

ADOPTED APRIL 6, 2009

TOWNSHIP OF DELANCO

ORDINANCE 2009-6

ORDINANCE REGULATING STILL PHOTOGRAPHY, VIDEOTAPING AND AUDIO TAPING OF PUBLIC MEETINGS

WHEREAS, the Township Committee has found it necessary in order to protect the rights of the majority of the citizens within the Township and to ensure the unfettered administration and conduct of municipal government to regulate still photography, videotaping and audio taping within municipal facilities, and particularly of public meetings, in such a way as to minimize interference with governmental administration and the conduct of public meetings while still protecting the rights guaranteed under the First Amendment of the United States Constitution and the Open Public Meetings Act, N.J.S.A. 10:4-6 et seq.; and

WHEREAS, neither Federal nor State law forbids a municipality from controlling the use of its own property for its lawful and non-discriminatory purposes and preserving the property under its control for the use to which it is dedicated; and

WHEREAS, the State Supreme Court has recognized the public's rights as well as the municipality's rights to regulate video taping or other recording of public meetings in Taurus v. Pine Hill, 189 N.J. 497 (2007), and it is the intent of this Ordinance to comply with the parameters of that precedent.

NOW THEREFORE, BE IT RESOLVED by the Township Committee of the Township of Delanco, County of Burlington and State of New Jersey as follows:

ARTICLE I. DEFINITIONS

As used in this chapter, the following terms shall have the meaning indicated:

- A. Public Meeting- Any gathering whether corporal or by means of communication equipment which is attended by, or open to, all members of a public body, held with the intent, on the part of the members of the body present, to discuss or act as a unit upon the specific public business of that body.
- B. Municipal Facility- Any building owned, leased, or otherwise legally occupied or used by the Township of Delanco in which official municipal business is conducted.

ARTICLE II. STILL PHOTOGRAPHY AND VIDEO TAPING AT PUBLIC MEETINGS.

A. Equipment and Personnel

1. Not more than two (2) portable videotape electronic cameras, operated by no more than one person each, shall be permitted at any public meeting of the Township Committee.
2. Not more than two still photographers utilizing not more than two lenses for each camera and related equipment for print purposes shall be permitted at any public meeting of the Township Committee.
3. Sound and Light Criteria
 - a. Only videotape cameras and audio equipment used in conjunction with the video camera which does not produce distracting sound or light shall be employed to cover public meetings of the Township Committee. Specifically such videotape camera and related audio equipment shall produce no greater sound or light than the equipment designated in Appendix A, annexed hereto, when the same is in

good working order. No artificial lighting device of any kind shall be employed in connection with the use of videotape cameras.

- b. Only still camera equipment which does not produce distracting sound or light shall be employed to cover public meetings of the Township Committee. Specifically such still camera equipment shall produce no greater sound or light than a 35mm Luca "M" Services Rangefinder Camera when used alone or in conjunction with a professional sound muffling device, e.g., the Nikon "bEmp". No artificial lighting of any kind shall be employed in connection with a still camera.
- c. It shall be the affirmative duty of the individual seeking to videotape a public meeting to demonstrate to the Mayor or his designee adequately in advance of any public hearing that the equipment sought to be utilized meets the sound and light criteria enumerated herein. A failure to obtain advance approval for the equipment prior to each public meeting shall preclude its use at any such meeting.

4. Notice

- a. Notice shall be given to the Municipal Clerk prior to the close of business of the day prior to the meeting for which an individual is seeking permission to videotape or photograph the public meeting; and if the meeting occurs on a day when municipal offices are closed, prior to close of business on the last business day preceding the meeting for which permission is sought.
- b. Permission to videotape or photograph the public meeting shall be granted on a "first come, first serve" basis, subject to compliance with the provisions contained in these guidelines.

5. Location of Equipment and Personnel

- a. Videotape camera(s) shall be placed in an inconspicuous corner of the meeting room toward the rear. The specific location(s) shall be designated by the Township committee. The area(s) shall provide a generally clear view of the proceedings by the camera. The person videotaping the public meeting shall not move about the meeting room while the public meeting is being held.
- b. Still camera photographers shall be positioned in an inconspicuous corner of the meeting room toward the rear. The specific location shall be designated by the Township Committee. Still camera photographers shall assume fixed positions within the designated areas and once the photographers are positioned such photographers shall not be permitted to move about in any way as to attract attention through further movement. Still photographers shall not be permitted to move about in order to photograph the public Meeting.

B. Movement of Equipment During Proceedings

Videotape and related audio equipment and still camera equipment shall not be placed in or removed from the meeting room except prior to commencement and after adjournment of the public meeting or during a recess.

- C. Upon the request of a member of the public who desires to discuss a personal matter with the committee, the Mayor may direct that the audio/video taping be interrupted when an audio/video recording could be embarrassing or humiliating if played at a later time.

ARTICLE III. AUDIO TAPE RECORDING OF PUBLIC MEETINGS

In addition to photography and videotape recording of public meetings an individual may tape record a public meeting subject to the restrictions of Article IV and with the following conditions:

- A. Notice shall be given to the Municipal Clerk prior to the close of business of the day the meeting for which an individual is seeking permission to videotape or photograph the public meeting; and if the meeting occurs on a day when municipal offices are closed, prior to close of business on the last business day preceding the meeting for which permission is sought.
- B. The recording device shall be unobtrusive, limited to the size-category commonly known as hand-held, mini-cassette, or standard portable cassette. It shall be placed in an appropriate position and may not be moved in any way as to attract attention.
- C. The recording device shall not produce distracting sound, either from the equipment or its operation. The tape may not be rewound or played back while the meeting is in session.
- D. The Mayor may order that tape recording cease at any time he/she determines that the equipment or its operator is interfering with the proceedings.

ARTICLE IV. PROHIBITIONS

- A. Meetings or portions of meetings which are permitted by law to be closed to the public shall not be videotaped, photographed or audio taped.
- B. During the conduct of a public meeting, including an executive session, photographs may be taken and video and/or audio tape recording made in the corridor immediately outside the meeting room only with the express permission of the Township Committee.
- C. To protect the attorney-client privilege there shall be no audio pickup of conferences which occur at a public meeting or in a public facility between the Township Solicitor or

special counsel and any member of the Township Committee, the Municipal Clerk or any officer or employee of the Township.

- D. No recording, whether audio or video, may be used in any court proceeding, nor may same be used to contest the accuracy of the official record of the Township Committee. The recording(s) may not be represented as an official transcript in any manner and/or for any purpose.

ARTICLE V. CEREMONIAL PROCEEDINGS

Permission for all still photography, videotaping and audio tape recording of ceremonial proceedings involving the Township Committee occurring during a public meeting or otherwise must first be obtained from the Township Committee, but will be granted routinely subject to compliance with the foregoing guidelines where applicable. The Mayor may waive the requirements of this Ordinance to allow individuals to capture ceremonial proceedings if deemed in the best interests of the public.

ARTICLE VI. DUPLICATION OF VIDEOTAPES AND PHOTOGRAPHS

- A. Upon completion of videotaping or other recording of a public meeting, the Mayor or Municipal Clerk may request a copy of the videotape or other document and same shall be supplied to the Township. Copies of any videotape duplicated on behalf of the Township Committee shall be retained as required by law and made available to the general public upon request subject to payment of the cost of duplication.
- B. If the Mayor or Municipal Clerk does not request the original videotape for duplication, the individual who made the videotape recording shall maintain the original tape for a period of one year and during that time period shall provide a copy of the videotape, certified to be undeleted and unabridged, to the Township Committee or member of the

public upon request for the cost of duplication. Copies of any videotape provided to the Township Committee under this paragraph shall be retained as required by law and made available to the general public upon request subject to payment of the cost of duplication.

- C. The photographer at any public meeting shall maintain the negatives or electronic originals of all photographs taken during a public meeting for a period of one year and shall during that time period, if so requested, provide duplicates of the photographs to the Mayor or Township Clerk or member of the public upon request subject to payment of the cost of duplication. In lieu of providing copies, if so requested, the photographer may provide the negatives or electronic originals of the photographs to the Township Committee. The Township Committee shall retain the photographs as required by law and make available to the general public duplicates of any photographs for which it has either copies or the negatives or electronic originals subject to payment of the cost of duplication.

**ARTICLE VII. STILL PHOTOGRAPHY, VIDEOTAPING AND AUDIO TAPING
WITHIN PUBLIC FACILITIES**

- A. Except as otherwise provided herein with regard to public meetings, no photographs may be taken or audio/video tape recordings made within a public facility of any person, place or event relating to the administration and/or conduct of official municipal business.
- B. No limitations are placed on the taking of photographs or video/audio tape recording on the grounds or environs of the municipal facility or within a municipal facility of persons, places or events which have no relation to, do not arise from, and/or are in no way connect with the administration and/or conduct of official municipal business.

ARTICLE VIII. MUNICIPAL COURTS

Still and television camera and audio coverage of proceedings in the municipal court are governed by the Supreme Court Guidelines.

ARTICLE IX. ENFORCEMENT

The Delanco Township Police Department, as well as the Township Clerk, and during the course of meetings with the Mayor and Township Committee, shall be the enforcement agent of this Ordinance.

ARTICLE X. REPEALER, SEVERABILITY, EFFECTIVE DATE

A. Repealer.

Any and all Ordinances inconsistent with the provisions of this Ordinance be and the same are hereby repealed to the extent of any such inconsistencies.

B. Severability.

In the event that any clause, section or paragraph of this Ordinance is deemed to be invalid for any reason, then it is hereby declared to be the intent of the governing body that the balance of the Ordinance shall remain in full force and effect, the governing body hereby declaring that it would have adopted the remainder of the Ordinance even without the offending provision.

C. Effective Date.

This Ordinance shall become effective upon proper passage in accordance with the law.