

(Please Use this Form for Filing your Local Law with the Secretary of State)

Text of law should be given as amended. Do not use brackets for matter to be eliminated and do not use italics for new matter.

~~CITY~~
~~CITY~~ of DELAWARE
Town
~~VILLAGE~~
Local Law No. 1 of the year 19 86

A local law PROVIDING FOR THE DEFENSE AND INDEMNIFICATION OF OFFICERS AND EMPLOYEES
(insert title)
OF THE TOWN OF DELAWARE

Be it enacted by the TOWN BOARD
(Name of Legislative Body) of the

~~CITY~~
~~CITY~~ of DELAWARE as follows:
Town
~~VILLAGE~~

Section 1. As used in this local law, unless the context otherwise requires: (a) the term "employee" shall mean any person holding a position by election, appointment or employment in the service of the Town of Delaware, a volunteer expressly authorized to participate in a publicly sponsored volunteer program, whether or not compensated, but shall not include an independent contractor. The term "employee" shall include a former employee, his estate or judicially appointed personal representative; (b) the term "Town" shall mean the Town of Delaware, and where the following have agreed by resolution to confer the benefits of this local law upon their employees and be responsible for the costs incurred thereby, any other public benefit corporation, public improvement, special district, public authority, commission or agency organized by or under the authority of the Town of Delaware.

Section 2. (a) Upon compliance by the employee with the provisions of section 3 of this local law, the Town shall provide for the defense of the employee in any civil action or proceeding in any state or federal court or administrative agency arising out of any alleged act or omission which occurred or is alleged in the complaint to have occurred while the employee was acting within the scope of his public employment or duties. Such defense shall not be provided where such civil action or proceeding is brought

by or at the behest of the Town.

(b) Subject to the conditions set forth in this local law, the employee shall be represented by the Town Attorney or an attorney employed or retained by the Town for the defense of the employee. The Board shall employ or retain any attorney for the defense of the employee whenever (1) the Town Attorney determines based upon an investigation and review of the facts and circumstances of the case that representation by the Town Attorney would be inappropriate or (2) a court of competent jurisdiction determines that a conflict of interest exists and that the employee cannot be represented by the Town Attorney. Reasonable attorney's fees and litigation expenses shall be paid by the Town to such attorney employed or retained, from time to time, during the pendency of the civil action or proceeding subject to certification by the Town Board that the employee is entitled to representation under the terms and conditions of this local law. Payment of such fees and expenses shall be made in the same manner as payment of other claims and expenses of the Town. Any dispute with respect to representation of multiple employees by the Town Attorney or by an attorney employed or retained for such purposes or with respect to the amount of the fees or expenses shall be resolved by the court.

(c) Where the employee delivers process

and a request for defense to the Town Attorney or Supervisor as required by section 3 of this local law, the Town Attorney shall take the necessary steps or an attorney retained by the Board under the terms and conditions provided in paragraph (b) of this section on behalf of the employee to avoid entry of a default judgment, pending resolution of any question relating to the obligation of the Town to provide a defense.

Section 3. The duties to defend or indemnify and save harmless provided in this local law shall be contingent upon (a) delivery to the Town Attorney or Supervisor of the original or a copy of any summons, complaint, process, notice, demand or pleading within ten days after he is served with such document and (b) the full cooperation of the employee in the defense of such action or proceeding and in defense of any action or proceeding against the Town based upon the same act or omission, and in the prosecution of any appeal. Such delivery shall be deemed a request by the employee that the Town provide for his defense or to indemnify and save harmless pursuant to this local law, unless the employee shall state in writing that a defense or indemnity is not requested.

Section 4. The Town shall indemnify and save harmless any employee in the amount of any judgment obtained against such employee in a state or federal court.

administrative agency or in the amount of any settlement of a claim, provided the act or omission from which such judgment or claim arose occurred while the employee was acting within the scope of his public employment or duties; provided further that in the case of a settlement the duty to indemnify and save harmless shall be conditioned upon the approval of the amount of settlement by the Board. The duty to indemnify and save harmless shall not apply to any injury or damage which resulted from the intentional wrongdoing or recklessness of the employee, or to punitive or exemplary damages, fines, penalties, or money recovered from an employee pursuant to Section 51 of the General Municipal Law. The duty to indemnify and save harmless shall apply to an employee acting within the scope of his public employment and duties who has, without willfulness or intent on his part, violated a prior order, judgment, consent decree or stipulation of settlement entered in any court of this state or of the United States or of any administrative agency.

Section 5. The benefits of this local law will inure only to employees as defined herein and shall not enlarge or diminish the rights of any other party nor shall any provision of this local law be construed to affect, alter or repeal any provisions of the Workers' Compensation Law.

Section 6. The benefits of this local law shall be:

extended to an employee of a negotiating unit for which an agreement has been negotiated pursuant to Civil Service Law, Article 14 only if such agreement expressly so provides.

Section 7. The provisions of this local law shall not be construed to impair, alter, limit or modify the rights and obligations of any insurer under any policy of insurance.

Section 8. Except as otherwise specifically provided in this local law, the provisions of this local law shall not be construed in any way to impair, alter, limit, modify, abrogate or restrict any immunity available to or conferred upon any unit, entity, officer or employee of the Town or any right to defense provided for any governmental officer or employee by, in accordance with, or by reason, any other provision of state or federal statutory or common law.

Section 9. The provisions of this local law shall apply to all actions and proceedings specified herein which have been commenced, instituted or brought on or after the effective date of this local law.

Section 10. This local law shall take effect immediately.

TOWN OF DELAWARE
NOTICE OF ADOPTION OF LOCAL LAW

I hereby certify that the local law annexed hereto, designated Local Law No. 1 of 1986 of the Town of Delaware was duly passed by the Town Board of the Town of Delaware on April 10, 1986, in accordance with the provisions of law.

[ATTACH COPY OF LOCAL LAW]

Dated: April 10, 1986

RITA KOLBE
Town Clerk

TOWN OF DELAWARE
NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that there has been duly presented and introduced at a meeting of the Town Board of the Town of Delaware, New York, held on March 13, 1986, a proposed Local Law No. 1 of 1986, entitled "A local Law Providing for the Defense and Indemnification of Officers and Employees of the Town of Delaware."

The proposed Local Law provides a procedure for defending employees and officers of the Town and indemnifying them in certain circumstances from any judgment or damages incurred.

NOTICE IS FURTHER GIVEN that the Town Board of the Town of Delaware will conduct a public hearing on the aforesaid proposed Local Law at the Town Hall, Hortonville, New York, on April 10, 1986, at 8:00 P.M., at which time all persons interested will be heard.

Dated: March 13, 1986

RITA KOLBE
Town Clerk of the Town of Delaware
County of Sullivan, New York

[Please print in
Sullivan County Democrat the week of April 1, 1986.]
Post on Bulletin Board

RESOLUTION TO ENACT LOCAL LAW NO. 1 OF 1986.

WHEREAS, proposed Local Law No. 1 of the year 1986 entitled, "A Local Law Providing for the Defense and Indemnification of Officers and Employees of the Town of Delaware."

was presented to the Town Board at a meeting held March 13, 1986, at the Town Hall, Hortonville, New York, to consider said proposed local law and notice of public hearing having been duly published and posted as required by law, and said public hearing having been held and all persons appearing at said public hearing deeming to be heard having been heard,

NOW, THEREFORE, BE IT RESOLVED, that the Town Board of the Town of Delaware, New York, on the April 10, 1986, does hereby enact and adopt Local Law No. 1 for the year 1986, Town of Delaware, County of Sullivan, State of New York, which local law is annexed hereto and made a part hereof.

Moved by Fulton

Seconded by Rosenberger

Adopted on Motion April 10, 1986.

TOWN OF DELAWARE
NOTICE OF ADOPTION OF LOCAL LAW

I hereby certify that the local law designated Local Law No. 1 of 1986 of the Town of Delaware was duly passed by the Town Board of the Town of Delaware on April 10, 1986, in accordance with the provisions of law.

The said Local Law No. 1 of 1986 of the Town of Delaware entitled "A Local Law providing for the defense and indemnification of officers and employees of the Town of Delaware" sets forth the procedures under which officers and employees of the Town of Delaware may be defended and reimbursed for any costs or other damages which they might incur in the course of their employment.

A copy of said local law is on file in my office at the Town Hall, Hortonville, New York and can be examined there.

Dated: April 10, 1986

RITA KOLBE
Town Clerk

(Complete the certification in the paragraph which applies to the filing of this local law and strike out the matter therein which is not applicable.)

(Final adoption by local legislative body only.)

1. I hereby certify that the local law annexed hereto, designated as local law No. ¹..... of 1986.....

County
City of DELAWARE TOWN BOARD
Town of was duly passed by
Village (Name of Legislative Body)

on 19..... in accordance with the applicable provisions of law.

(Passage by local legislative body with approval or no disapproval by Elective Chief Executive Officer or repassage after disapproval.)

2. I hereby certify that the local law annexed hereto, designated as local law No. of 19.....

~~County~~
~~City~~ of was duly passed by
Town of (Name of Legislative Body)
~~Village~~

on 19..... not disapproved and was approved by the
repassed after disapproval Elective Chief Executive Officer

and was deemed duly adopted on 19....., in accordance with the applicable provisions of law.

(Final adoption by referendum.)

3. I hereby certify that the local law annexed hereto, designated as local law No. of 19.....

County
City of was duly passed by the
Town of (Name of Legislative Body)
Village

on 19..... not disapproved and was approved by the
repassed after disapproval Elective Chief Executive Officer

on 19..... Such local law was submitted to the people by reason of a mandatory referendum and received the affirmative vote of a majority of the qualified electors voting permissive general thereon at the special election held on 19....., in accordance with the applicable provisions of law.

(Subject to permissive referendum and final adoption because no valid petition filed requesting referendum.)

4. I hereby certify that the local law annexed hereto, designated as local law No. of 19.....

County
City of was duly passed by the on
Town of (Name of Legislative Body)
Village

on 19..... not disapproved and was approved by the
repassed after disapproval Elective Chief Executive Officer

on 19..... Such local law being subject to a permissive referendum and no valid petition requesting such referendum having been filed, said local law was deemed duly adopted on 19....., in accordance with the applicable provisions of law.

*Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or if there be none the chairman of the board of supervisors, the mayor of a city or village or the supervisor of a town, where such officer is vested with power to approve or veto local laws or ordinances.

(City local law concerning Charter revision proposed by petition.)

5. I hereby certify that the local law annexed hereto, designated as local law No. of 19..... of the City of..... having been submitted to referendum pursuant to the provisions of § 36 of the Municipal Home Rule Law and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the special election held on general election held on 19 became operative.

(County local law concerning adoption of Charter.)

6. I hereby certify that the local law annexed hereto, designated as Local Law No. of 197 ... of the County of, State of New York, having been submitted to the Electors at the General Election of November, 19, pursuant to subdivisions 5 and 7 of Section 33 of the Municipal Home Rule Law and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and of a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph above.

John Kalba
Town Clerk

Date: Apr 11 10, 1986

(Seal)

(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized Attorney of locality.)

STATE OF NEW YORK
COUNTY OF ...SULLIVAN.....

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.

William C. [Signature]

(Title of Officer)

.....
..... of DELAWARE
Town
Village

Dated: April 10, 1986