



BOROUGH OF HIGHLANDS
COUNTY OF MONMOUTH

ORDINANCE 0-20-14

An Ordinance Authorizing the Borough of Highlands to Provide Legal Counsel and indemnification for Officials, Employees and Appointees in Certain Actions Brought Against Said Officials, Employees and Appointees

WHEREAS, the governing body wishes to establish requirements for providing defense and indemnification to Borough Officials, Employees and Appointees of the Borough of Highlands in certain actions brought against said officials, employees and appointees.

NOW, THEREFORE, BE IT ORDAINED by the governing body of the Borough of Highlands as follows:

SECTION I.

Borough Code section 2-50 entitled "Indemnification of Municipal Officers and Employees" shall be created as follows:

2-50. Indemnification of municipal officers and employees.

A. Indemnification requirements. Subject to Subsection C. of this section, whenever any civil action has been or shall be brought against a member of the Borough Council, other Borough official, any member of any board, commission, council or other agency of the Borough, or Borough employee for any action or omission arising out of or in the course of the performance of the duties of such person's office, the Borough shall defray all defense costs and expenses, including reasonable attorney's fees and expenses together with the cost of any appeal, in accordance with Subsection B. and shall save harmless and protect such individual from any financial loss resulting from the litigation.

B. Indemnification defense.

(1) Where the defendant is a Borough employee or Borough official other than a Borough Council member, the Borough Council shall appoint counsel for the defendant.

(2) The defendant entitled to indemnification pursuant to Subsection A. may designate his/her own legal representation. If the defendant designates his/her own legal representative, said designation shall be subject to the following restrictions:

(a) The legal representative shall be an attorney in good standing, licensed and admitted to the practice of law in the State of New Jersey.

(b) The defendant shall submit a letter to the Borough Council indicating his/her desire to have a designated legal representative and shall, at the same time, designate the legal representative.

(c) The legal representative shall agree to bill the Borough at no more than the rate per hour established by the Borough Council for the Borough Attorney at the time of the legal representative's designation as counsel by the defendant.

(d) The legal representative shall periodically submit an itemized bill for all services rendered to the defendant in accordance with the designation and shall complete such forms and/or vouchers as required for payment by the Borough.

(e) Agreement that the legal representative and defendant shall not enter into a settlement of the civil action without prior approval of the Borough Council.

C. Indemnification, exceptions. The Borough Council shall not be required to provide for a defense and/or indemnification pursuant to this section under the following circumstances:

(1) Where the legal proceeding involves a criminal matter or arises under the election laws of the State of New Jersey.

(2) Where the civil action is brought by the member of the Borough Council who is seeking indemnification; provided, further, that where a defendant member of the Borough Council asserts a counterclaim in an action in which such member is a defendant, a defense and indemnification shall be provided by the Borough Council except as to matters arising under the counterclaim.

(3) Where the civil action is brought by the Borough Council against the defendant.

(4) Where the civil action has resulted in punitive damages being awarded against the defendant; provided, further, that where Borough funds have been expended in the defense resulting in the awarding of punitive damages, said funds shall be reimbursed to the Borough by the defendant.

(5) Where the civil action arises from acts or omissions not within the scope of duty of the Borough employee, member of the Borough Council or other Borough official or arises from acts of willful misconduct or actual malice.

(6) Where the Borough has obtained an insurance policy which insures the Borough employee, member of the Borough Council or other Borough official, and the insurance company has agreed to defend the cause of action and indemnify the defendant; provided, further, that the Borough shall be liable for the payment of any minimum deductible amount which the insurance policy does not cover.

SECTION II. SEVERABILITY. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the remaining portions of this Ordinance, which shall otherwise remain in full force and effect.

SECTION III. REPEALER. All ordinances or parts of ordinances inconsistent herewith are hereby repealed to the extent of such inconsistency.

SECTION IV. EFFECTIVE DATE. This ordinance shall take effect immediately upon its passage and publication in accordance with law.

Introduction and Set Public Hearing Date O-20-14

	INTRODUCED	SECOND	AYE	NAY	ABSTAIN	ABSENT
BRASWELL			X			
MAZZOLA			X			
RYAN		X	X			
VALKOS			X			
BROULLON	X		X			

This is a Certified True copy of the Action of the Governing Body

DATE OF VOTE: June 3, 2020



Matthew Conlon, RMC, Municipal Clerk

Public Hearing and Final Adoption O-20-14

	INTRODUCED	SECOND	AYE	NAY	ABSTAIN	ABSENT
BRASWELL			X			
MAZZOLA		X	X			
RYAN			X			
VALKOS			X			
BROULLON	X		X			

This is a Certified True copy of the Action of the Governing Body

DATE OF VOTE: June 17, 2020



Matthew Conlon, RMC, Municipal Clerk