



St. James Parish Council

Alvin St. Pierre, Jr.
Chairman

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PUBLIC NOTICE NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that the following entitled ordinance was introduced at a regular meeting of the Parish Council of the Parish of St. James, State of Louisiana, on October 27, 2021, laid over for publication of notice; and amended at the November 9, 2021 public hearing.

PROPOSED ORDINANCE 21-08 ST. JAMES PARISH COUNCIL

AN ORDINANCE PROVIDING FOR THE PAYMENT AND/OR REIMBURSEMENT OF ATTORNEY'S FEES, COSTS, AND EXPENSES INCURRED BY OFFICERS, OFFICIALS, AND EMPLOYEES OF ST. JAMES PARISH GOVERNMENT AS A RESULT OF CIVIL LITIGATION AND/OR CRIMINAL PROSECUTION UNDER CERTAIN CIRCUMSTANCES

WHEREAS, Parish officers, officials, and employees should be expected to exercise their discretion and independent judgement in discharging their duties and responsibilities within the scope of their office of employment;

WHEREAS, Parish officers, officials and employees may be sued or have criminal charges brought against them as a result of discharging such duties and responsibilities which are imposed upon them as a consequence of their employment;

WHEREAS, the threat of frivolous and/or unmerited litigation or prosecution may deter individuals from seeking Parish employment, appointment, or election; and

WHEREAS, the Parish desires to establish a policy and procedure for protecting Parish officers, officials, and employees from the financial burden of attorney's fees, costs, and expenses of civil litigation and/or criminal prosecution that may result from discharging duties and responsibilities within the scope of their office of employment.

WHEREAS, this Ordinance shall require a simple ~~two-thirds (2/3)~~ majority vote to pass and/or to be amended. ~~Abstentions and absences are excluded in calculating this two-thirds vote.~~

WHEREAS, the council hereby shall repeal the prior ordinance (Ordinance 19-13) and establish the substance and procedure contained herein, and apply it retroactively.

NOW, THEREFORE, BE IT ORDAINED BY THE ST. JAMES PARISH COUCNIL OF ST. JAMES PARISH, LOUISIANA:

Section 1. Section ~~78-3~~ is hereby amended as follows,

Sec. ~~78-3~~ – Defense fees, costs, and expenses

- (a) As used in this Section, "Officer, Official, or Employee" means:
 - (1) Any person elected, appointed to an elected office in the parish government, any officer or employee of the parish government, and any person appointed to a board, commission or committee of the parish government, including, but not necessarily limited to, the officer and employee enumerated in the Charter of the Parish of St. James;
 - (2) The Policy of the Parish of St. James is to allow for the payment of any of the following: 1) defense fees, 2) costs, and/or 3) expenses, either individually or collectively, for any officer, official, or employee of the parish who is subject to a civil lawsuit or charged with a crime, provided that officer, official, or employee is not found liable in the civil lawsuit or guilty in the criminal proceedings, and provided further that the allegations arose out of the "discharge of his or her official duties and were within the scope of his or her employment or is thereafter found not guilty or exonerated in the criminal proceedings.
- (c) Any Payments under this ordinance are discretionary by the council and require a ~~two-thirds (2/3)~~ majority vote of the members of the council, to invoke.
- (d) Allowable payments may include the payment and/or reimbursement of reasonable attorney's fees, costs, and expenses incurred in the defense of a civil lawsuit or a criminal charge(s), provided that: (1) St. James Parish is financially capable of making said payment(s) and/or reimbursement(s), and (2) the St. James Parish Council by ~~two-thirds (2/3)~~ majority vote makes the decision to do so and is based upon the facts and circumstances involved, and further provided that (3) the St. James Parish Council determines that in defending the matter:

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- (A) The hourly rates charged were reasonable;
- (B) The hours spent were reasonable and necessary;
- (C) Any costs and/or expenses incurred were reasonable and necessary;
- (D) The payment and/or reimbursement would serve a public purpose, including, without limitation, encouraging individuals to seek parish office or employment without the threat or fear of the expense of frivolous and/or unmerited litigation or unwarranted criminal charges. and a court deems that the civil litigation was frivolous and/or the court finds that the criminal prosecution was not justified.
- (e) The determination of whether the action(s) of the officer, official, or employee of the parish were taken in the “course and scope of carrying out his or her official duties” is a factual determination that the St. James Parish Council must make on a case-by-case basis, and this factual determination must be made before the payment and/or reimbursement of any attorney’s fees, court costs and/or expenses.
- (f) In determining whether the attorney’s fees and hourly rates charges are reasonable or necessary, the St. James Parish Council may look to the Attorney Fee Review Board rates (LSA – R.S, 13:5108.4) and the Attorney General’s Maximum Fee Schedule in making said determination.
- (g) Nothing in this section shall be construed to impair, limit, or modify the rights and obligations of any insurance company under any policy of insurance, when the Parish in named as an insured, or impair or limit the rights of a person to obtain private counsel, of their choice. Further, as to any claim or suit for which an insurance company owes a duty to provide a defense including: fees, costs, and/or expenses, this section shall not apply to the extent of such duty or duties. If such an insurance policy exists, then that policy should always be primary, and exhausted before this ordinance is implemented.

Section 2. That the sections, paragraphs, sentences clauses, and phrases of this Ordinance are severable and if any section, paragraph, sentence, clause, or phrase of this Ordinance shall be declared invalid by the final judgement or decree of any court of competent jurisdiction, such invalidity shall not affect any of the remaining paragraphs, sentences, clauses, phrases, or sections of this Ordinance.

Section 3. That all other ordinances or part thereof in conflict herewith, are hereby repealed.

NOTICE IS HEREBY, FURTHER, GIVEN that the Parish Council of said Parish will meet at 6:00 p.m. on Tuesday, November 23, 2021 in the Council Chambers of the Parish Courthouse, 2631 Hwy 20 in Vacherie, LA at which time there will be a public hearing on the adoption of the aforesaid ordinance.

s/ Alvin St. Pierre, Jr.
Chairman

s/Linda Hubbell
Secretary

Note: St. James Parish will provide, upon request, reasonable accommodation to any disabled individual wishing to attend the meeting. Anyone requiring reasonable accommodation is requested to contact 1-800-846-5277 (TDD), 1-800-947-5277 (Voice) or 562-2400 (Handicapped) to discuss the particular accommodation needed.

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