

**Chapter 3.40**  
**CLAIMS AGAINST OFFICERS AND EMPLOYEES<sup>1</sup>**

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**3.40.010 Payment.**

The City, in the discretion of the Governing Body, may post security, indemnify and pay on behalf of each person and the heirs and legal representatives of such person who is or was an officer or employee of the City for any reasonable expense that may be incurred by such person in connection with or resulting from any claim, action, suit or proceeding, civil, criminal, administrative or investigative, or threat thereof, or in connection with an appeal relating thereto, in which such person may become involved as a party or otherwise, by reason of being or having been an officer or employee of the City. The payment of such expense shall be supplemental to any expense incurred by any insurance company under the company's contractual obligation to the City.

(History: Ord. OES-679 §1, 72)

**3.40.020 Expense Defined.**

As used in this chapter, the term "expense" includes counsel fees, and other disbursements made or to be made in assisting in the defense of such person and may include payment of judgments, fines, penalties or amounts paid in settlement by or on behalf of such person.

(History: Ord. OES-736 §1, 73; OES-679 §2, 72)

**3.40.030 Investigation - Findings-Determination.**

The Governing Body, prior to obligating the City for such expense shall make or cause to be made, an investigation of the facts relating to the claim, action or proceeding against such person. Thereafter, the Governing Body by resolution shall make findings of fact, a determination as to whether or not assistance will be provided, the type thereof and the estimated amount of expense.

(History: Ord. OES-679 §3, 72)

**3.40.040 Criteria for Authorization to Pay.**

In making its findings of fact and determination the Governing Body shall not authorize the payment of such expense unless it finds all of the following:

- A. The claim action or proceeding arose out and in the line of duty or employment of such person;

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<sup>1</sup> For statutory provisions regarding claims against officers and employees, see Chapter 324, 1972 Session Laws of Kansas.

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- B. The City has a direct interest in the matter as opposed to a collateral interest;
- C. The officer or employee acted in good faith and had reasonable cause to believe conduct was lawful;
- D. That it would be in the interests of the City to authorize the payment of such expense.  
(History: Ord. OES-679 §4, 72)

**3.40.050 Termination of Previous Resolutions Authorizing Payment.**

The Governing Body shall have the right to terminate and revoke by resolution at any time any previous resolution authorizing the payment of expense without further liability or obligation to any such officer or employee, or third parties contracting with such officer or employee.  
(History: Ord. OES-679 §5, 72)

**3.40.060 Approval by Council and Mayor.**

All findings and determination required by this chapter shall be made by a majority of the council members elect and approved by the Mayor.  
(History: Ord. OES-679 §6, 72)

**3.40.070 Claims arising on and after July 1, 1979.**

The foregoing provisions of Chapter 3.40 shall apply to claims against officers or employees of the City arising from acts or omissions occurring prior to July 1, 1979. The provisions of the Kansas Tort Claims Act, and amendments thereto, shall govern claims against officers and employees of the City arising on and after July 1, 1979.  
(History: Ord. OES-1034 §1, 79; OES-679 §7, 72)

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