

ORDINANCE NO. 28-2016

**TITLE: AMEND BARBERTON CODIFIED ORDINANCES
CHAPTER 232 – DEPARTMENT OF LAW**

AN ORDINANCE AMENDING SECTION 232.01 “LIABILITY LOSS FUND; CLAIMS AGAINST CITY; MORAL CLAIMS,” AND DECLARING AN EMERGENCY.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Barberton, State of Ohio:

SECTION 1. That Chapter 232, “Department of Law,” of the Barberton Codified Ordinances be amended to reflect changes to Section 232.01 “Liability Loss Fund; Claims Against City; Moral Claims,” by showing deletions using a ~~strikethrough~~ and additions in **bold print**, to read as follows:

232.01 LIABILITY LOSS FUND; CLAIMS AGAINST CITY; ~~MORAL CLAIMS.~~

(a) The Council hereby establishes a **General** Liability Loss Fund to be used for the payment of claims against the Municipality or any of its officers or employees for injury, death, or loss to persons or property allegedly caused by an act or omission of the political subdivision or any of its employees, within the scope of their duties for the Municipality, in connection with a governmental or proprietary function. ~~Said Fund may also be used for the purchase of liability insurance coverage with the approval of a majority of City Council by ordinance.~~ Said Fund may also be used to pay the costs of administering the Fund, the costs of defending claims, and the costs of adjusting claims made against the Municipality.

(b) The Director of Law of the Municipality is hereby given the exclusive authority to settle or compromise claims against the Municipality up to a maximum amount of five thousand dollars (\$5,000) per claim. **Claims in excess of five thousand dollars (\$5,000) but less than fifty thousand dollars (\$50,000) shall be approved by the Board of Control. Claims in excess of fifty thousand dollars (\$50,000) shall be approved by Council.** ~~with notification to the Barberton City Council after settlement. There is hereby established a Claims Review Board, which shall consist of the Director of Law, the Director of Finance, and the Chairman of the City Council Finance Committee. No claim in excess of five thousand dollars (\$5,000) will be paid by the Municipality unless approved by a majority of the members of the Claims Review Board and Barberton City Council.~~

(c) The Director of Law is hereby authorized to retain outside legal counsel in such cases as the Director of Law deems appropriate to protect the interests of the Municipality. The Mayor is hereby authorized to retain a person or firm of his or her choosing to adjust claims made against the Municipality.

~~(d) The sum of two hundred sixteen thousand, five hundred eighty four dollars (\$216,584) is hereby appropriated from the unappropriated item of the General Liability Insurance Fund to 61-1-L30, the Liability Loss Fund. The Director of Finance is hereby authorized to invest any excess funds not needed to pay existing claims, in any manner provided by law. Any interest generated by said investments shall be placed in the Liability Loss Fund. The funds contained in the Liability Loss Fund shall be used solely for the purposes provided for in this section and may not be appropriated for any other purpose.~~

(e) The creation of this Liability Loss Fund shall not constitute nor be construed as a waiver of the immunities in favor of the Municipality contained within Ohio R.C. Chapter 2744.

~~(f) The Director of Law is hereby given the exclusive authority and discretion to settle or compromise moral claims against the Municipality up to a maximum amount of seven hundred and fifty dollars (\$750.00) per claim, whether the claim accrued before or after the~~

~~passage of this subsection. For purposes of this subsection, "moral claim" means a claim for which the City would have a legal liability, but for the fact that it has immunity, and in which the factual situation is such that good conscience and pure legal logic indicate that the claim should be paid. Approval shall be based on a finding that legal liability would exist, but for the City's immunity, and that additional facts exist which, in good conscience, compel payment.~~

SECTION 2. That it is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this ordinance were taken in an open meeting of this Council and that all deliberations of this Council and of any of its committees that resulted in such formal action were meetings open to the public in compliance with the law.

SECTION 3. That this ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, safety, convenience and welfare of the City of Barberton and the inhabitants thereof, so this may be concluded in a timely manner, and provided it receives the necessary votes required by the City Charter, shall be in full force and effect from and after its passage and approval; otherwise to be in full force and effect from and after the earliest period allowed by law.

Passed _____ 2016

Clerk of Council

President of Council

Approved _____ 2016

Mayor