



The Voice of Colorado's Cities and Towns

FAQ: Governmental immunity

The FAQ column features frequently asked questions submitted to the Colorado Municipal League. This information is of a general nature and should not be interpreted as legal advice. Local facts determine which laws may apply and how, so you should always consult your municipal attorney before proceeding.

Q: Are Colorado's cities and towns immune from civil lawsuits?

The Colorado Governmental Immunity Act (CGIA) establishes general immunity from suit to public entities and employees in tort cases. C.R.S. § 24-10-106. A tort is a wrongful act, but not necessarily an illegal act, that is committed when a person's negligent behavior has caused someone else to suffer loss or harm.

Q: Does immunity apply to all municipal officials, whether elected or employed by the city or town?

CGIA protects the municipality, its officials, public employees, and volunteers so long as they are acting within the scope of their duties. C.R.S. § 24-10-103(4)(a). Freedom from liability generally does not extend to contractors. .

Q: Why would the legislature allow municipalities to avoid liability?

The state and its political subdivisions provide essential services, and unlimited liability could disrupt or make these services prohibitively expensive to provide. Taxpayers would ultimately bear the burden of unlimited liability. Without this protection, unlimited liability would discourage entry into public service.

Q: Are there any exceptions to governmental immunity from tort liability?

Six waivers of governmental immunity exist. They cover dangerous conditions that pose some unreasonable risk that is either known or should have been known to exist to the

public's health or safety, or were caused by a negligent act or omission in constructing and maintaining facilities. The waived risks generally apply to the day-to-day operations of municipal services or functions that directly affect the general population like:

1. Operation of a motor vehicle owned by a public entity by a public employee in the course of employment. C.R.S. § 106(1)(a).
2. Operation of a public hospital, correctional facility or jail. C.R.S. § 106(1)(b).
3. Dangerous condition of a public building. C.R.S. § 106(1)(c).
4. Dangerous condition of a public highway, road, or street within the city including an interference with the movement of traffic on paved portions, failure to realign traffic control signals, and an accumulation of snow and ice that interferes with access to walks leading to public buildings. C.R.S. § 106(1)(d).
5. Operation of a public hospital, jail, public facility located in a park or recreation area maintained by the municipality, or of public water, gas, sanitation, electrical, power or swimming facility. C.R.S. § 106(1)(e).
6. Operation and maintenance of a public water, gas, sanitation, electrical, power, or swimming facility. C.R.S. § 106(1)(f).

Federal claims are excepted, as are actions that are a result of a public employee's "willful

and wanton" conduct. C.R.S. § 24-10-118. The CGIA does not describe willful and wanton conduct, but it is generally understood to be an action that is purposefully committed despite the actor realizing it was dangerous, or done heedlessly or recklessly, without regard either to consequences or the rights and safety of others.

Q: How does a potential plaintiff file a claim against a municipality?

Special notice is required to bring a claim against a municipality. The injured party must file a written notice within 180 days of discovering the injury. C.R.S. § 24-10-109.

This special notice of claim is required so that a public entity can investigate potential liability before litigation is filed. If the investigation concludes there is liability, then the municipality can immediately cure the dangerous condition and limit liability to others. The bar to claims older than 180 days permits the public entity to avoid stale claims and the potentially overwhelming impact of litigation.

Q: Are there limits to what a potential plaintiff may receive as damages for his or her injury?

Liability of damages where immunity is waived is limited to \$350,000 per person and \$990,000 per occurrence involving multiple people, though these amounts are adjusted every four years to reflect inflation. C.R.S. § 24-10-114.