

Chapter 40
INDEMNIFICATION AND DEFENSE

§ 40-1. Definitions.

§ 40-2. Sovereign immunity and statute of limitations.

§ 40-3. Town to provide coverage; conditions; exception.

§ 40-4. Coverage available only after exhaustion of other insurance.

[HISTORY: Adopted 5-3-82. Amended 2-6-95.]

REFERENCES

Administrator -- See Chapter 2.

Ethics code -- See Chapter 32.

§ 40-1. Definitions.

As used in this chapter, the following words shall have the meanings indicated:

"Town employee" -- Includes all salaried employees of the town other than those persons falling within the definitions of "town official."

"Town official" -- Includes the Mayor and members of the Council, the Town Administrator, the Chief of Police, the Public Works Supervisor, the Town Attorney, and the Town Building Inspector.

§ 40-2. Sovereign immunity and statute of limitations.

Nothing contained herein shall constitute a waiver by the town, on its own behalf or by any town official or town employee, of the defense of sovereign immunity or governmental immunity, by whatever name known, or of the defense of statute of limitations or of any other defense in any suit or claim brought against any town official or town employee.

§ 40-3. Town to provide coverage; conditions; exception.

The town shall hold harmless and pay on behalf of any town official all sums which such official becomes obligated to pay by reason of the liability imposed upon such official by law if the official, at the time of the incident or occurrence giving rise to such liability, was acting within the scope of his or her duties or office for the town and the incident or occurrence arose out of such duties or office. It shall also be the duty of the town to provide the defense, by the Town Attorney or by other counsel in the discretion of the town, for any claim or action arising

from an assertion of liability against such official while acting within the scope of his or her duties or office for the town. The indemnification and/or defense herein provided for shall not be available to one who willfully and intentionally disregards the instructions or directions issued by the Mayor and Council.

§ 40-4. Coverage available only after exhaustion of other insurance.

The indemnification and defense provided for in § 40-3 above shall only attach and become available after all other insurance for such indemnification or defense has been exhausted.