

TOWNSHIP OF WALL

ORDINANCE NO. 4-2020

AN ORDINANCE AUTHORIZING THE TOWNSHIP OF WALL (“TOWNSHIP”) TO PROVIDE LEGAL COUNSEL AND INDEMNIFICATION FOR OFFICIALS, EMPLOYEES AND APPOINTEES OF THE TOWNSHIP IN CERTAIN ACTIONS BROUGHT AGAINST SAID OFFICIALS, EMPLOYEES AND APPOINTEES

WHEREAS, it is not the intention of the Township to defend or indemnify public officials, employees or appointees against claims related to their intentional acts or omissions, gross negligence, willful or intentional acts or omissions or criminal conduct or activities; and

WHEREAS, the reference to officials shall include all elected and appointed officials such as the members of the Township Committee and the Mayor, the Township Clerk, the Township Administrator and all department heads; and

WHEREAS, persons who represent the Township of Wall as officials, employees and appointees provide critical services to the Township. In order for the Township to attract and retain qualified and dedicated persons who are willing to participate in public service it is advisable to assist such persons in protecting themselves against claims by third parties for their alleged negligent acts or omissions and to provide them with legal representation by an attorney assigned by the Township; and

WHEREAS, the way to provide that protection is for the Township to agree to indemnify and defend all Township officials, employees and appointees against claims made against them by third parties for alleged negligent acts or omissions.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Township Committee of the Township of Wall that:

Section 1. Except as hereinafter provided, 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 a negligent act or omission falling within the scope of their public duties.

Section 2. The Township 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 Mayor and 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 fraud, willful misconduct or 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 related to their acts or omissions.

Section 4. The Township shall provide for the defense and indemnification of 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. The Township may provide 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 the person who seeks a defense or indemnification and such person shall cooperate fully with the Township.

Section 6. The Township may provide for the defense pursuant to this ordinance by authorizing its attorney to act on 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 a defense.

Section 7. The Township shall not indemnify or defend any person who is not an employee of the Township or who is employed by, or provides services to, a vendor to the Township or any entity that provides goods or services to the Township including, but not limited to, professional services.

Introduced: March 25, 20220

Adopted: April 22, 2020

Attest:

Approve:

Roberta M. Lang, RMC
Township Clerk

Carl Braun
Deputy Mayor

SUMMARY AND NOTICE

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TO PROVIDE LEGAL COUNSEL AND INDEMNIFICATION FOR OFFICIALS,
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Adoption of this Ordinance will authorize the township to provide legal counsel and indemnification for officials, employees, and appointees of the township in certain actions brought against said officials, employees, and appointees

Notice is hereby given that the foregoing Ordinance was introduced and passed on first reading by the Township Committee of the Township of Wall on March 25, 2020, and finally adopted on April 22, 2020. Copies of said Ordinance will be made available at the Clerk’s Office in the Township of Wall, to members of the general public who shall request the same or may be viewed in full on the Township’s website www.wallnj.com under Legal Notices.

Roberta M. Lang, RMC
Township Clerk

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