

NANCY E. FELLOWS  
*President of Council*

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VICTORIA ANN SAVAGE, CMC  
*Clerk of Council*

# City of Willoughby Hills

DAVID M. FIEBIG  
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## **ORDINANCE NO. 2018-1**

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### **AN ORDINANCE AMENDING SECTION 111.01, INDEMNIFICATION OF THE CODIFIED ORDINANCES OF THE CITY OF WILLOUGHBY HILLS; REPEALING CONFLICTING LEGISLATION AND DECLARING AN EMERGENCY.**

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**WHEREAS**, on March 8, 1984, Council adopted Ordinance No. 1984-7 establishing Chapter 111 – Legal Defense and Indemnification of Public Officials and Employees; and

**WHEREAS**, on December 19, 2017, Council adopted Ordinance No. 2017-64 – (As Amended) requesting that the Ohio Ethics commission investigate allegations related to the unauthorized usage of municipal property by municipal officials and the failure to account properly for absences from work by municipal employees; and

**WHEREAS**, on January 5, 2018, members of the Administration requested indemnification for possible criminal misconduct; and

**WHEREAS**, this Council finds and determines that Chapter 111 of the Codified Ordinances of the City of Willoughby Hills was never intended to defend or indemnify officials or employees who are being investigated for, or are alleged to have committed, or have been found guilty of committing a criminal act; and

**WHEREAS**, Council further finds that paying for the defense of an official or employee who is alleged to have committed a crime is not in the best interests of the City and does not constitute a public purpose; and

**WHEREAS**, Council desires to clarify the indemnification provisions of Chapter 111 were never intended to apply to individuals who are being investigated for, or alleged to have committed, or are found guilty of committing, a criminal action, which is the existing policy and practice of the City.

**NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF WILLOUGHBY HILLS, COUNTY OF LAKE, STATE OF OHIO, THAT:**

**SECTION 1.** Existing Section 111.01, Indemnification, is hereby amended to provide in its entirety as follows:

**“111.01 INDEMNIFICATION.**

(a) Any public official or employee of the City, while acting for the City shall not thereby incur personal civil liability and such persons are hereby relieved from all personal civil liability, for any loss, damage, expense and cost including court costs and reasonable and necessary attorney fees, arising from, growing out of, by reason of, or in any way connected with any acts or omissions of such elected officials, officers, agents and employees in the performance of their official duties. Further, all such indemnification shall extend to elected officials, officers, agents and employees notwithstanding the fact that performance of their official duties may be professional in nature.

(b) Exclusions. In no event shall protection be offered under this Chapter by the City to:

1. Any dishonest, fraudulent, willful, intentional or malicious act or course of conduct of an official or employee;
2. Any act or course of conduct of an official or employee which is not performed on behalf of the City;

3. Any act or course of conduct which is outside the scope of an official's or employee's service or employment with the City;
4. Any lawsuit brought against an official or employee by or on behalf of the City; and/or
5. Any officer or employee being investigated for or charged with a crime.

(c) The indemnification provided herein shall pertain to any civil action arising under federal, state or local law.

(d) As used in this Chapter the words "public official or employee" of the City shall be construed to include any elected official, officer, agent or employee presently in the employ of the City and persons who were so employed by the City at the time when a cause of action may have accrued against them."

**SECTION 2.** Existing Section 111.01 is hereby repealed.

**SECTION 3.** No City funds shall be expended or paid to any official or employee for the purpose indemnifying him or her for attorney fees or expenses. The Clerk shall mail a copy of this ordinance to any person who makes or has made a request for payment for such a purpose.

**SECTION 4.** The actions of this Council concerning and relating to the passage of legislation were conducted in lawful meetings of this Council and that all deliberations of this Council and of any of its committees that resulted in such formal action were in compliance with all legal requirements including Chapter 107 of the codified ordinances of the City of Willoughby Hills.

**SECTION 5.** This Ordinance constitutes an emergency measure in that the same provides for the immediate preservation of the public peace, health, safety and welfare of the inhabitants of the City of Willoughby Hills, and further provides for the usual daily operation of a municipal department, to wit: to ensure that City funds are not allocated to defend any dishonest, fraudulent, criminal, willful, intentional or malicious act or course of conduct of an official or employee; wherefore this Ordinance shall be in full force and effect from and after its approval by the Mayor, or as otherwise provided by the Charter of the City of Willoughby Hills.

PASSED: January 11, 2018

Submitted to the Mayor for his approval  
on this 11 day of JANUARY, 2018

ATTEST:

Victoria Ann Savage, CMC  
Clerk of Council

Nancy E. Fellows  
President of Council

Approved by the Mayor

Robert M. Weger  
Mayor

At the Regular Council Meeting held on January 25, 2018, Council received the Mayor's veto of Ordinance No. 2018-1. Thereupon, Council by a 5-1 vote, set aside the Mayor's veto and enacted Ordinance No. 2018-1.

Date: January 25, 2018

Attest:

Victoria Ann Savage, CMC  
Clerk of Council

Nancy E. Fellows  
Council President