

ORDINANCE NO. 16-13

**ORDINANCE CREATING CHAPTER 295 OF THE
CODE BOOK OF JEFFERSON TOWNSHIP, COUNTY OF
MORRIS AND STATE OF NEW JERSEY, ENTITLED
“INDEMNIFICATION OF OFFICIALS AND EMPLOYEES”**

BE IT ORDAINED by the Township Council of the Township of Jefferson, County of Morris, State of New Jersey, an Ordinance authorizing the Township of Jefferson to provide legal counsel and indemnification for officials, employees and appointees of the Township of Jefferson entitled “Indemnification of Officials and Employees,” to be known as Chapter 295, is hereby adopted in its entirety, as follows:

SECTION A

Chapter 295

INDEMNIFICATION OF OFFICIALS AND EMPLOYEES

- §295-1 Except as hereinafter provided, the Township of Jefferson, 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 failing within the scope of their public duties.
- §295-2 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.
- §295-3 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 it is alleged that 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 in a negligent manner or in violation of any applicable law; (c) acted or failed to act in the discharge of a duty imposed or authorized by law; and (d) 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.

§295-4 The Township is not required to 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 Council 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.

§295-5 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 Council 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.

§295-6 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. If the employee refuses to utilize the attorney designated by the Township, then the Township's obligation to provide counsel, or to reimburse for counsel, shall be terminated.

§295-7 This Ordinance shall take effect immediately upon passage and publication as required by law.

SECTION B

All ordinances or parts of ordinances inconsistent with this ordinance are hereby repealed to the extent of such inconsistencies.

SECTION C

If any article, section, subsection, paragraph, phrase or sentence is, for any reason, held to be unconstitutional or invalid, said article, section, subsection, paragraph, phrase or sentence shall be deemed severable.

SECTION D

This Ordinance shall take effect immediately upon final publication as provided by law.

ATTEST:

COUNCIL OF THE TOWNSHIP
OF JEFFERSON

LORI HARVIN, CLERK

MICHAEL J. SANCHELLI, VICE PRESIDENT

INTRODUCED: November 13, 2013

ADOPTED: December 4, 2013

RUSSELL W. FELTER, MAYOR

DATE AND TIME PRESENTED TO MAYOR FOR SIGNATURE:

CERTIFICATION

I, LORI HARVIN, Clerk of the Township of Jefferson, do hereby certify that the foregoing Ordinance was duly adopted by the Township of Jefferson Council on the ____ day of _____, 2013.

LORI HARVIN, Clerk
Township of Jefferson