THE FOLLOWING ORDINANCE WAS MOVED FOR INTRODUCTION BY COUNCIL MEMBER \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_; SECONDED FOR INTRODUCTION BY COUNCIL MEMBER \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

# ORDINANCE NO. 22-05

**AN ORDINANCE FOR THE CITY OF MANDEVILLE AMENDING SECTION 2-6 OF THE CODE OF ORDINANCES FOR THE CITY OF MANDEVILLE REGARDING INDEMNITY OF CITY EMPLOYEES, OFFICERS, AND OFFICIALS, INCLUDING COUNCIL MEMBERS AND MEMBERS OF BOARDS AND COMMISSIONS AND PROVIDING FOR OTHER MATTERS IN CONNECTION THEREWITH**

**WHEREAS**, the City of Mandeville approved and adopted Ordinance 17-08, which was codified as Section 2-6 of the Code of Ordinances of the City of Mandeville to address the indemnification of city councilmembers;

**WHEREAS**, Section 2-6, entitled Indemnity, provides that the City shall indemnify and hold harmless city councilmembers against judgments arising out of the performance of duties within the scope of their official capacity as councilmembers;

**WHEREAS**, the intent of Section 2-6 is to encourage public service by protecting all City officials and employees from personal liability in the good faith conduct of city affairs;

**WHEREAS,** said section of the Code of Ordinances should be amended for the benefit of the citizens of Mandeville and in the interest of governmental efficiency.

**NOW, THEREFORE, BE IT ORDAINED**, by the City Council of the City of Mandeville, the Section 2-6, entitled Indemnity, of the Code of Ordinances of the City of Mandeville, Louisiana previously enacted through Ordinance 17-08, be amended to read as follows:

**Sec. 2-6. Indemnity.**

(a) Indemnification – Limitation. The City of Mandeville shall indemnify, ~~and hold harmless any city councilman against whom a judgment has been rendered arising from the performance of his duties as a city councilman.~~ hold harmless, and defend city employees, officers, and officials, including council members and members of boards and commissions established by this code, from any claim or cause of action arising from the good faith performance of duties within the scope of their employment or official capacity and in a manner he or she reasonably believed to be in the best interests of the City of Mandeville. The City shall retain the right to select counsel for the purpose of such defense. Officials or employees may select their own counsel at their own expense. It is the intent of this section to encourage public service by protecting officials and employees from personal liability in the good faith conduct of city affairs.

(b) Period of Indemnification and Persons Covered. The period of indemnification shall include incidents which arise during the entire period in which any elected or appointed official or employee shall have been serving in an official capacity for or employed by the City. This period shall include lawsuits filed prior to the date of the passage of the ordinance codified in this section, as well as those filed subsequent to its passage and shall further apply to those named as defendants who may no longer be officials of or employed by the City, so long as they were serving in such capacity at the time of the alleged act or omission.

(c) Exclusions.

The hold harmless, indemnity, and defense provisions of this section shall not apply to ~~claims based on~~:

(1) Damages resulting from ~~A~~acts or omissions which are not reasonably related to the legitimate governmental objective for which the policymaking, discretionary power or administrative authority exists; ~~or~~

(2) Damages resulting from ~~A~~acts or omissions which constitute criminal, fraudulent, malicious, bad faith, knowingly violates the law, intentional, willful, outrageous, reckless, or flagrant misconduct;

(3) Damages resulting from acts or omissions done outside of the course and scope of the individual’s employment or official capacity;

(4) Lawsuits, claims, or actions of any kind against an individual brought by or at the request of the City, including, without limitation, disciplinary proceedings; or

(5) Punitive damages awards.

(d) The City of Mandeville shall pay all reasonable expenses, ~~costs of defense~~ including attorneys’ fees, incurred in the defense of any c~~ity councilman~~ city employees, officers, and officials. However, if the said ~~councilman~~ city employee, officer, or official, is found liable for an act described in Section (c) of this Ordinance, the ~~councilman~~ city employee, officer, or official shall reimburse the City for all said costs and fees. Any city employee, officer, or official who accepts a defense as provided under this provision shall sign an acknowledgment of the duty to reimburse should the said city employee, officer, or official be found liable for an act described in Section (c), and a recognition that if any legal action is necessary in order to enforce the reimbursement provision, that such city employee, officer, or official shall also be liable for the reasonable attorneys’ fees incurred by the City in enforcing said reimbursement obligation.

~~The provisions set out in this section shall apply to all councilmen and shall include actions prior to this enactment.~~

~~The provisions of this section shall apply to former councilmen for claims made based on actions by such person while he served as a councilman.~~

**BE IT FURTHER ORDAINED** that this Ordinance shall take effect immediately upon the signature of the Mayor; and

**BE IT FURTHER ORDAINED** that the Clerk of this Council be, and she is hereby authorized and empowered to take any and all actions which she, in the exercise of her discretion, deems necessary to promulgate the provisions of this Ordinance.

The ordinance being submitted to a vote, the vote thereon was as follows:

AYES:

NAYS:

ABSTENTIONS:

ABSENT:

and the ordinance was declared and adopted this \_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 2022

Kristine Sherer Jason Zuckerman

Clerk of Council Council Chairman

**SUBMITTAL TO MAYOR**

The foregoing Ordinance was **SUBMITTED** by me to the Mayor of the City of Mandeville this \_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 2022 at \_\_\_\_\_\_\_\_ o’clock a.m.

**CLERK OF COUNCIL**

**APPROVAL OF ORDINANCE**

The foregoing Ordinance is by me hereby **APPROVED**, this \_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_, 2022 at \_\_\_\_\_\_\_\_\_ o’clock a.m.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**CLAY MADDEN, MAYOR**

**VETO OF ORDINANCE**

The foregoing Ordinance is by me hereby **VETOED**, this \_\_\_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 2022, at \_\_\_\_\_\_\_\_ o’clock a.m.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**CLAY MADDEN, MAYOR**

**RECEIPT FROM MAYOR**

The foregoing Ordinance was **RECEIVED** by me from the Mayor of the City of Mandeville this \_\_\_\_\_ day of \_\_\_\_\_\_2022, at \_\_\_\_\_\_\_\_ o’clock a.m.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**CLERK OF COUNCIL**

**CERTIFICATE**

**I, THE UNDERSIGNED** Clerk of the City Council of the City of Mandeville do hereby certify that the foregoing is a true and correct copy of an ordinance adopted by the City Council of the City of Mandeville at a duly noticed, called and convened meeting of said City Council held on the \_\_\_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 2022 at which a quorum was present and voting. I do further certify that said Ordinance has not thereafter been altered, amended, rescinded, or repealed.

**WITNESS MY HAND** and the seal of the City of Mandeville this \_\_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_, 2022.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Kristine Scherer, **CLERK OF COUNCIL**