

**Chapter 17**  
**DEFENSE AND INDEMNIFICATION**

**§ 17-1. Title.**

**§ 17-3. Duties of borough.**

**§ 17-2. Applicability of provisions.**

**§ 17-4. Exceptions.**

**[HISTORY: Adopted by the Borough Council of the Borough of Dallastown 11-9-1987 by Ord. No. 384. Amendments noted where applicable.]**

**GENERAL REFERENCES**

**Manager — See Ch. 36.**

**Personnel policies — See Ch. 46.**

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**§ 17-1. Title.**

This chapter shall be known as the “Dallastown Borough Officials’ and Employees’ Indemnification Ordinance.”

**§ 17-2. Applicability of provisions.**

The borough shall indemnify to the fullest extent permitted by law any and all persons who may serve or have served at any time as officials of the borough or employees of the borough, and their heirs, administrators, successors and assigns, against any and all judgments against such persons in any action, suit or proceeding in which they, or any of them, are made parties or a party by reason of being or having been an official of the borough or an employee of the borough where there is a final judicial determination that the act of the official of the borough or the employee which gave rise to the action, suit or proceeding was, or the official of the borough or employee in good faith reasonably believed that such act was, within the scope of the office or duties of such person, provided that the official of the borough or employee being indemnified shall have given to the borough timely prior written notice of the claim of such official of the borough or employee for such indemnification, as required by the Act. For this purpose, notice shall be deemed to be timely if given not later than 14 days after the commencement of the action resulting in the judgment for which indemnification is claimed.

**§ 17-3. Duties of borough.**

When an action is brought against an official of the borough or an employee and either it is alleged that the act which gave rise to the claim was within the scope of the office or duties of the official of the borough or employee or the Borough Council determines that such act was within the scope of such office or duties of the official of the borough or the employee in good faith reasonably believed the act was within the scope of such office or duties, then upon written request of the official of the borough or the employee made not more than 14 days after the commencement of the action, as provided in the Act, the borough shall defend the action on behalf of the official of the borough or the employee at its own expense or, at its option,

provide independent representation for the official of the borough or employee, also at the expense of the borough; and the borough shall also pay on behalf of the official of the borough or the employee amounts payable in any settlement which settlement has been approved by a disinterested majority of the Borough Council of the borough or, in the absence thereof, approved by independent counsel for the borough.

**§ 17-4. Exceptions.**

Notwithstanding the foregoing sections of this chapter, the borough shall not indemnify an official of the borough or employee where there is a final judicial determination that, and the borough shall not provide any legal defense where the Borough Council reasonably determines that, the act of the official of the borough or employee which gave rise to the action, suit or proceeding constituted a crime, actual fraud, actual malice or willful misconduct.