

RESOLUTION OF THE CHARLOTTE CITY COUNCIL ESTABLISHING UNIFORM
STANDARDS UNDER WHICH CLAIMS OR CIVIL JUDGMENTS SOUGHT OR
ENTERED AGAINST CITY OFFICERS AND EMPLOYEES SHALL BE PAID.

WHEREAS, the City Manager and City Attorney have recommended to the City Council that protection be afforded to City officers and employees who have claims filed against them or suits brought against them resulting from actions taken within the scope of their employment or duties; and

WHEREAS, the City feels obligated to defend such officers and employees and to satisfy any claims or judgments against such officers or employees, if the facts and circumstances giving rise to the claim or suit show that the officer or employee was engaged in the good faith performance of his duties on behalf of the City when the incident giving rise to the claim occurred; and

WHEREAS, the 1977 General Assembly enacted legislation (Chapter 834 of the 1977 Session Laws) authorizing cities and counties to defend and to pay judgments entered against officers and employees, when the acts giving rise to the claim were performed by the officer or employee in the course of his employment or duties, and without actual fraud, corruption or actual malice.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Charlotte, that it shall be the policy of the City of Charlotte to defend its officers and employees against civil claims and judgments, and to satisfy same either through the purchase of insurance or otherwise, provided adoption of this resolution shall not be deemed an assumption of liability for payment of claims or judgments in excess of any fund established by Council for payment of claims or judgments in addition to any insurance coverage or any combination of such a fund and insurance coverage. Further, the City will not defend a claim or lawsuit or pay a claim or judgment when the officer or employee wilfully:

1. Acts or fails to act because of actual fraud, corruption or actual malice;
2. Acts or fails to act as a result of or at a time when his self-indulgence substantially impaired his judgment (as, for example, an officer or employee who causes damage or injury while intoxicated or under the influence of drugs while on the job);
3. Acts or fails to act, except in emergencies or the existence of extenuating circumstances, directly contrary to instructions from his superior, or directly contrary to advice of the City Attorney.
4. Acts or fails to act in such manner as to constitute a criminal act (as, for example, misappropriation of property or funds).

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The City Manager or his designee shall determine whether or not a claim or suit filed against an officer or employee meets the requirements specified herein for providing a defense for such officer or employee. If the City Manager or his designee determines that a claim or suit does not meet the requirements specified herein, the affected officer or employee may appeal said determination to the City Council. The City Council shall afford the officer or employee a hearing on the matter and shall decide whether or not the claim or suit meets the requirement of this resolution.

The terms "officer" and "employee" as used herein shall mean present or past Mayors and members of the Council, officers or employees, and present or past appointed members of City boards, agencies, committees and commissions who might hereafter have claims or judgments entered against them.

The policies specified herein shall not be applicable unless notice of the claim or suit is given to the City Council through the City Manager or City Attorney prior to the time the claim is settled or civil suit is litigated and judgment is entered.

This resolution shall not be interpreted in any way to relieve any insurance company of its obligation under any insurance policy to protect the interests of any insured under said policy, or to reduce or eliminate the rights of any officer or employee of the City against any other party. Further, except as expressly stated herein, this resolution is not to be interpreted as a waiver of any rights the City has against any party. Nor shall the adoption of this resolution be construed to waive the defense of governmental immunity.

This resolution is effective November 1, 1977 and shall constitute uniform standards under which claims made or civil judgments entered against officers or employees of the City shall be paid. A copy of this resolution shall be maintained in the office of the City Clerk for public inspection during all normal business hours.

Approved as to form:

Henry W. Underhill Jr.
City Attorney

CERTIFICATION

I, Ruth Armstrong, City Clerk of the City of Charlotte, North Carolina, do hereby certify that the foregoing is a true and exact copy of a Resolution adopted by the City Council of the City of Charlotte, North Carolina, in regular session convened on the 19th day of December, 1977, the reference having been made in Minute Book 66, page , and recorded in full in Resolutions Book 13, page 141-142.

WITNESS my hand and the corporate seal of the City of Charlotte, North Carolina, this the 21st day of December, 1977.

Ruth Armstrong, City Clerk