

ORDINANCE NO. ORD 2016-1

AN ORDINANCE OF THE CITY OF SPRING BRANCH PROVIDING FOR NOTICE TO THE CITY COMMISSION OF PROPERTY DAMAGE, PERSONAL INJURY, DEATH, PROVIDING THE TIME AND LOCATION WHERE SUCH NOTICE IS TO BE GIVEN; PROVIDING THAT SUCH NOTICE MAY NOT BE WAIVED; AND PROVIDING THAT THE TIMELY FILING OF NOTICE OF ANY CLAIM AND REFUSAL OF SAME BY THE CITY COMMISSION IS A CONDITION PRECEDENT TO THE INSTITUTION OF ANY SUIT; PROVIDING FOR VERIFICATION OF THE NOTICE OF CLAIM; AND PROVIDING A SEVERABILITY CLAUSE

WHEREAS, the City Commission is the ultimate repository of authority of the City; and

WHEREAS, the City Commission has the management and control of the finances, properties, and the contractual obligations and the policies of the City; and

WHEREAS, in the course of providing the many services to its citizenry, claims in the nature of contracts, tort, property damage, personal injury, wrongful death, and equitable relief may from time to time arise; and

WHEREAS, it is in the best interest of the City, the citizenry, and the claimants that the City Commission be expeditiously informed of the details of such claims; and

WHEREAS, as expeditious opportunity for the City Commission to review and consider the validity of said claim can allow for resolution without resort being made to the already overburdened judiciary, and

WHEREAS, in order to realistically assess the merits of any presented to it, the City Commission is in need of current, accurate factual documentation from those asserting such claims:

NOW THEREFORE, BE IT ORDAINED THAT:

SECTION I

The City of Spring Branch, Texas, 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 or injury, shall, within sixty (60) days or within six (6) months for good cause shown from the date the damage or injury was received, give notice in writing to the Mayor and City Commission of the following facts:

- A. The date and time when the injury occurred and the place where the injured person or property was at the time when the injury was received.
- B. The nature of the damage or injury sustained.
- C. The apparent extent of the damage or injury sustained.
- D. A specific and detailed statement of how and under what circumstances the damage or injury occurred.
- E. The amount for which each claimant will settle.
- F. The actual place of residence of each claimant by street, number, city and state on the date the claim is presented.
- G. 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.
- H. 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.

SECTION 2

No suit of any nature whatsoever shall be instituted or maintained against the City of Spring Branch, Texas unless the plaintiff therein shall ever prove that previous to the filing of the original petition the plaintiff applied to the City Commission for redress, satisfaction, compensation, or relief, as the case may be, and that the same was by vote of the City Commission refused.

SECTION 3

All notice required by this ordinance shall be effectuated by serving them upon the City Secretary or Mayor at the following location: 10950 US Hwy 281 N, Spring Branch, Texas and all such notices shall be effective only when actually received in the office of the person named above.

SECTION 4

The above written notice requirements shall be waived if the City has actual knowledge of death, injury or property damage likely to result in a claim against the City. The City shall not be deemed to have actual knowledge unless that knowledge is attributable to an appropriate City Official whose job duties include the authority to investigate and/or settle claims against the City.

SECTION 5

The written notice required under this ordinance 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 Commission as a factor relating to the truth of

the allegations and to the weight to be given to the allegations contained therein.

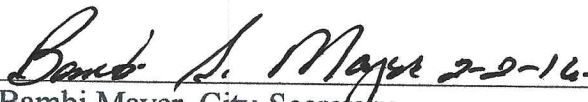
SECTION 6

If any provision of this ordinance or the application hereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given effect without defeating the purpose or objective of the provisions, and to this end, the provisions of this ordinance are declared to be severable.

ADOPTED, PASSED, AND APPROVED this the 2nd day of FEBRUARY, 2016.


James Mayer, Mayor

ATTEST:


Bambi Mayer, City Secretary