

LEGAL DEFENSE AND INDEMNIFICATION OF OFFICIALS AND EMPLOYEES

Sec. 31.15. - DEFINITION.

For the purpose of this subchapter, the following definition shall apply unless the context clearly indicates or requires a different meaning:

City Officials and Employees. The Mayor, Commissioners, all appointed officers of the City (including the members of the City Housing Authority, all Board members, Commission members or Committee members of the City) and all administrative personnel and employees of the City.

(Code 1980, § 2-6(a))

Sec. 31.16. - RIGHT OF REPRESENTATION.

The City Attorney's office, insurance defense counsel, if applicable, or other counsel appointed by the City Commission shall undertake the representation or defense, without charge, of City officials and employees with respect to any Claim or cause of action arising out of or related to the performance by the City officials or employees, as defined by Section 31.15, of their public duties.

(Code 1980, § 2-6(b))

State Law reference— Defense of civil actions against public officers or employees, F.S. § 111.07.

Sec. 31.17. - INDEMNIFICATION.

- (A) City officials or employees who are personally liable for the payment of any claims arising out of a civil action, settlement or judgment, or the expenses, costs and awards of attorney's fees arising therefrom, shall be entitled to indemnification from the City (except to the extent the City's insurance coverage provides payment) where the claim resulted from activities:
- (1) Which were done in good faith;
 - (2) In which the City has an interest;
 - (3) Which were within the course and scope of employment or in the course of performance of public duties of the persons so acting; and
 - (4) Were not willful, wanton or malicious.
- (B) Notwithstanding the foregoing, any City official or employee who acts outside the scope of his or her authority or employment, in bad faith, with malicious purpose, or in a manner exhibiting wanton and willful disregard for human rights, safety, or property in the course of performance of his or her public duties, shall not be indemnified by the City.
- (1) Any such action shall be considered to be an ultra vires act, shall not be approved, and the City shall not be bound or obligated thereby. However, the City Commission may ratify any such action or actions and/or chose to indemnify such official or employee by affirmative vote of at least three (3) City Commissioners.
 - (2) Any person who violates this section shall be subject to the penalties set forth at Section 10.99 of the Code of Ordinances, Chapter 37 of the Code of Ordinances, F.S. ch. 162, and/or any other means of enforcement available under both state and federal law inclusive.

(Code 1980, § 2-6(c); Ord. No. [11-17](#), § 1, passed 4/4/17)

State Law reference— Payment of judgments or settlements, F.S. § 111.071; authority of City to obtain indemnity insurance, F.S. § 111.072.

Sec. 31.18. - RESERVATION OF RIGHTS.

The undertaking of legal defense by the City under Section 31.16 of this subchapter shall automatically be under a reservation of rights regarding the eligibility of the subject claim for the benefits provided by this subchapter.

(Code 1980, § 2-6(d))

Sec. 31.19. - NO WAIVER OF DEFENSE.

Nothing in this subchapter shall be construed to waive any defense in any action which would be available, in the absence of this subchapter, to the City or individual City officials or employees, including, but not limited to, those defenses which could be asserted under F.S. Section 768.28, or any successor statute thereto.

(Code 1980, § 2-6(e))

State Law reference— Payment of claims arising as tort action under F.S. § 768.28, F.S. § 111.071; payment of Claims arising under Civil Rights Act, F.S. § 111.071.