

## Chapter 2.31

### DEFENSE AND INDEMNIFICATION OF CITY OFFICERS, EMPLOYEES AND VOLUNTEERS

#### Sections:

2.31.010 Defense and Indemnification of City Officers, Employees and Volunteers.

#### **2.31.010** **Defense and Indemnification of City Officers, Employees and Volunteers.**

- A. Whenever an action or proceeding for damages is brought against a past or present City officer, employee or volunteer arising from acts or omissions while performing or in good faith purporting to perform his or her official duties, such officer, employee or volunteer may request the City to authorize the defense of the action or proceeding at the expense of the City.
- B. The determination of whether the officer, employee or volunteer was performing, or in good faith purporting to perform his or her official duties, shall be determined in the following manner:
  - 1. An investigation shall be made by the City Attorney and a recommendation shall be made to the City Council as to whether the acts of omissions which give rise to the claim occurred while performing or in good faith purporting to perform his or her official duties.
  - 2. The City officer, employee or volunteer may present a written response to the City Attorney's recommendation or to the City Council.
  - 3. The City Council, based upon the recommendation of the City Attorney and the response of the officer, employee or volunteer, shall make a finding whether the acts or omissions which give rise to the claim were or in good faith purported to be within the scope of his or her official duties. The determination by the City Council shall be final subject to a writ of review before the Superior Court of the State of Washington for Benton County.
- C. If the City Council finds the acts or omissions of the officer, employee or volunteer were, or in good faith purported to be, within the scope of his or her official duties, the request for defense and indemnification shall be granted. If the request is granted, the necessary expense of defending the action or proceeding shall be paid by the City. Any monetary judgment against the officer, employee or volunteer shall be paid on approval of the City Council.
- D. Except as may be required by a policy of insurance or other indemnification

agreement, the City Attorney, or its attorney designated by the City Attorney, shall investigate and defend such claim or litigation. The officer, employee or volunteer shall provide full cooperation in the defense of such actions including attending interviews, depositions, hearings and trials and shall assist in securing and giving evidence in obtaining the attendance of other necessary witnesses to the case.

- E. The necessary expenses of defending the Mayor or a member of the City Council in a judicial hearing to determine the sufficiency of a recall charge, shall be paid by the City if the elected officer requests such defense and approval is granted both by the City Council and the City Attorney. The expenses paid by the City may include the costs associated with an appeal of the decision rendered by the Superior Court concerning the sufficiency of the recall charge.
- F. When an officer, employee or volunteer of the City has been represented at the expense of the City under Section A above, and the Court hearing the action has found that the officer, employee or volunteer was acting within the scope of his or her official duties, and a judgment entered against the officer, employee or volunteer under Chapter 4.96 RCW or 42 U.S.C. § 1981 et. seq. thereafter, the judgment creditor shall seek satisfaction of nonpunitive damages only from the City and judgment for nonpunitive damages shall not become a lien upon the property of such officer, employee or volunteer. The City Council may, by a majority approval, agree to pay an award for punitive damages assessed against the officer, employee or volunteer. (Ord. 981, March 2018)