

SECTION 12 LIABILITY, LAWSUITS AND INDEMINIFICATION

12-01 LIABILITY

- 12-01 (1) An employee who witnesses or becomes aware of an occurrence which may pose a liability to the City, shall give notice to their immediate supervisor as soon as possible and contact the City's Risk Management and Safety Department.
- a. Employees should report questionable behavior and business practices through their proper chain of command.
- 12-01 (2) An employee who is involved in an accident or other incident which may pose a liability to the City, shall give notice to their immediate supervisor as soon as possible and file a report with the City's Risk Management and Safety Department.
- a. Employees who fail to report an occurrence which may pose a liability to the City may be subject to disciplinary action.

12-02 LAWSUITS & INDEMNIFICATION

- 12-02 (1) Subject to the conditions, limits and requirements of applicable statutes, ordinances and policies (including Section 63G - 7-902 of the Utah Governmental Immunity Act), the City shall defend any action brought against an official or employee arising from an act or omission occurring:
- a. During the performance of the employee's duties;
 - b. Within the scope of the employee's employment; or
 - c. Under color of authority.
- 12-02 (2) Before the City may defend the employee against a claim or action, the employee shall make a written request to the City to defend the employee, provided:
- a. The request must be made within the time period specified in Utah Code Section 63G-7-902(2)(a), and
 - b. If the employee fails to make a request, or fails to reasonably cooperate in the defense, including the making of an offer of judgment under Rule 68, Utah Rules of Civil Procedure, Offers of Judgment, the City need not defend or continue to defend the employee, nor pay any judgment, compromise, or settlement against the employee in respect to the claim.
 - c. The governmental entity may decline to defend, or, subject to any court rule or order, decline to continue to defend, an action against an employee if it determines:
 - (1) That the act or omission in question did not occur:
 - (i) During the performance of the employee's duties;

- (ii) Within the scope of the employee's employment; or
 - (iii) Under color of authority; or
- (2) That the injury or damage on which the claim was based resulted from conditions set forth in Subsection 63G-7-202(3)(c), Utah Code.
- d. Within ten (10) days of receiving a written request to defend an employee, the City shall inform the employee whether or not it shall provide a defense, and, if it refuses to provide a defense, the basis for its refusal.
 - e. If the City conducts the defense of an employee, the City shall pay any judgment based upon the claim unless the City has conducted the defense of the employee under a reservation of rights under which the City has reserved the right not to pay a judgment.