



NOTICE OF TORT CLAIM FOR PROPERTY DAMAGE AND/OR PERSONAL INJURY

If a person wishes to file a Tort Claim for personal injury and/or property damage with Brown County, state law requires that the citizen submit a claim in writing within 180 days of the claimed loss and must comply with IC 34-13-3. Each person claiming a loss must file a separate claim.

You must provide all information requested below, sign, and date. If applicable, we recommend including copies of accident/incident report, vehicle registration, paid receipts for repair or two (2) estimates for repair, medical reports, photographs, and any additional documentation in reference to this matter. Pursuant to IC 34-13-3-12, the completed claim must be delivered **in person** or by **registered or certified mail** and addressed to:

Brown County Highway Department
Tort Claims
P.O. Box 2088
Nashville, IN 47448

Brown County has ninety (90) days to respond to the claim. A claim is considered denied if Brown County fails to approve the claim in its entirety within ninety (90) days. Pursuant to IC 34-13-3-12, a person may not initiate a lawsuit against Brown County unless the person's claim has been denied in whole or in part. There are many statutory immunity provisions, listed under IC 34-13-3-3, which limit municipal liability. Each tort claim is evaluated accordingly.

CLAIMANT INFORMATION:

Name: _____

Phone Number: (home) _____ (cell) _____

Email Address: _____

Address at time of loss: (number and street, city, state, and ZIP code)

Current Address (if different than above): _____

Driver License Number: _____ Issuing State: _____

Vehicle License Plate Number (if involved): _____ Issuing State: _____

LOSS INFORMATION:

Date of Loss: _____ Time of Loss: _____ AM/PM

Dollar Amount of Loss: \$ _____

County Agency Involved (if known): _____

Exact Location of Loss (include address, road name, and nearest crossroad):

Description of circumstances surrounding loss and extent of loss (use additional paper if necessary):

Names & Contact Information of All Persons Involved (if known):

Signature: _____ **Date:** _____

Immunity of governmental entity or employee (IC 34-13-3-3)

Sec. 3. A governmental entity or an employee acting within the scope of the employee's employment is not liable if a loss results from the following:

- (1) The natural condition of unimproved property.
- (2) The condition of a reservoir, dam, canal, conduit, drain, or similar structure when used by a person for a purpose that is not foreseeable.
- (3) The temporary condition of a public thoroughfare or extreme sport area that results from weather.
- (4) The condition of an unpaved road, trail, or footpath, the purpose of which is to provide access to a recreation or scenic area.
- (5) The design, construction, control, operation, or normal condition of an extreme sport area, if all entrances to the extreme sport area are marked with:
 - (A) a set of rules governing the use of the extreme sport area;
 - (B) a warning concerning the hazards and dangers associated with the use of the extreme sport area; and
 - (C) a statement that the extreme sport area may be used only by persons operating extreme sport equipment.

This subdivision shall not be construed to relieve a governmental entity from liability for the continuing duty to maintain extreme sports areas in a reasonably safe condition.

- (6) The initiation of a judicial or an administrative proceeding.
- (7) The performance of a discretionary function; however, the provision of medical or optical care as provided in IC 34-6-2-38 shall be considered as a ministerial act.
- (8) The adoption and enforcement of or failure to adopt or enforce a law (including rules and regulations), unless the act of enforcement constitutes false arrest or false imprisonment.
- (9) An act or omission performed in good faith and without malice under the apparent authority of a statute which is invalid if the employee would not have been liable had the statute been valid.
- (10) The act or omission of anyone other than the governmental entity or the governmental entity's employee.
- (11) The issuance, denial, suspension, or revocation of, or failure or refusal to issue, deny, suspend, or revoke any permit, license, certificate, approval, order, or similar authorization, where the authority is discretionary under the law.
- (12) Failure to make an inspection, or making an inadequate or negligent inspection, of any property, other than the property of a governmental entity, to determine whether the property complied with or violates any law or contains a hazard to health or safety.
- (13) Entry upon any property where the entry is expressly or impliedly authorized by law.
- (14) Misrepresentation if unintentional.
- (15) Theft by another person of money in the employee's official custody, unless the loss was sustained because of the employee's own negligent or wrongful act or omission.
- (16) Injury to the property of a person under the jurisdiction and control of the department of correction if the person has not exhausted the administrative remedies and procedures provided by section 7 of this chapter.
- (17) Injury to the person or property of a person under supervision of a governmental entity and who is:
 - (A) on probation; or
 - (B) assigned to an alcohol and drug services program under IC 12-23, a minimum security release program under IC 11-10-8, a pretrial conditional release program under IC 35-33-8, or a community corrections program under IC 11-12.
- (18) Design of a highway (as defined in IC 9-13-2-73), toll road project (as defined in IC 8-15-2-4(4)), tollway (as defined in IC 8-15-3-7), or project (as defined in IC 8-15.7-2-14) if the claimed loss occurs at least twenty (20) years after the public highway, toll road project, tollway, or project was designed or substantially redesigned; except that this subdivision shall not be construed to relieve a responsible governmental entity from the continuing duty to provide and maintain public highways in a reasonably safe condition.
- (19) Development, adoption, implementation, operation, maintenance, or use of an enhanced emergency communication system.
- (20) Injury to a student or a student's property by an employee of a school corporation if the employee is acting reasonably under a discipline policy adopted under IC 20-33-8-12.
- (21) An act or omission performed in good faith under the apparent authority of a court order described in IC 35-46-1-15.1 that is invalid, including an arrest or imprisonment related to the enforcement of the court order, if the governmental entity or employee would not have been liable had the court order been valid.
- (22) An act taken to investigate or remediate hazardous substances, petroleum, or other pollutants associated with a brownfield (as defined in IC 13-11-2-19.3) unless:
 - (A) the loss is a result of reckless conduct; or
 - (B) the governmental entity was responsible for the initial placement of the hazardous substances, petroleum, or other pollutants on the brownfield.
- (23) The operation of an off-road vehicle (as defined in IC 14-8-2-185) by a nongovernmental employee, or by a governmental employee not acting within the scope of the employment of the employee, on a public highway in a county road system outside the corporate limits of a city or town, unless the loss is the result of an act or omission amounting to:
 - (A) gross negligence;
 - (B) willful or wanton misconduct; or
 - (C) intentional misconduct.

This subdivision shall not be construed to relieve a governmental entity from liability for the continuing duty to maintain highways in a reasonably safe condition for the operation of motor vehicles licensed by the bureau of motor vehicles for operation on public highways.

- (24) Any act or omission rendered in connection with a request, investigation, assessment, or opinion provided under IC 36-9-28.7.