

**SEWER BACK-UP
CLAIMS AGAINST TOOEELE CITY
(NO-FAULT CLAIMS)**

Generally, claims against Tooele City Corporation are governed by Utah's **Government Immunity Act** (See copy of Notice titled "Claims Against Tooele City" attached).

However, Tooele City has an ordinance specifically designed to help persons who have suffered loss from a water or sewer main line break or backup—regardless of fault.

WHAT TO DO

In order to make a claim under Tooele City's No-Fault Ordinance, you must do the following:

1. You must submit the claim to Tooele City's Recorder, Pat Dunlavy.
2. You must submit the claim within ninety (90) days after the incident occurred.
3. The must submit the claim in writing, give a brief statement of the facts, and state the damages incurred.

Attached is a form which follows the criteria needed to make a no-fault claim to Tooele City.

REASONS FOR NON-PAYMENT

Even if you make a no-fault claim with Tooele City, your claim may be denied or reduced for the following reasons:

1. The claim was not timely submitted.
2. The claim is fully or partially covered by private insurance.
3. The loss was caused by an irresponsible act of the claimant, or the claimant failed to act responsibly to minimize the loss.
4. The loss is unsubstantiated, or verification of the loss is incomplete.
5. The loss exceeds the maximum payment of \$2,000.00.

FURTHER QUESTIONS

The Tooele City Attorney's office will provide any assistance within its power; however, the Tooele City Attorney's office represents Tooele City Corporation, and therefore cannot provide you with legal advice. If you feel you need legal help to file a no-fault claim against Tooele City Corporation, this office recommends you seek private legal counsel.

Included is a copy of Title 8 Chapter 14 in its entirety for your reference.

Thank you,
Tooele City Attorney's Office

NO-FAULT UTILITY CLAIM

(In Accordance with Tooele City Ordinance § 8-14)

TO: TOOELE CITY RECORDER, PAT DUNLAVY

DATE SUBMITTED:

Name of Applicant: _____

Address: _____

(Must be dated by City Recorder's Office)

Phone (Home/Work/Cell):

Date of Incident:

Description of Incident (please be specific, and include any names or information which may be relevant):

Do you have Home Insurance? Yes No. Have you contacted your insurance about this incident?
 Yes No. If so, will your insurance company cover the loss from this incident? Yes No. If your insurance company will not cover your loss, please state the reasons why:

Name of insurance company, contact, and agent: _____
Phone number of company, contact, and agent: _____

Description and Verification of Loss (please be very specific, include estimates, receipts, appraisals, photos, videos, etc. to substantiate your loss) (Attach a separate sheet as necessary):

PLEASE READ: I understand, by signing below, that my no-fault claim to Tooele City Corporation may be denied or reduced for the following reasons: (1) The claim was not timely submitted; (2) The claim is fully or partially covered by private insurance; (3) The loss was caused by an irresponsible act of the claimant, or the claimant failed to act responsibly to minimize the loss; (4) The loss is unsubstantiated, or verification of the loss is incomplete; (5) The loss exceeds the maximum payment of \$2,000.00.

Signed: _____

Dated: _____

Notary Public
Residing in Tooele County, Utah

CHAPTER 14. NO-FAULT UTILITIES CLAIMS

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8-14-1. Short title.

The ordinance codified in this chapter shall be known as the "No-fault Utilities Claims Ordinance." (Ord. 88-34, 01-04-89)

8-14-2. Purpose.

It is the purpose of this chapter to compensate persons for loss sustained as the result of a break or backup in a city-owned and maintained watermain or sewer line, regardless of fault, within the restrictions, limitations and other provisions of this chapter. (Ord. 88-34, 01-04-89)

8-14-3. Definitions.

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

- (1) "City" means Tooele City Corporation, a political subdivision of the state.
- (2) "City attorney" means the city attorney or his/her designee.
- (3) "Person or applicant" means any individual, partnership, copartnership, 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.
- (4) "Political subdivision" means any political subdivision of the state, including state departments and agencies, cities, towns, counties and school districts. (Ord. 88-34, 01-04-89)

8-14-4. Administration and establishment of regulations.

The mayor may establish regulations sufficient to provide for the handling of such claims and disbursement of those funds which are set aside for payment of claims under this chapter. (Ord. 88-34, 01-04-89)

8-14-5. Reimbursement - Application - Time limitations.

All applications for reimbursement under this chapter must be submitted to the city recorder within ninety days after the incident occurs. (Ord. 88-34, 01-04-89)

8-14-6. Application - Investigation and recommendation.

Applications received by the city recorder shall be referred to the department of public utilities for investigation and recommendation. The department's report shall be forwarded to the city attorney for determination under the criteria of this chapter. All payments authorized by the city attorney shall be made by the director of the department of public utilities solely from funds to be set aside under this chapter. (Ord. 88-34, 01-04-89)

8-14-7. Criteria for payment.

- (1) The determination as to whether to make payment for loss under this chapter shall be based on the following criteria:
 - (a) Whether an eligible applicant suffered an otherwise uninsured property loss, caused by breach or backup of a city-owned water main or sewer line, under circumstances where the applicant acted responsibly to avoid the loss; and
 - (b) If so, whether the extent of the loss has been adequately substantiated.
- (2) The following shall result in the denial of an application:
 - (a) Application not timely submitted;
 - (b) Loss fully covered by private insurance;
 - (c) Applicant ineligible under the terms of this chapter;

- (d) Loss caused by an irresponsible act of the applicant, applicant's agent, or member of applicant's business or household;
- (e) Loss or eligibility unsubstantiated.
- (3) The following shall result in reduction of payment:
 - (a) Loss partially covered by private insurance;
 - (b) Loss exceeds funding limits of this chapter;
 - (c) Verification of loss inadequate or incomplete;
 - (d) Applicant did not cause the problem but failed to act responsibly to minimize the loss. (Ord. 88-34, 01-04-89)

8-14-8. Maximum payments.

No payment under this chapter shall exceed any of the following:

- (1) Two thousand dollars per application or location;
- (2) Twenty thousand dollars per incident;
- (3) Thirty thousand dollars per calendar year. (Ord. 88-34, 01-04-89)

8-14-9. Payment does not imply liability.

(1) Any payment made under this chapter shall not be construed as an admission of nor does it imply any negligence or responsibility on the part of the city for such damage. Any payment made under this chapter is strictly voluntary on the part of the city.

(2) This chapter shall not in any way supersede, change or abrogate the State Government Immunity Act, Utah Code Annotated, Section 63-30-1, et seq., as amended, or its successor, and its application to the city, or establish in any person a right to sue the city under this chapter.

(3) 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. (Ord. 88-34, 01-04-89)

8-14-10. Annual budget expenditures.

The city department of public utilities is authorized to provide for and include within its budget a fund from which an amount not to exceed thirty thousand dollars annually may be drawn to make the foregoing payments. (Ord. 88-34, 01-04-89)

8-14-11. 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 political subdivision. (Ord. 88-34, 01-04-89)