

**BOROUGH OF NORTHVALE
County of Bergen
State of New Jersey**

ORDINANCE #840-2007

**AN ORDINANCE OF THE CODE OF THE BOROUGH OF NORTHVALE TO
PROVIDE FOR DEFENSE AND INDEMNIFICATION OF OFFICERS AND
EMPLOYEES**

**BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE
BOROUGH OF NORTHVALE, COUNTY OF BERGEN, STATE OF NEW
JERSEY, as follows:**

Section 1. Indemnification of Officers and Employees.

Pursuant to N.J.S.A. 59:10-4, as same may be amended from time to time, the Borough of Northvale does hereby authorize indemnification of any person holding public office, position or employment, elective or appointive, full or part-time, hereinafter referred to as the “employee”.

Section 2. Defense of Actions.

The Borough of Northvale shall, upon application and request, provide for the defense of any action, suit or proceeding, commenced or threatened, whether civil, administrative or investigative, including a cross action counterclaim or cross complaint, against any employee on account of any act or omission within the scope of his or her employment and shall defray all costs of defending such action, including reasonable

counsel fees and expenses, together with costs of appeal, if any, provided that the act or the failure to act does not arise out of actual fraud, willful misconduct or actual malice. At the Borough's option, the Borough may, in lieu of providing for the defense of an action, suit or proceeding, reimburse the employee for the employee's costs of defending an action, suit or proceeding.

Section 3. Payment of Claims.

The Borough shall indemnify and save harmless each employee from financial loss resulting from any action described in this article including claims, losses, expenses, judgments, fines, attorney fees, court costs and expert or technical witness fees and any amount paid in settlement thereof, and actually and reasonable incurred in connection therewith, to the extent permitted by law. Expenses thus incurred may be paid in advance of final disposition of the action. Nothing herein shall authorize the Borough to pay for punitive or exemplary damages or damages resulting from the commission of a crime.

Section 4. Counsel; Insurance.

The Borough may employ legal counsel and expert or technical personnel to provide a defense, pursuant to this article, and may purchase appropriate insurance as protection against any liability arising under this article.

Section 5. Notice of Suit.

An employee shall not be entitled to indemnification or the cost of defense under this chapter unless, within ten (10) days of the time such employee is served with any summons, order to show cause, complaint, process, notice, demand or pleading, he

delivers the same or a copy thereof to the Borough Clerk, whereupon it shall be the duty of the Borough Clerk to forthwith notify the Mayor and Borough Attorney thereof, provided that such time period may be extended for cause by the affirmative vote of a majority of the full membership of the governing body.

Section 6. Cooperation of Employee.

An employee requesting defense of any action or claiming indemnification under this article shall cooperate fully and in good faith with the Borough and with any attorneys, adjusters, investigators or expert or technical personnel engaged for this purpose, in the preparation and presentation of a defense to such action or the settlement or other disposition thereof. If such employee shall neglect, fail or refuse to cooperate as aforesaid, the Borough Council, after hearing on ten (10) days' written notice to the employee and for cause, may declare all rights created under this article for the benefit of such employee to be forfeited and terminated by the affirmative vote of a majority of the full membership of the governing body.

Section 7. Repealer.

All ordinances or parts of ordinances inconsistent or in conflict with this Ordinance are hereby repealed as to said inconsistencies and conflicts.

Section 8. Severability.

If any section, part of any section, or clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional, such decision shall not affect the remaining provisions of this Ordinance, and each section and subsection thereof, irrespective of the

fact that any one or more of the subsections, sentences, clauses or phrases may be declared unconstitutional or invalid.

Section 9. Effective Date.

This Ordinance shall take effect immediately upon passage and publication according to law.

MAYOR JOHN HOGAN

ATTEST:

Wanda A. Worner
Borough Clerk

Introduced: February 28, 2007

Passed: April 11, 2007