

Chapter 18**INDEMNIFICATION**

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[**HISTORY: Adopted by the Mayor and Council of the Borough of Swedesboro 2-5-2007 by Ord. No. 3-2007. Amendments noted where applicable.**]

GENERAL REFERENCES

Officers and employees — See Ch. 26.
Personnel policies — See Ch. 32.

§ 18-1. Legislative intent.

Except as hereinafter provided, the Borough of Swedesboro, hereinafter known as "the Borough," shall, upon the request of any present or former official, employee or appointee of the Borough, 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.

§ 18-2. Exemplary or punitive damages.

Pursuant to N.J.S.A. 59:10-4, the indemnification and defense provided for in this chapter shall include exemplary or punitive damages resulting from the employee's civil violation

of state or federal law if, in the opinion of the Borough of Swedesboro, the acts committed upon which the damages are based did not constitute actual fraud, actual malice, willful misconduct or an intentional wrong.

§ 18-3. Word usage.

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

§ 18-4. Defense in civil actions.

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

§ 18-5. Defense in other actions.

In any other action or proceeding, including criminal proceedings, the Borough may provide for the defense of a present or former official, employee or appointee, if the Borough of Swedesboro concludes that such representation is in the best

interest of the Borough and that the person to be defended acted or failed to act in accord with the standards set forth in this chapter.

§ 18-6. Exclusive control over representation.

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

§ 18-7. Counsel.

The Borough may provide for the defense pursuant to this chapter 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 Borough under any appropriate insurance policy that requires the insurer to provide defense.

