NOTICE OF CLAIMS REQUIREMENTS\*

(a) The City of Abernathy shall never be liable for any claim for property damage or for personal injury, whether such personal injury results in death or not, unless the person damaged or injured, or someone in his behalf, or in the event the injury results in death, the person or persons who may have a cause of action under the law by reason of such death injury, shall within sixty (60) days from the date the damage or injury was received give notice in writing to the mayor and city council of the following facts:

(1) The date and time when the injury or damage occurred and the place where the injured person or property was at the time when the injury was received.

(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 how 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.

(7) In the case of personal injury 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.

(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 happening of the damage or any part thereof.

(Ordinance 302, adopted 2/11/85, Section 1)

(b) No suit of any nature whatsoever shall be instituted or maintained against the City of Abernathy unless the plaintiff therein shall aver and prove that previous to the filing of the original petition the plaintiff applied to the city council for redress, satisfaction, compensation, or relief, as the case may be, and that the same was by vote of the city council refused. (Ordinance 302, adopted 2/11/85, Section 2)

(c) All notices required by this article shall be effectuated by serving them upon the city manager at the following location:

CITY HALL  
811 Ave. D.  
ABERNATHY, TEXAS 79311

and all such notices shall be effective only when actually received in the office of the person named above. (Ordinance 302, adopted 2/11/85, Section 3)

(d) Neither the mayor, a city councilmember, nor any other officer or employee of the city shall have the authority to waive any of the provisions of this article. (Ordinance 302, adopted 2/11/85, Section 4)

(e) The written notice required under this article shall be sworn to by the person claiming the damage or injuries or by someone authorized by him to do so on his behalf. Failure to swear to the notice as required herein shall not render the notice fatally defective, but failure to so verify the notice may be considered by the city council as a factor relating to the truth of the allegations and to the weight to be given to the allegations contained therein. (Ordinance 302, adopted 2/11/85, Section 5)

(f) The notice provisions required herein shall not be applicable in cases in which the plaintiff can demonstrate good cause, actual notice by the city, or civil rights violations. (Ordinance adopting Code)