



Office of the Town Manager

Tommy Cureton

STAFF REPORT

Warrenton Town Council

Carter Nevill, Mayor

Heather Sutphin, Ward 1

William Semple, Ward 2

Brett Hamby, Ward 3

James Hartman, Ward 4 Vice Mayor

Jay Heroux, Ward 5

David McGuire, At Large

Paul Mooney, At Large

Council Meeting Date:	March 14, 2023
Agenda Title:	Indemnification of Town Employees
Requested Action:	Adopt an Ordinance to the Town Code for the indemnification of Town Employees
Department / Agency Lead:	Acting Town Manager
Staff Lead:	Tommy Cureton

EXECUTIVE SUMMARY

The Town of Warrenton is reliant on the Town Staff to function. In the course of the actions of the day-to-day operation of the Government some instances may arise that put the Town employees into a situation where they may be subject to litigation or liability during the course of their duties for the Town. Town employees are not protected against legal liability for one's actions in the course of work necessary for the Governance and operation of the Town.

Providing indemnification for elected officials, officers and employees of the Town encourages them to perform their duties under the law without undue fear or intimidation by threats or legal actions seeking to hold them liable for acts performed within the scope of their duties.

Staff recommends the Town Council adopt an ordinance to codify the identification of Town employees.

BACKGROUND

The City of Manassas has the following provisions that have been considered in the draft of the Ordinance.

Sec. 2-135. - Defense and indemnification generally.

- (a) Upon compliance by town officers and employees with the provisions of subsection (d) of this section, the town council may employ the town attorney or other counsel to provide for the defense of the town, the council, or any member thereof, or any officer or employee of the town, or of any trustee or member of any board or commission appointed by the town council, in any legal proceeding to which the council, or any member thereof, the town or any of such persons may be a defendant, when such proceeding is initiated against it, or them, by virtue of any actions in the furtherance of their duties in serving the town as its governing body or as members thereof or the duties or service of any officer or employee of the town or any trustee or any member of any board or commission appointed by the town council.
- (b) The town shall indemnify and save harmless its officers and employees in the amount of any judgment obtained against such officers and employees in any state or federal court, or in the amount of any settlement of a claim, provided that the act or omission from which judgment or settlement arose occurred while the officer or employee was acting within the scope of his public employment or duties. The duty to indemnify and save harmless prescribed by this subsection shall not arise where the injury or damage resulted from deliberate wrongdoing or recklessness on the part of the officer or employee.

- (c) All costs and expenses of such proceedings so defended shall be charged against the treasury of the town and shall be paid out of funds provided by the town council. Further, if any settlement is agreed upon or judgment is rendered against any of such named persons or the council, the town council shall pay such settlement or judgment from public funds or other funds or in connection therewith may expend public or other funds for insurance or to establish and maintain a self-insurance program to cover such risk or liability.
 - (d) The duty to defend or indemnify and save harmless provided by this section shall be conditioned upon: (1) Delivery, to the town attorney or his assistant, at his office, by the officer or employee, the original or a copy of any summons, complaint, process, notice, demand or pleading within three calendar days after he is served with such document; and (2) The full cooperation of the officer or employee in the defense of such action or proceeding and in defense of any action or proceeding against the town based upon the same act or omission, and in the prosecution of any appeal thereof.
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Sec. 2-136. - Reimbursement of legal fees and expenses for criminal investigation and prosecution.

If any officer or employee of the town shall be investigated, arrested or indicted or otherwise prosecuted on any criminal charge arising out of any act committed in the discharge of their official duties, and no charges are brought, or the charge is subsequently dismissed, or upon trial they are found not guilty, the town council may reimburse the officer or employee for reasonable legal fees and expenses incurred by them in the defense of the investigation or charge. The reimbursement shall be paid from the treasury of the town.

Sec. 2-137. - Limitations on defense and indemnification.

The benefits of sections 2-135 and 2-136 shall inure only to officers and employees as defined in section 2-134 and shall not enlarge or diminish the rights of any other party. The provisions of sections 2-135 and 2-136 shall not be construed to impair, alter, limit or modify the rights and obligations of any insurer under any policy of insurance. The provisions of sections 2-135 and 2-136 shall not be construed in any way to impair, alter, limit, modify, abrogate or restrict any immunity available to or conferred upon any unit, entity, officer or employee of the town, the town or the town council or any right to defense and/or indemnification provided for any governmental officer or employee by, in accordance with, or by reason of any other provision of Commonwealth or federal statutory or common law

STAFF RECOMMENDATION

Fiscal Impact

Legal Impact

ATTACHMENTS

