

ORDINANCE 61-2007

ORDINANCE OF THE BOROUGH OF MADISON AMENDING CHAPTER 14 OF THE BOROUGH CODE REGARDING MUNICIPAL OFFICIALS AND EMPLOYEES

WHEREAS, the Borough of Madison adopted § 14-1 and § 14-2 of the Code of the Borough of Madison which provides for reimbursement of legal fees, in limited circumstances, to employees of the Borough who incur these expenses arising out of their employment with the Borough; and

WHEREAS, it is in the best interests of the Borough to amend these sections in order to clarify the limitations and to provide that, in the event that the Borough indemnifies a municipal employee, the amount of such indemnification for attorneys fees shall be limited to a reasonable hourly rate not to exceed the hourly rate which the Borough compensates its Borough attorney.

NOW, THEREFORE, BE IT ORDAINED by the Council of the Borough of Madison, in the County of Morris and State of New Jersey as follows:

(1) The last sentence of § 14-1 shall be replaced with: "The Borough Attorney or other attorney selected by the Borough Council shall represent the borough official or employee, at a cost not to exceed the hourly rate which the Borough compensates its Borough Attorney."

(2) Section 14-2 of the Code of the Borough of Madison shall be amended and replaced in its entirety as follows:

The Borough shall not defray the costs of defending any criminal action against any municipal employee except as may be authorized by state statute or other municipal ordinance or resolution of the Borough of Madison, and, in those circumstances, the responsibility for defraying the costs of defending such employee shall be applicable only when such criminal proceedings shall have been dismissed or result in a final disposition in favor of the employee. Further, in the event that the Borough indemnifies the employee, the cost of that indemnification shall not exceed the hourly rate paid to the Borough attorney. Nonetheless, should the Borough Council determine that there is good cause to dismiss the employee arising out of the incident or related incidents of

the criminal prosecution, the Borough will not reimburse the employee or official for legal defense and costs of defending the suit, even though criminal proceedings against the employee may be dismissed or the employee found not guilty.

(3) Section 14-4 of the Code of the Borough of Madison shall be amended and replaced in its entirety as follows:

14-4. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

OFFICIAL OR EMPLOYEE -- Any person elected, appointed or employed, paid or unpaid, in any way connected with the municipal government of the Borough of Madison, except for persons appointed to committees having no powers other than to advise. Employee shall include all persons on the municipal payroll.

(4) **Repealer.** All Ordinances or parts thereof in conflict or inconsistent with this Ordinance are hereby repealed, but only however, to the extent of such conflict or inconsistency, it being the legislative intent that all Ordinances or part of ordinances now existing or in effect unless the same being conflict or inconsistent with any provision of this Ordinance shall remain in effect.

(5) **Severability.** The provisions of this Ordinance are declared to be severable and if any section, subsection, sentence, clause or phrase thereof for any reason be held to be invalid or unconstitutional, such decision shall not effect the validity of the remaining sections, subsections, sentences, clauses and phrases of this Ordinance, but shall remaining in effect; it being the legislative intent that this Ordinance shall stand not withstanding the invalidity of any part.

(6) This Ordinance shall take effect upon passage and publication as provided by law.

(7) The Borough Clerk and the Borough Attorney are authorized and directed to change any Chapter, Article and/or Section numbers of the Code of the Borough of Madison, in the event that the codification of this Ordinance reveals that there is a conflict between the numbers and the existing Code, and in order to avoid confusion and possible accidental repealers of existing provisions not intended to be repealed.

ADOPTED AND APPROVED

September 10, 2007

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Attest: ELLWOOD R. KERKESLAGER, Mayor

MARILYN SCHAEFER, Borough Clerk

Introduced and passed: August 27, 2007

Published, Madison Eagle: August 30, 2007

Hearing and final adoption: September 10, 2007

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