

ORDINANCE NO. 581

AN ORDINANCE TO INDEMNIFY ELECTED OR APPOINTED GOVERNING MEMBERS, OFFICERS, AND EMPLOYEES.

WHEREAS, it is desired to indemnify all elected or appointed governing members, officers, and employees of the City of College Place, and

WHEREAS, the Errors and Omission insurance coverage carried by the City may have deductibles and other type clauses allowing the elected and appointed governing members, officers, and employees to be subject to claims due to litigation against them, now therefore,

THE CITY COUNCIL OF THE CITY OF COLLEGE PLACE DOES ORDAIN:

Section 1 - General.

The City of College Place, pursuant to RCW 36.16.138 and Chapter 48.62 RCW, and hereafter amended, shall indemnify any person who was or is an elected or appointed council member, officer, (including committee members), or employee of the City, and is threatened to be or has been made a part to an action, claim, or other proceeding by a third party.

Section 2 - Scope of Indemnification.

The City of College Place shall pay the reasonable and necessary expenses actually incurred and connected with the defense, settlement, or monetary judgments, including costs, disbursements, and reasonable attorney fees arising out of any action, claim, or other proceeding, within the standard of conduct referred to in Section 3 herein, and for which notice has been given pursuant to Section 4. The Council shall be the sole judge of the reasonable and necessary expenses to be borne by the City of College Place.

Indemnification shall not extend to any claim, action, or other proceeding against the City either for indemnification or for other cause.

Section 3 - Standard of Conduct.

Indemnification shall be limited to any action, claim, or other proceeding threatened, pending, or instituted against any person who was, or is, at the time of the alleged conduct, an elected or appointed council member, officer, or employee, and arising out of such person's performance, purported performance, or failure to perform in good faith the duties for, or employment with, the City.

Section 4 - Determination of Conduct.

A. Unless ordered or adjudged by a court of competent jurisdiction, indemnification may be authorized only as follows:

(1) To the extent that the other person has been successful on the merits, or otherwise in defense, such person shall be indemnified.

(2) With respect to any other determination of conduct, a majority vote of all the Council Members not interested in or a party to the action, claim or other proceeding. In the event a majority vote cannot be obtained because of disqualification of

Council Members, then the alternate or alternates of those disqualified shall be permitted to vote.

B. Indemnification shall not be authorized for any claim or action founded upon a statute, law, rule, or regulation punishable by fine, imprisonment, or both, or for any claim or action against the City.

C. Notice to every Council Member, officer, or employee who seeks or believes he or she may claim indemnification must give notice, in writing, to the chairperson of his or her interest to seek indemnification before incurring any costs, disbursements, or attorney fees for which indemnification is sought, and provide a copy of any and all claims, pleadings, reports, or other written statements regarding the allegations.

Section 5 - Expenses Prior to Determination.

Expenses actually incurred in defending any action, claim, or other proceeding may be paid as incurred, and prior to a final determination of conduct, if the action, claim, or other proceedings makes no assertion that the person named acted outside the scope of his or her employment or authority, and that the City makes no claim that the person's acts or failure to act were outside the scope of the person's employment or authority.

Section 6 - Interpretation.

This section is intended to exercise the authority contained in RCW 36.16.138 and Chapter 48.62 RCW, and that it be construed in light of such statutes, and laws as hereafter amended, and interpretative case law.

The failure of the City of College Place to obtain insurance for any claim, action, or other proceedings against the City shall not be construed to limit this indemnification.

Section 7 - Severability.


If any provision of this ordinance or its application to any person or circumstances is held invalid, the remainder of this ordinance or the application of the provision to other persons or circumstances shall not be affected.

Section 8 - Effective Date.

This ordinance shall become effective immediately upon its passage and publishing as required by law.

PASSED by the City Council of the City of College Place, Washington, this 28<sup>th</sup> day of July, 1986.

  
Mayor

  
City Clerk

