

Article 21.

Miscellaneous.

**§ 160A-485. Waiver of immunity through insurance purchase.**

(a) Any city is authorized to waive its immunity from civil liability in tort by the act of purchasing liability insurance. Participation in a local government risk pool pursuant to Article 23 of General Statute Chapter 58 shall be deemed to be the purchase of insurance for the purposes of this section. Immunity shall be waived only to the extent that the city is indemnified by the insurance contract from tort liability. No formal action other than the purchase of liability insurance shall be required to waive tort immunity, and no city shall be deemed to have waived its tort immunity by any action other than the purchase of liability insurance. If a city uses a funded reserve instead of purchasing insurance against liability for wrongful death, negligence, or intentional damage to personal property, or absolute liability for damage to person or property caused by an act or omission of the city or any of its officers, agents, or employees acting within the scope of their authority and the course of their employment, the city council may adopt a resolution that deems the creation of a funded reserve to be the same as the purchase of insurance under this section. Adoption of such a resolution waives the city's governmental immunity only to the extent specified in the council's resolution, but in no event greater than funds available in the funded reserve for the payment of claims.

(b) An insurance contract purchased pursuant to this section may cover such torts and such officials, employees, and agents of the city as the governing board may determine. The city may purchase one or more insurance contracts, each covering different torts or different officials, employees, or agents of the city. An insurer who issues a contract of insurance to a city pursuant to this section thereby waives any defense based upon the governmental immunity of the city, and any defense based upon lack of authority for the city to enter into the contract. Each city is authorized to pay the lawful premiums for insurance purchased pursuant to this section.

(c) Any plaintiff may maintain a tort claim against a city insured under this section in any court of competent jurisdiction. As to any such claim, to the extent that the city is insured against such claim pursuant to this section, governmental immunity shall be no defense. Except as expressly provided herein, nothing in this section shall be construed to deprive any city of any defense to any tort claim lodged against it, or to restrict, limit, or otherwise affect any defense that the city may have at common law or by virtue of any statute. Nothing in this section shall relieve a plaintiff from any duty to give notice of his claim to the city, or to commence his action within the applicable period of time limited by statute. No judgment may be entered against a city in excess of its insurance policy limits on any tort claim for which it would have been immune but for the purchase of liability insurance pursuant to this section. No judgment may be entered against a city on any tort claim for which it would have been immune but for the purchase of liability insurance pursuant to this section except a claim arising at a time when the city is insured under an insurance contract purchased and issued pursuant to this section. If, in the trial of any tort claim against a city for which it would have been immune but for the purchase of liability insurance pursuant to this section, a verdict is returned awarding damages to the plaintiff in excess of the insurance limits, the presiding judge shall reduce the award to the maximum policy limits before entering judgment.

(d) Except as otherwise provided in this section, tort claims against a city shall be governed by the North Carolina Rules of Civil Procedure. No document or exhibit which relates to or alleges facts as to the city's insurance against liability shall be read, exhibited, or mentioned in the presence of the trial jury in the trial of any claim brought pursuant to this section, nor shall the plaintiff, his

counsel, or anyone testifying in his behalf directly or indirectly convey to the jury any inference that the city's potential liability is covered by insurance. No judgment may be entered against the city unless the plaintiff waives his right to a jury trial on all issues of law or fact relating to insurance coverage. All issues relating to insurance coverage shall be heard and determined by the judge without resort to a jury. The jury shall be absent during all motions, arguments, testimony, or announcement of findings of fact or conclusions of law with respect to insurance coverage. The city may waive its right to have issues concerning insurance coverage determined by the judge without a jury, and may request a jury trial on these issues.

(e) Nothing in this section shall apply to any claim in tort against a city for which the city is not immune from liability under the statutes or common law of this State. (1951, c. 1015, ss. 1-5; 1971, c. 698, s. 1; 1975, c. 723; 1985 (Reg. Sess., 1986), c. 1027, s. 27; 2003-175, s. 1.)

**§ 160A-485.1:** Reserved for future codification purposes.

**§ 160A-485.2:** Reserved for future codification purposes.

**§ 160A-485.3:** Reserved for future codification purposes.

**§ 160A-485.4:** Reserved for future codification purposes.

**§ 160A-485.5. Waiver of immunity for large cities through State Tort Claims Act.**

(a) Any city with a population of 500,000 or more according to the most recent decennial federal census is authorized to waive its immunity from civil liability in tort by passage of a resolution expressing the intent of the city to waive its sovereign immunity pursuant to Article 31 of Chapter 143 of the General Statutes, as modified by subsection (b) of this section, and subject to the limitations set forth by subsection (c) of this section. Any resolution passed pursuant to this section shall apply to all claims arising on or after the passage of the resolution, until repealed.

(b) The following modifications of Article 31 of Chapter 143 of the General Statutes shall apply to the waiver of sovereign immunity described by subsection (a) of this section:

- (1) Jurisdiction for tort claims against the city shall be vested in the Superior Court Division of the General Court of Justice of the county where the city is principally located, and, except as otherwise provided in this section, tort claims against a city shall be governed by the North Carolina Rules of Civil Procedure. The city shall be solely responsible for the expenses of its legal representation in connection with claims asserted against it, and for payment of the amount for which it is found liable under this section. Therefore, G.S. 143-291, 143-291.1, 143-291.2, 143-291.3, 143-292, 143-293, 143-295, 143-295.1, 143-296, 143-297, 143-298, 143-299.4, and 143-300 shall not apply to claims under this section.

- (2) Appeals to the Court of Appeals from a decision of the Superior Court Division shall be treated in the same manner as an appeal from a decision of the Industrial Commission under G.S. 143-294.
- (3) The limitation on claims set forth in G.S. 143-299; the burden of proof and defense set forth in G.S. 143-299.1; notwithstanding G.S. 143-299.1A(c), the defense set forth in G.S. 143-299.1A; and the limitation on payments set forth in G.S. 143-299.2 shall apply to claims filed with the Superior Court Division under this section.

(c) If a city waives its immunity pursuant to subsection (a) of this section, G.S. 160A-485 shall not apply to that city. The city may purchase liability insurance or adopt a resolution creating a self-funded reserve to insure liability for negligence of any officer, employee, involuntary servant or agent of the city while acting within the scope of his office, employment, service, agency or authority, under circumstances where the city, if a private person, would be liable to the claimant in accordance with the laws of North Carolina.

(d) No document or exhibit that relates to or alleges facts as to the city's insurance against liability shall be read, exhibited, or mentioned in the presence of the trial jury in the trial of any claim brought pursuant to this section, nor shall the plaintiff, plaintiff's counsel, or anyone testifying on the plaintiff's behalf directly or indirectly convey to the jury any inference that the city's potential liability is covered by insurance. No judgment may be entered against the city unless the plaintiff waives the plaintiff's right to a jury trial on all issues of law or fact relating to insurance coverage. All issues relating to insurance coverage shall be heard and determined by the judge without resort to a jury. The jury shall be absent during all motions, arguments, testimony, or announcement of findings of fact or conclusions of law with respect to insurance coverage. The city may waive its right to have issues concerning insurance coverage determined by the judge without a jury and may request a jury trial on these issues. (2009-519, s. 1.)

#### **§ 160A-486. Estimates of population.**

When a newly incorporated municipality is not included in the most recent federal census of population but otherwise qualifies for distribution of State-collected funds allocated wholly or partially on the basis of current population estimates, the municipality shall be entitled to participate in the distribution of these funds by reporting all information designated by the Office of State Budget and Management. An estimate of this city's population will be made by the Office of State Budget and Management in accordance with procedures designated by that office. The estimate will be certified to State departments and agencies charged with the responsibility of distributing funds to local governments along with the current population estimates for all other municipalities. (1953, c. 79; 1969, c. 873; 1971, c. 698, s. 1; 1979, 2nd Sess., c. 1137, s. 46; 2000-140, s. 93.1(a); 2001-424, s. 12.2(b).)

#### **§ 160A-487. City and county financial support for rescue squads.**

Each city and county is authorized to appropriate funds to rescue squads or teams to enable them to purchase and maintain rescue equipment and to finance the operation of the rescue squad either within or outside the boundaries of the city or county. (1959, c. 989; 1971, c. 698, s. 1.)

#### **§ 160A-488. Museums and arts programs.**

(a) Any city or county is authorized to establish and support museums, art galleries, or arts centers, so long as the facility is open to the public.

(b) Any city or county is authorized to establish and support arts programs and facilities. As used in this section, "arts" refers to the performing arts, visual arts, and literary arts and includes dance, drama, music, painting, drawing, sculpture, printmaking, crafts, photography, film, video, architecture, design and literature, when part of a performing, visual or literary arts program.

(c) Any city or county may contract with any other governmental agency, or with any public or nonprofit private association, corporation or organization to establish and support museums, art galleries, arts centers, arts facilities, and arts programs and may appropriate funds to any such governmental agency, or to any such public or nonprofit private association, corporation or organization for the purpose of establishing and supporting such museums, galleries, centers, facilities and programs.

(d) As used in this section, "support" includes, but is not limited to: acquisition, construction, and renovation of buildings, including acquisition of land and other property therefor; purchase of paintings and other works of art; acquisition, lease, or purchase of materials and equipment; compensation of personnel; and all operating and maintenance expenses of the program or facility.

(e) In the event funds appropriated for the purposes of this section are turned over to any agency or organization other than the city or county for expenditure, no such expenditure shall be made until the city or county has approved it, and all such expenditures shall be accounted for by the agency or organization at the end of the fiscal year for which they were appropriated.

(f) For the purposes set forth in this section, a city or county may appropriate funds not otherwise limited as to use by law. (1955, c. 1338; 1961, c. 309; 1965, c. 1019; 1971, c. 698, s. 1; 1975, c. 664, s. 17; 1979, 2nd Sess., c. 1201.)

#### **§ 160A-489. Auditoriums, coliseums, and convention centers.**

Any city is authorized to establish and support public auditoriums, coliseums, and convention centers. As used in this section, "support" includes but is not limited to: acquisition, construction, and renovation of buildings and acquisition of the necessary land and other property therefor; purchase of equipment; compensation of personnel; and all operating and maintenance expenses of the facility. For the purposes set forth in this section, a city may appropriate funds not otherwise limited as to use by law. (1971, c. 698, s. 1; 1975, c. 664, s. 18.)

#### **§ 160A-490. Photographic reproduction of records.**

(a) General Statutes 153A-436 shall apply to cities. When a county officer is designated by title in that Article, the designation shall be construed to mean the appropriate city officer, and the city council shall perform powers and duties conferred and imposed on the board of county commissioners.

(b) The provisions of subsection (a) of this section shall apply to records stored on any form of permanent, computer-readable media, such as a CD-ROM, if the medium is not subject to erasure or alteration. Nonerasable, computer-readable storage media may be used for preservation duplicates, as defined in G.S. 132-8.2, or for the preservation of permanently valuable records as provided in G.S. 121-5(d). (1955, c. 451; 1971, c. 698, s. 1; 1979, 2nd Sess., c. 1247, s. 41; 1999-131, s. 5; 1999-456, s. 47(e); 2011-326, s. 13(e).)

**§ 160A-490.1. SBI and State Crime Laboratory access to view and analyze recordings.**

The local law enforcement agency of any city that uses the services of the State Bureau of Investigation or the North Carolina State Crime Laboratory to analyze a recording covered by G.S. 132-1.4A shall, at no cost, provide access to a method to view and analyze the recording upon request of the State Bureau of Investigation or the North Carolina State Crime Laboratory. (2016-88, s. 2(b).)

**§ 160A-491. Powers in connection with beach erosion.**

[All cities shall have the power] to levy taxes and appropriate tax or nontax funds for the acquisition, construction, reconstruction, extension, maintenance, improvement, or enlargement of groins, jetties, dikes, moles, walls, sand dunes, vegetation, or other types of works or improvements which are designed for the control of beach erosion or for protection from hurricane floods and for the preservation or restoration of facilities or natural features which afford protection to the beaches or other land areas of the municipalities or to the life and property thereon. (1971, c. 896, s. 5; c. 1159, s. 2.)

**§ 160A-492. Human relations, community action and manpower development programs.**

The governing body of any city, town, or county is hereby authorized to undertake, and to expend tax or nontax funds for, human relations, community action and manpower development programs. In undertaking and engaging in such programs, the governing body may enter into contracts with and accept loans and grants from the State or federal governments. The governing body may appoint such human relations, community action and manpower development committees or boards and citizens' committees, as it may deem necessary in carrying out such programs and activities, and may authorize the employment of personnel by such committees or boards, and may establish their duties, responsibilities, and powers. The cities and counties may jointly undertake any program or activity which they are authorized to undertake by this section. The expenses of undertaking and engaging in the human relations, community action and manpower development programs and activities authorized by this section are necessary expenses for which funds derived from taxation may be expended without the necessity of prior approval of the voters.

For the purposes of this section, a "human relations program" is one devoted to (i) the study of problems in the area of human relations, (ii) the promotion of equality of opportunity for all citizens, (iii) the promotion of understanding, respect and goodwill among all citizens, (iv) the provision of channels of communication among the races, (v) dispute resolution, (vi) encouraging the employment of qualified people without regard to race, or (vii) encouraging youth to become better trained and qualified for employment. (1971, c. 896, s. 11; c. 1207, ss. 1, 2; 1973, c. 641; 1989 (Reg. Sess., 1990), c. 1062, s. 1.)

**§ 160A-493. Animal shelters.**

A city may establish, equip, operate, and maintain an animal shelter or may contribute to the support of an animal shelter, and for these purposes may appropriate funds not otherwise limited

as to use by law. The animal shelters shall meet the same standards as animal shelters regulated by the Department of Agriculture pursuant to its authority under Chapter 19A of the General Statutes. (1973, c. 426, s. 73.1; 2004-199, s. 39(b).)

**§ 160A-494. Drug abuse programs.**

Any city may provide for the prevention and treatment of narcotic, barbituric and other types of drug abuse and addiction through education, medication, medical care, hospitalization, and outpatient housing, and may appropriate the necessary funds therefor. (1973, c. 608.)

**§ 160A-495. Appropriations for establishment, etc., of local government center in Raleigh.**

Counties, cities and towns are hereby authorized to appropriate money for payment to their respective instrumentalities, the North Carolina Association of County Commissioners and the North Carolina League of Municipalities for the purpose of financing the cost, in whole or in part, of purchasing, constructing, equipping, maintaining and operating a local government center in the City of Raleigh to serve as permanent headquarters for said organizations. (1973, c. 1131.)

**§ 160A-496. Incorporation of local acts into charter.**

(a) A city may from time to time require the city attorney to present to the council any local acts relating to the property, affairs, and government of the city and not part of the city's charter which the city attorney recommends be incorporated into the charter. In his recommendations, the city attorney may include suggestions for renumbering or rearranging the provisions of the charter and other local acts, for providing catchlines, and for any other modifications in arrangement or form that do not change the provisions themselves of the charter or local acts and that may be necessary to effect an orderly incorporation of local acts into the charter.

(b) After considering the recommendations of the attorney, the council may by ordinance direct the incorporation of any such local acts into the charter. The city clerk shall file a certified true copy of the ordinance with the Secretary of State and with the Legislative Library.

(c) For purposes of this section, "charter" means that local act of the General Assembly or action of the Municipal Board of Control incorporating a city or a later local act that includes provisions expressly denominated the city's "charter," plus any other local acts inserted therein pursuant to this section or a comparable provision of a local act. (1975, c. 156; 1985 (Reg. Sess., 1986), c. 935, s. 3; 1989, c. 191, s. 3.)

**§ 160A-497. Senior citizens programs.**

Any city or county may undertake programs for the assistance and care of its senior citizens including but not limited to programs for in-home services, food service, counseling, recreation and transportation, and may appropriate funds for such programs. Any city council or county may contract with any other governmental agency, or with any public or private association, corporation or organization in undertaking senior citizens programs, and may appropriate funds to any such governmental agency, or to any such public or private association, corporation or organization for the purpose of carrying out such programs. In the event funds appropriated for the purposes of this section are turned over to any agency or organization other than the city or county for expenditure, no such expenditure shall be made until the city or county has approved it, and all such

expenditures shall be accounted for by the agency or organization at the end of the fiscal year for which they were appropriated. For purposes of this section, the words "senior citizens" shall mean citizens of a city or county who are at least 60 years of age. (1977, c. 187, s. 1; c. 647, ss. 1, 2; 1979, 2nd Sess., c. 1094, ss. 4, 5.)

**§ 160A-498. Railroad corridor preservation.**

A city or county may acquire property, by purchase or gift, to preserve a railroad corridor established by the Department of Transportation. A city or county that acquires property to preserve a railroad corridor may lease the property or use the property for interim compatible uses until the property is used for a railroad. (1989, c. 600, s. 9.)

**§ 160A-499. Reimbursement agreements.**

(a) A city may enter into reimbursement agreements with private developers and property owners for the design and construction of municipal infrastructure that is included on the city's Capital Improvement Plan and serves the developer or property owner. For the purpose of this act, municipal infrastructure includes, without limitation, water mains, sanitary sewer lines, lift stations, stormwater lines, streets, curb and gutter, sidewalks, traffic control devices, and other associated facilities.

(b) A city shall enact ordinances setting forth procedures and terms under which such agreements may be approved.

(c) A city may provide for such reimbursements to be paid from any lawful source.

(d) Reimbursement agreements authorized by this section shall not be subject to Article 8 of Chapter 143 of the General Statutes, except as provided by this subsection. A developer or property owner who is party to a reimbursement agreement authorized under this section shall solicit bids in accordance with Article 8 of Chapter 143 of the General Statutes when awarding contracts for work that would have required competitive bidding if the contract had been awarded by the city. (2005-426, s. 8(a).)

**§ 160A-499.2. Fair housing ordinances in certain municipalities.**

(a) A municipality shall have the power to adopt ordinances prohibiting discrimination on the basis of race, color, sex, religion, handicap, familial status, or national origin in real estate transactions. The ordinances may regulate or prohibit any act, practice, activity, or procedure related, directly or indirectly, to the sale or rental of public or private housing, which affects or may tend to affect the availability or desirability of housing on an equal basis to all persons; may provide that violations constitute a criminal offense; may subject the offender to civil penalties; and may provide that the municipality may enforce the ordinances by application to the Superior Court Division of the General Court of Justice for appropriate legal and equitable remedies, including mandatory and prohibitory injunctions and orders of abatement, attorneys' fees, and punitive damages, and the court shall have jurisdiction to grant the remedies.

(b) A municipality also shall have the power to amend any ordinance adopted pursuant to the provisions contained in subsection (a) of this section to ensure that the ordinance remains substantially equivalent to the federal Fair Housing Act (41 U.S.C. §§ 3601, et seq.). Any ordinance enacted pursuant to this section prohibiting discrimination on the basis of familial status shall not apply to housing for older persons, as defined in the federal Fair Housing Act (41 U.S.C. §§ 3601, et seq.).

(c) Any ordinance enacted pursuant to this section may provide for exemption from its coverage:

- (1) The rental of a housing accommodation in a building containing accommodations for not more than four families living independently of each other if the lessor or a member of his family resides in one of those accommodations.
- (2) The rental of a room or rooms in a housing accommodation by an individual if he or a member of his family resides there.
- (3) With respect to discrimination based on sex, the rental or leasing of housing accommodations in single-sex dormitory property.
- (4) With respect to discrimination based on religion to housing accommodations owned and operated for other than a commercial purpose by a religious organization, association, or society, or any nonprofit institution or organization operated, supervised, or controlled by or in conjunction with a religious organization, association, or society, the sale, rental, or occupancy of the housing accommodation being limited or preference being given to persons of the same religion, unless membership in the religion is restricted because of race, color, national origin, or sex.
- (5) Any person, otherwise subject to its provisions, who adopts and carries out a plan to eliminate present effects of past discriminatory practices or to assure equal opportunity in real estate transactions, if the plan is part of a conciliation agreement entered into by that person under the provisions of the ordinance.

(d) A municipality may create or designate a committee to assume the duty and responsibility of enforcing ordinances adopted pursuant to this section. The committee may be granted any authority deemed necessary by the city council for the proper enforcement of any fair housing ordinance, including the power to:

- (1) Promulgate rules for the receipt, initiation, investigation, and conciliation of complaints of violations of the ordinance.
- (2) Require answers to interrogatories, the production of documents and things, and the entry upon land and premises in the possession of a party to a complaint alleging a violation of the ordinance; compel the attendance of witnesses at hearings; administer oaths; and examine witnesses under oath or affirmation.
- (3) Apply to the Superior Court Division of the General Court of Justice, upon the failure of any person to respond to or comply with a lawful interrogatory, request for production of documents and things, request to enter upon land and premises, or subpoena, for an order requiring the person to respond or comply.
- (4) Upon finding reasonable cause to believe that a violation of the ordinance has occurred, to petition the Superior Court Division of the General Court of Justice for appropriate civil relief on behalf of the aggrieved person or persons.

(e) A municipality may provide that neither complaints filed with any committee pursuant to the ordinance nor the results of the committee's investigations, discovery, or attempts at conciliation, in whatever form prepared and preserved, shall be subject to inspection, examination, or copying under the provisions of what is now Chapter 132 of the General Statutes.

(f) A municipality may provide that the statutory provisions relating to meetings of governmental bodies, presently embodied in Article 33C of Chapter 143 of the General Statutes, shall not apply to the activity of any committee authorized to enforce the ordinance to the extent



that the committee is receiving a complaint or conducting an investigation, discovery, or conciliation pertaining to a complaint filed pursuant to the ordinance.

(g) This section applies only to municipalities that have a permanent population of 90,000 or more according to the most recent decennial census and that are the location of a recurring special accommodation event requiring temporary accommodations for at least 50,000 people. For purposes of this section, the term "recurring special accommodation event" means a trade show or other event of less than 11 days' duration that has been held in the municipality at least once a year for at least 10 years. (2007-475, ss. 1, 2.)

### **§ 160A-499.3. Limitation on the use of public funds.**

A municipality shall not use public funds to endorse or oppose a referendum, election or a particular candidate for elective office. (2010-114, s. 1.5(b).)

### **§ 160A-499.4. Notice prior to construction.**

(a) A city shall notify the property owners and adjacent property owners prior to commencement of any construction project by the city.

(b) Notice under this section shall be in writing at least 15 days prior to the commencement of construction, except in any of the following instances:

- (1) If the construction is of an emergency nature, the notice may be given by any means, including verbally, that the city has for contacting the property owner within a reasonable time prior to, or after, commencement of the construction.
- (2) The property owner requests action of the city that requires construction activity.
- (3) The property owner consents to less than 15 days' notice.
- (4) Notice of the construction project is given in any open meeting of the city prior to the commencement of the construction project.

(c) For purposes of this section, "construction" shall mean the building, erection, or establishment of new buildings, facilities, and infrastructure and shall not include routine maintenance and repair. (2015-246, s. 12(b); 2015-286, s. 1.8(d).)