

## CHAPTER 2 - ADMINISTRATION

### Sec. 2-49. Claims Management; risk; defense and indemnifications.1

(a) All of the protections and benefits conferred by this section shall be enjoyed by any present or former Mayor, Vice-Mayor and each and all of the present or former members of the city council, city officers, municipal judges, city employees, including the city attorneys, any prosecuting attorneys, whether or not such attorneys are full-time employees or serving on a contract basis, and every one of the members of all city boards and commissions and subcommittees, which protected parties are referred to in this section individually as a "city officer" and collectively or jointly as "city officials."

(b) Any City officer and all city officials shall be entitled to be exonerated, indemnified and held harmless by the City from and against any liability or loss in any manner arising out of, or occasioned by, his or their service as a City officer or officials and based upon any claim by any third party that the City or such City officer or officials, by any action or failure to act, damaged the property or infringed the rights of the third party, or of any other persons on whose behalf the third party brings a claim or legal action. The coverage afforded by this subsection shall not apply in any case where indemnification is not permissible pursuant to any state statute or any determination that such indemnification would be contrary to public policy.

(c) Subject to the above-stated limitations, the right to indemnification provided for in subsection (a) of this section shall extend as well to any claim brought by, or on behalf of, the city to recover damages alleged to have been occasioned to it or any of its property by any act or failure to act of any City officer or officials.

(d) In any case where indemnification is required under the provisions of this section the City shall pay, on behalf of any City officer and all City officials, any money judgments, and shall perform the onerous provisions of any court order, which may be entered against him or them, when such judgments or orders have become final and are no longer appealable.

(e) In any case where any City officer or officials are, entitled to be exonerated, indemnified and held harmless pursuant to the provisions of this section the City shall protect and defend any City officer and all city officials from and against any litigation commenced against him or them, by engaging and compensating competent legal counsel to conduct his or their defense, and by paying all court costs, and any fees of opposing legal counsel, taxed or imposed by the court having jurisdiction.

(f) The City shall at all times procure insurance policies providing the maximum coverages and limits procurable at reasonable rates to protect its interests and to indemnify and protect all City officials and any City officer entitled to indemnification and protection under this section. Acceptance of coverage and undertaking of protection by any such insurance carrier shall be deemed to satisfy the requirements of this section on the part of the City. However, in any case or

---

1 **Charter reference(s)**--Administrative departments, officers and employees, art. IV.; **Cross reference(s)**--Civil preparedness director, § 7-3; municipal judge, § 15-1; personnel, Ch. 19.

## CHAPTER 2 - ADMINISTRATION

instance where an insurance carrier does not in fact accept coverage and defend any City officer or officials, or where the insurance policy limits are insufficient to cover any judgment entered against any City officer or officials or such insurance is not effective for any reason for such coverage, the City shall be bound by the provisions of this section to protect and indemnify pursuant to the provisions of this section.

(g) It shall be a precondition to the assertion of any claim for protection and indemnity under this section that any City officer or officials, after having been served with process commencing litigation against him or them, or after having received written notice of a possible claim alleged to be covered under the provisions of this section, shall promptly give notice of the pendency of such action, or the presentation of any such claim, to the City Clerk who shall in turn present such actual or potential claim to the city council, together with such city officer's or officials' request for indemnity and protection hereunder. It shall further be a precondition to coverage hereunder that a city officer or officials claiming the protection and benefits conferred by this section shall at all times, and in every way, cooperate fully with legal counsel appointed by the city to defend against any threatened or pending litigation under the provisions of subsection (e) of the section.

(Ord. No. 88-35, §§ 1--4, 8-23-88)

(Ord. No. 07-30, 09/04/07, Amended, Sec. 2-51 renumbered to Sec. 2-49) SUPP 2007-4