

ADOPTED JULY 14, 2008

**TOWNSHIP OF DELANCO
ORDINANCE 2008-5**

INDEMNIFICATION ORDINANCE

An Ordinance Authorizing the Township of Delanco to Provide Legal Counsel and Indemnification for Officials, Employees and Appointees of the Township in Certain Actions Brought Against Said Officials, Employees and Appointees.

BE IT ORDAINED by the Township Committee that:

Section 1. Except as hereinafter provided, the Township of Delanco, hereinafter known as the Township shall, upon the request of any present or former official, employee or appointee of the Township provide for indemnification and legal defense of any civil action brought against said person or persons arising from an act or omission falling within the scope of their public duties.

Section 2. The Township of Delanco shall not indemnify any person against the payment of punitive damages, penalties, or fines, but may provide for the legal defense of such claims in accord with the standards set forth herein. The Township may refuse to provide for the defense and indemnification of any civil action referred to herein if the Township Committee determines that a) the act or omission did not occur within the scope of a duty authorized or imposed by law; b) the act or failure to act was the result of actual fraud, willful misconduct or actual malice of the person requesting defense and indemnification; or c) the defense of the action or proceeding by the Township would create a conflict of interest between the Township and the person or persons involved.

Section 3. The terms of this ordinance and the definition of official, employee and appointee are to be construed liberally in order to effectuate the purposes of this ordinance except that these terms shall not mean a) any person who is not a natural person; b) any person while providing goods or services of any kind under any contract with the Township except an employment contract; c) any person while providing legal or engineering services for compensation unless said person is a full-time employee of the Township; and d) any person who as a condition of his or her appointment or contract is required to indemnify and defend the Township and/or secure insurance.

Section 4. The Township shall provide for defense of and indemnify any present or former official, employee or appointee of the Township who becomes a defendant in a civil action if the person or persons involved a) acted or failed to act in a matter in which the Township has or had an interest; b) acted or failed to act in the discharge of a duty imposed or authorized by law; and c) acted or failed to take action in good faith. For purposes of this ordinance, the duty and authority of the Township to defend and indemnify shall extend to a cross-claim or counterclaim against said person.

Section 5. In any other action or proceeding, including criminal proceedings, the Township may provide for the defense of a present or former official, employee or appointee, if the Township Committee concludes that such representation is in the best interest of the Township and that the person to be defended acted or failed to act in accord with the standards set forth in this ordinance.

Section 6. Whenever the Township provides for the defense of any action set forth herein and as a condition of such defense, the Township may assume exclusive control over the representation of such persons defended and such person shall cooperate fully with the Township.

Section 7. The Township may provide for the defense pursuant to this ordinance by authorizing its attorney to act in behalf of the person being defended or by employing other counsel for this purpose or by asserting the right of the Township under any appropriate insurance policy that requires the insurer to provide defense.

Section 8. This ordinance shall take effect immediately upon passage and publication as required by law.