

ORDINANCE NO. 1042

AN ORDINANCE AMENDING CHAPTER 2: ADMINISTRATION BY PROVIDING FOR THE INDEMNIFICATION AND LEGAL DEFENSE OF THE OFFICERS AND EMPLOYEES OF THE CITY AGAINST ANY COST, LOSS, OR EXPENSE, INCLUDING COURT COSTS AND ATTORNEY'S FEES, ARISING OUT OF ANY ACT OR ACTION OF SUCH PERSON UNDERTAKEN IN GOOD FAITH DURING THE DISCHARGE OF THAT PERSON'S OFFICIAL DUTIES AND COMMITTED WITHIN THE SCOPE OF SUCH PERSON'S AUTHORITY.

WHEREAS, indemnification and legal defense of the officers and employees of the city is in the public interest in order to encourage persons of the highest quality to provide services for and seek employment by the City of Castle Hills.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CASTLE HILLS, TEXAS that Chapter 2: Administration of the Code of Ordinances is amended by adopting the following Section 2.604:

“§ 2.604 INDEMNIFICATION OF CITY OFFICIALS, EMPLOYEES AND VOLUNTEERS

The City of Castle Hills will provide for the indemnification and legal defense of the officers and employees of the city, including members of the City Council, Boards, Commissions, Committees and volunteers approved by the Mayor or the City Manager, as the case may be, against any cost, loss, or expense, including court costs and attorney's fees, arising out of any act or actions of such person undertaken in good faith during the discharge of that person's official duties and committed within the scope of such person's authority. Such indemnification and legal defense shall be provided to the extent allowed by state law and shall not be provided for knowing, willful or intentional violations of any statute or ordinance. A person claiming the right to be indemnified and receive a legal defense under this ordinance shall promptly submit the claim against such person to the City Manager who shall first make a determination that indemnity and representation of the person is in the public interest and is not merely in the private interest of the person, that the act was within the scope of the official duties of the person and that the act was not based on the knowing, willful or intentional violation of a statute or ordinance. If the City Manager determines that the person is entitled to indemnity and legal defense by the city, the City Manager shall arrange for an appropriate legal defense against such claim (1) by insurers of the city and its personnel, or (2) by the engagement by the city of qualified representatives who shall provide a vigorous defense to the claim. If the City Manager determines that the person's act was merely in the private interest of the person and not in the public interest, or that the person was not acting in the scope of his official duties, or that the act was based on the knowing, willful or intentional violation of a statute or ordinance, so that indemnification and legal defense should not be provided by the city, the person may appeal such determination to the City Council which shall determine entitlement to indemnification and legal defense. If the claim is against the City Manager, the determination of providing indemnification and legal defense shall be referred directly to the City Council. If the

claim is against the Mayor or a member of the City Council, the determination of providing indemnification and legal defense shall be referred directly to the City Council. The person complained of shall abstain from participation and voting on the determination by the City Council, in which event the other City Council members shall constitute a quorum. If the Mayor and all City Council members are complained of, the City Attorney shall determine whether the city should provide indemnification and legal defense to the persons against whom the complaint was filed.

Notwithstanding the foregoing, if an officer or employee of the city, including members of the City Council, Boards, Commissions and Committees, are charged in a complaint, information or indictment with a criminal offense, the City of Castle Hills may reimburse the person for defense expenses, including attorney's fees, incurred in defending against the criminal charges if (1) the act was done in the bonafide performance of the person's official duties, (2) a public interest, rather than a private interest of the person, is served by the expenditure, and (3) the person is found not guilty after a trial or appeal, or the complaint, information or indictment is dismissed without a plea of guilty or nolo contendere being entered. Reimbursement for defense expenses in defending against criminal charges may not be paid if the person is found guilty of the charges. The city must defer its decision to pay the defense expenses until after final disposition of the charges."

PASSED AND APPROVED this 8th day of December, 2009.

MAYOR

ATTEST:

CITY SECRETARY

APPROVED AS TO FORM:

CITY ATTORNEY