

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

RESOLUTION OF THE CHARLOTTE CITY COUNCIL ESTABLISHING A
PROCEDURE FOR THE HANDLING OF CLAIMS AND LAWSUITS AGAINST
THE CITY, ITS OFFICERS AND EMPLOYEES.

WHEREAS, the City Council has adopted a resolution relating to claims and judgments sought or entered against City officers or employees which establishes uniform standards under which claims or civil judgments shall be paid; and

WHEREAS, it is necessary that the City Council also adopt procedures detailing the handling of claims and lawsuits brought against the City, its officers and employees; and

WHEREAS, N. C. G. S. 160A-12 permits the City Council to provide for the exercise or performance of duties and powers by its officers, by adoption of a resolution setting forth the directions and restrictions for the exercise of said powers.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Charlotte, in regular session duly assembled, that the following procedure shall be implemented for the handling of claims and lawsuits brought against the City, its officers or employees:

Settlement Authority

The City Manager is hereby authorized to settle all claims or lawsuits for which insurance coverage is not available, when the amount involved does not exceed the sum of \$5,000.00. All claims or lawsuits where the proposed settlement exceeds \$5,000.00 shall be paid only upon the prior approval of the City Council.

Procedure

1. All claims and lawsuits brought against the City, its officers and employees shall be promptly forwarded to the office of the City Attorney upon their receipt.
2. After review of the claim or lawsuit by the office of the City Attorney, the claim or lawsuit shall be transmitted to the Charlotte-Mecklenburg Insurance Advisory Committee for preliminary investigation and handling. The Executive Director of the Charlotte-Mecklenburg Insurance Advisory Committee is hereby authorized to investigate any claim or lawsuit so received and to take such steps deemed necessary to insure a timely and effective resolution of the matter. The Executive Director may make such investigation with his own staff or may retain independent claims adjusters for this purpose as he deems advisable.

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3. If the Executive Director determines during or following his investigation that legal counsel is required to handle the claim or lawsuit, he shall consult with the City Attorney. The City Attorney may provide legal counsel from within his own office or may retain outside legal counsel if he determines in his discretion such action is necessary and expedient for the proper handling of the claim or lawsuit.

4. The Executive Director and the City Attorney shall recommend proposed settlements of claims and lawsuits, and provide sufficient documentation to support said recommendation to either the City Manager or the City Council in accordance with the provisions of this resolution.

This the 19th day of December, 1977.

Approved as to form:

Henry W. Chaswell
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 143-144.

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

RESOLUTION DECLARING AN INTENT TO ABANDON AND
CLOSE LOWELL STREET (FORMERLY LINDEN STREET)
LOCATED BETWEEN CUSHMAN STREET (FORMERLY CHESTER
STREET) AND RUTGERS AVENUE (FORMERLY GROVE STREET)
IN THE CITY OF CHARLOTTE, MECKLENBURG COUNTY,
NORTH CAROLINA.

WHEREAS, Willie Robert Reeder and wife, Ruby B. Reeder, Ibrahim Q. Saadeh and wife, Jane E. Saadeh, and Floyd Wilson Williams and wife, Mary Williams have filed a Petition to close Lowell Street between Cushman Street and Rutgers Avenue in the City of Charlotte; and

WHEREAS, Lowell Street petitioned to be closed in only one block long, lying between Cushman Street and Rutgers Avenue, as shown by maps marked "Exhibit A" and "Exhibit B," and is more particularly described by metes and bounds in a document marked "Exhibit C," all of which are available for inspection in the Office of the City Clerk, City Hall, Charlotte, North Carolina; and

WHEREAS, the procedure for closing streets and alleys as outlined in North Carolina General Statutes, Section 160A-299 requires that Council first adopt a resolution declaring its intent to close the street and calling a public hearing on the question; said Statute further requires that the resolution shall be published once a week for four successive weeks prior to the hearing, and a copy thereof be sent by registered or certified mail to all owners of property adjoining the street as shown on the county tax records, and a notice of the closing and public hearing shall be prominently posted in at least two places along said street;

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Charlotte, at its regularly scheduled session of December 19, 19 77, that it intends to close Lowell Street lying between Cushman Street and Rutgers Avenue, said street being more particularly described on a map and by a metes and bounds description available for inspection in the City Clerk's Office, and hereby calls a public hearing on the question to be held at 8:00 p.m. on January 16, 19 78, the 16th day of January, 19 78, at Education Center, 701 E. 2nd St. The City Clerk is hereby directed to publish a copy of this resolution in the Charlotte News once a week for four successive weeks next preceding the dated fixed herein for such hearing, as required by N.C.G.S. 160A-299, and further, the petitioners are directed to send by certified or registered mail or otherwise deliver a copy of this resolution to all owners of property adjoining the said street as shown on the county tax records. The petitioners are also directed to prominently post a notice of the closing and public hearing in at least two places along Lowell Street.

Read, approved and 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, and is recorded in full in Resolutions Book 13, at Page 145.

Ruth Armstrong
City Clerk

A RESOLUTION PROVIDING FOR PUBLIC
HEARINGS ON PETITIONS FOR ZONING CHANGES

WHEREAS, the City Council has received petitions for zoning changes, which petitions, numbered 78-1 through 78-4 are on record in the Office of the City Clerk, and

WHEREAS, the City Council deems it in the public interest that hearings be held on said petitions,

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Charlotte, that public hearings will be held in the Council Chamber on the Second Floor of the Charlotte City Hall beginning at 2:30 o'clock P. M. on Monday, the 23rd day of January, 1978 on petitions for zoning changes numbered 78-1 through 78-4.

BE IT FURTHER RESOLVED that notice of said hearings be published as required by law.

APPROVED AS TO FORM:

Henry W. Underhill, Jr.
Henry Underhill, City Attorney

Read, approved and 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, and is recorded in full in Resolutions Book 13, at Page 146.

Ruth Armstrong
City Clerk