

**Watertown City Council**

May 23, 2023

<b>Agenda Item:</b>	<b>Statutory Tort Liability Limits</b>
<b>Request for Action:</b>	<b>Adopt Resolution 2023-35, not waiving monetary limits on municipal tort liability</b>
<b>Employee/Dept.:</b>	<b>Margaret Reisdorf, Administrative Services Director</b>

**Background:**

The City of Watertown is a member of the League of Minnesota Insurance Trust (LMCIT) which offers liability coverage to its members.

LMCIT members who obtain liability coverage, which the City of Watertown does, must decide whether or not to waive the statutory tort liability limits to the extent of the coverage purchased.

If a member does not waive the statutory tort limits, an individual claimant would be able to recover no more than \$500,000 on any claim to which the statutory tort limits apply.

The total that all claimants would be able to recover a single occurrence to which the statutory tort limits apply would be limited to \$1,500,000.

If a member waives the statutory tort limits and does not purchase excess liability coverage, a single claimant could potentially recover up to \$2 million for a single occurrence.

**Recommendation:**

Staff recommends adopting Resolution #2023-35, to not waive the monetary limits on municipal tort liability established by Minnesota State Statute, Section 466.04.

**Motion Type:**

Simple majority vote of members present.

**Requested Action/Motion:**

*"I move to adopt Resolution #2023-35, that does not waive the monetary limits on municipal tort liability established by Minnesota Statutes, Section 466.04."*

**Attachments:**

Resolution #2023-35

City Waiver Form.

Minnesota Statute, Section 466.04.

**CITY OF WATERTOWN  
RESOLUTION NO. 2023-35**

**RESOLUTION TO NOT WAIVE MONETARY LIMITS ON MUNICIPAL TORT  
LIABILITY ESTABLISHED BY MINNESOTA STATUTES, SECTION 466.04**

**WHEREAS**, the City Council of the City of Watertown, Minnesota is a member of the League of Minnesota Cities Insurance Trust (LMCIT); and

**WHEREAS**, LMCIT members that obtain liability coverage from LMCIT must decide whether or not to waive the statutory tort liability limits to the extent of coverage purchased; and

**WHEREAS**, in the event a city **does not waive** the statutory tort limits, an individual claimant would be able to recover no more than \$500,00 on any claim to which the statutory tort limits apply; and

**WHEREAS**, the total all claimants would be able to recover for a single occurrence to which the statutory limits apply would be limited to \$1,500,000;

**NOW, THEREFORE, BE IT RESOLVED**, that the City Council of the City of Watertown, Minnesota, hereby approves this resolution to not waive the monetary limits on municipal tort liability established by Minnesota Statutes, Section 466.04.

Adopted by the City Council of the City of Watertown this 23rd day of May, 2023.

\_\_\_\_\_  
Michael Walters, Mayor

ATTEST: \_\_\_\_\_  
Margaret Reisdorf, Administrative Services Director

## LIABILITY COVERAGE WAIVER FORM

**Members who obtain liability coverage through the League of Minnesota Cities Insurance Trust (LMCIT) must complete and return this form to LMCIT before their effective date of coverage. Email completed form to your city's underwriter, to [pstech@lmc.org](mailto:pstech@lmc.org), or fax to 651.281.1298.**

*The decision to waive or not waive the statutory tort limits must be made annually by the member's governing body, in consultation with its attorney if necessary.*

Members who obtain liability coverage from LMCIT must decide whether to waive the statutory tort liability limits to the extent of the coverage purchased. The decision has the following effects:

- *If the member does not waive the statutory tort limits, an individual claimant could recover no more than \$500,000 on any claim to which the statutory tort limits apply. The total all claimants could recover for a single occurrence to which the statutory tort limits apply would be limited to \$1,500,000. These statutory tort limits would apply regardless of whether the member purchases the optional LMCIT excess liability coverage.*
- *If the member waives the statutory tort limits and does not purchase excess liability coverage, a single claimant could recover up to \$2,000,000 for a single occurrence (under the waive option, the tort cap liability limits are only waived to the extent of the member's liability coverage limits, and the LMCIT per occurrence limit is \$2,000,000). The total all claimants could recover for a single occurrence to which the statutory tort limits apply would also be limited to \$2,000,000, regardless of the number of claimants.*
- *If the member waives the statutory tort limits and purchases excess liability coverage, a single claimant could potentially recover an amount up to the limit of the coverage purchased. The total all claimants could recover for a single occurrence to which the statutory tort limits apply would also be limited to the amount of coverage purchased, regardless of the number of claimants.*

Claims to which the statutory municipal tort limits do not apply are not affected by this decision.

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LMCIT Member Name:

*Check one:*

The member **DOES NOT WAIVE** the monetary limits on municipal tort liability established by Minn. Stat. § 466.04.

The member **WAIVES** the monetary limits on municipal tort liability established by Minn. Stat. § 466.04, to the extent of the limits of the liability coverage obtained from LMCIT.

Date of member's governing body meeting:

Signature: \_\_\_\_\_

Position:

**466.04 MAXIMUM LIABILITY.**

Subdivision 1. **Limits; punitive damages.** (a) Liability of any municipality on any claim within the scope of sections 466.01 to 466.15 shall not exceed:

(1) \$300,000 when the claim is one for death by wrongful act or omission and \$300,000 to any claimant in any other case, for claims arising before January 1, 2008;

(2) \$400,000 when the claim is one for death by wrongful act or omission and \$400,000 to any claimant in any other case, for claims arising on or after January 1, 2008, and before July 1, 2009;

(3) \$500,000 when the claim is one for death by wrongful act or omission and \$500,000 to any claimant in any other case, for claims arising on or after July 1, 2009;

(4) \$750,000 for any number of claims arising out of a single occurrence, for claims arising on or after January 1, 1998, and before January 1, 2000;

(5) \$1,000,000 for any number of claims arising out of a single occurrence, for claims arising on or after January 1, 2000, and before January 1, 2008;

(6) \$1,200,000 for any number of claims arising out of a single occurrence, for claims arising on or after January 1, 2008, and before July 1, 2009;

(7) \$1,500,000 for any number of claims arising out of a single occurrence, for claims arising on or after July 1, 2009;

(8) twice the limits provided in clauses (1) to (7) when the claim arises out of the release or threatened release of a hazardous substance, whether the claim is brought under sections 115B.01 to 115B.15 or under any other law; or

(9) \$1,000,000 for any number of claims arising out of a single occurrence, if the claim involves a nonprofit organization engaged in or administering outdoor recreational activities funded in whole or in part by a municipality or operating under the authorization of a permit issued by a municipality.

(b) No award for damages on any such claim shall include punitive damages.

Subd. 1a. **Officers and employees.** The liability of an officer or an employee of any municipality for a tort arising out of an alleged act or omission occurring in the performance of duty shall not exceed the limits set forth in subdivision 1, unless the officer or employee provides professional services and also is employed in the profession for compensation by a person or persons other than the municipality.

Subd. 1b. **Total claim.** The total liability of the municipality on a claim against it and against its officers or employees arising out of a single occurrence shall not exceed the limits set forth in subdivision 1.

Subd. 2. **Inclusions.** The limitation imposed by this section on individual claimants includes damages claimed for loss of services or loss of support arising out of the same tort.

Subd. 3. **Disposition of multiple claims.** Where the amount awarded to or settled upon multiple claimants exceeds the applicable limit under subdivision 1, paragraph (a), clauses (4) to (9), any party may apply to any district court to apportion to each claimant a proper share of the total amount limited by subdivision 1.

The share apportioned each claimant shall be in the proportion that the ratio of the award or settlement made to each bears to the aggregate awards and settlements for all claims arising out of the occurrence.

**History:** *1963 c 798 s 4; 1976 c 264 s 1-3; 1983 c 121 s 28; 1983 c 331 s 2,3; 1986 c 444; 1989 c 325 s 50; 1997 c 210 s 3,4; 2006 c 232 s 2; 2012 c 131 s 2,3*