

A RESOLUTION OF THE CITY COUNCIL TO ADOPT A POLICY FOR THE INDEMNIFICATION AND DEFENSE OF ELECTED OFFICIALS, APPOINTED OFFICIALS, AND EMPLOYEES SUED FOR ACTIONS TAKEN IN THE COURSE AND SCOPE OF THEIR EMPLOYMENT OR OFFICIAL CAPACITY, TO ESTABLISH PARAMETERS UNDER WHICH SUCH INDEMNITY AND DEFENSE WILL APPLY, AND FOR OTHER PURPOSES

**WHEREAS**, the Charter of the City of Brookhaven empowers the City Council to take actions necessary to protect the health, safety, and welfare of the citizens, residents, and visitors within the City of Brookhaven; and

**WHEREAS**, O.C.G.A. § 45-9-21 authorizes the City to enact a policy of defense and indemnification for officials and employees of the City who act within the course and scope of their engagement for or on behalf of the City; and

**WHEREAS**, the City Council finds and concludes that providing peace of mind and support for the officials and employees of the City is an important safeguard for the retention and recruitment of City officials and employees; and

**WHEREAS**, the City Council finds that the intent and purpose of this Policy does not constitute an impermissible gratuity because for the policy to be effective the person or persons receiving the benefit of the policy must be acting in the course and scope of their job or position for the city, must act without selfish motive or intent, and must not act for their own personal gain or advancement; and

**WHEREAS**, the City Council further finds and concludes that it is important for the peace of mind of the officials and employees of the City, and of their families, that each of them understand and have the Council's commitment that when the City's officials and employees are about the work of the City as determined by the Council through its legislation, policies, and procedures, that the City will stand behind that work and the official or employee need not worry or be concerned about personal liability for their work on behalf of the City.

NOW THEREFORE, BE IT RESOLVED AND DETERMINED that the findings and conclusions above are made a part of this Policy and are expressly adopted and found to be true by the City Council.

BE IT FURTHER RESOLVED AND DETERMINED that the following shall be the Policy of the City and may be referred to or cited as "Brookhaven Indemnity Policy:"

Section 1. Indemnity and Defense

It shall be the policy of the City of Brookhaven that the City shall provide a defense and indemnification for any damages awarded by, any Court or Agency of competent jurisdiction for any action taken by any Elected Official, any Appointed Official, and any employee who at the time of the alleged actions or omissions was performing work for and on behalf of the City, was acting within established policies, procedures, or guidelines or was acting pursuant to express

authority from the City Council, and was not acting for their own personal advantage or advancement.

Section 2. Resolution of Disputes Over Application of Policy

If a question arises about the application of this policy to a particular set of facts or circumstances, such question shall be resolved solely by the City Council, acting pursuant to law and its rules, within the discretion and wisdom of the legislative body. Any appeal of such decision may be had to the Superior Courts of the State of Georgia by writ of *certiorari*.

Section 3. Applicability

This Policy shall apply to any judgment, verdict, award, or settlement that is not final, (an award, judgment or verdict shall be considered final if an opportunity to appeal has been abandoned or the appeal has been exhausted and no further review is available) as of the time this policy is adopted by the Council.

Section 4. Right and authority of Council to direct the purchase of insurance

The Council shall have the option and discretion to direct the City Manager to purchase such insurance as deemed appropriate and sound to provide a defense and/or indemnity for the City and its officials and employees. This policy shall apply in excess of any applicable insurance policy or in cases where insurance is determined not to provide coverage. Nothing in this policy shall be deemed to constitute insurance or a waiver of the City's sovereign immunity under Georgia law.

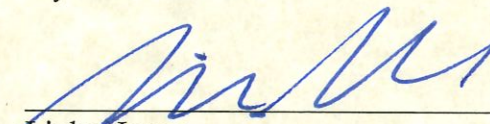
Section 5. Effective date

This policy shall take effect upon passage by the City Council as provided by the Charter.

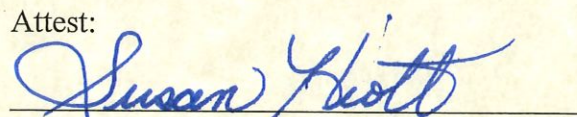
Section 6. Corrections of Scrivener's Errors

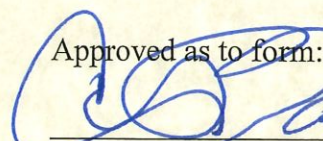
The City Clerk is empowered, after consultation with the City Attorney, to make any corrections to this Policy found after passage so long as such corrections do not alter or change the meaning and intent of this policy.

SO RESOLVED and EFFECTIVE, this 22d day of March 2022.

  
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Linley Jones  
Mayor pro tem

Attest:

  
\_\_\_\_\_  
Susan Hiott  
City Clerk

Approved as to form:  
  
\_\_\_\_\_  
Christopher D. Balch  
City Attorney

