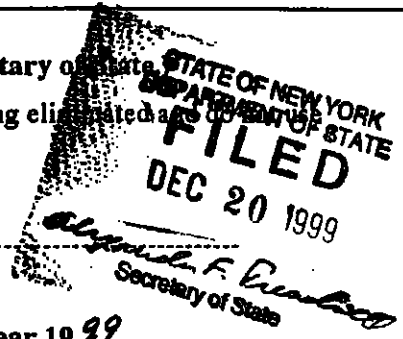


Local Law Filing

NEW YORK STATE DEPARTMENT OF STATE
41 STATE STREET, ALBANY, NY 12231

(Use this form to file a local law with the Secretary of State)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.



~~County~~
~~City~~ of Westville
Town
~~Village~~

Local Law No. 3 of the year 1999.

A local law Providing for the defense and indemnification of officers and
(Insert Title)
employees of the Town of Westville.

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

~~County~~
~~City~~ of Westville as follows:
Town
~~Village~~

SEE ATTACHED SCHEDULE "A"

(If additional space is needed, attach pages the same size as this sheet, and number each.)

SCHEDULE "A"

A LOCAL LAW PROVIDING FOR THE DEFENSE AND INDEMNIFICATION OF OFFICERS AND EMPLOYEES OF THE TOWN OF WESTVILLE.

SECTION 1. TITLE

This local law shall be entitled "a local law providing for the defense and indemnification of the officers and employees of the Town of Westville.

SECTION 2. DEFINITIONS

As used in this local law, unless the context requires otherwise: (A) the term "employee" shall mean any person holding a position by election, appointment or employment in the service of the Town, but shall not include a volunteer, any person not compensated for his service or an independent contractor. The term "employee" shall include a former employee, his estate or his judicially appointed personal representative.

(B) The term "Town" shall mean the Town of Westville.

SECTION 3. PROVIDING FOR THE DEFENSE.

(A) Upon compliance by the employee with the provisions 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 arising out of any alleged act or omission which occurred or is alleged in the complaint to have occurred while the employee was acting or in good faith purporting to act within the scope of his public employment or duties, or which is brought to enforce a provision of Section 1981 or 1983 of the Title 42 of the U.S. Code. Such defense shall not be provided where such civil action is brought by or on behalf of the Town pursuant to authorization of the Town Board.

(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 Town Board shall employ or retain an attorney for the defense of the employee whenever (1) The Town does not have a Town Attorney; (2) The Town Board determines based upon its investigation and review of the facts and circumstances of the case that representation by the Town Attorney would be inappropriate, or (3) a Court of competent jurisdiction determines that a conflict of interest exists and 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 pendency of the civil action or proceeding, subject to certification by the Town Supervisor. The Town 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 and attorney employed or retained for such purpose 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 a defense to the Town Attorney or if none to the Town Supervisor as required by Section 4 of this local law, the Town Attorney or the Supervisor, as the case may be, shall take the necessary steps including the retention of an attorney under the terms and conditions provided in paragraph (B) of this section on behalf of the employee to avoid entry of a default judgement, pending resolution of any question relating to the obligation of the Town provided a defense.

SECTION 4: CONDITIONS ON PROVIDING FOR THE DEFENSE

The duties to defend and indemnify and save harmless provided in this local law shall be contingent upon:

(A) Delivery to the Town Attorney or if none, to the Town Supervisor of the original or a copy of any summons, complaint, process, notice, demand or pleading within five days after the employee is served with such document. Such delivery shall be deemed a request by the employee that the Town provide for his defense pursuant to this local law, unless the employee shall state in writing that a defense is not requested, and

(B) The full cooperation of the employee in the defense of such action or proceeding and defense of any action or proceeding against the Town based upon the act of omission, and in prosecution of any appeal.

SECTION 5: INDEMNIFICATION IN THE AMOUNT OF JUDGMENT

(A) The Town shall indemnify and save harmless any employee whose defense was provided pursuant to this local law in the amount of any judgement obtained against such employee or in the amount of any settlement or compromise approved by the Town Board. The Town shall not indemnify and save harmless the employee (1) Where the injury or damage resulted from intentional wrongdoing or recklessness on the part of the employee. (2) For any punitive or exemplary damage, fines or penalties. (3) For money recovered from the employee pursuant to Section 51 of the General Municipal Law.

(B) The claim or compromise settlement which can be subject to indemnification by the Town shall not be paid unless it is presented to and approved to the Town Board.

(C) Upon entry of final judgement against the employee, or upon settlement, or compromise of a claim as approved by the Town Board, the employee shall cause to be served upon the Town Supervisor a copy of such judgement or settlement, personally or by certified or registered mail within 10 days of the date of entry or settlement. Such judgement or settlement shall be processed and paid in the same manner as other judgements or settlements of claims are paid by the Town.

SECTION 6 RESTRICTION OF APPLICABILITY

The benefits of this local law 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 effect, alter or repeal any provisions of the Workmen's Compensation Law.

SECTION 7 OBLIGATIONS OF INSURERS

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 PREEXISTING IMMUNITY, RIGHT TO DEFENSE AND INDEMNIFICATION

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 and indemnification provided for any governmental officer or employee by, in accordance with, or by any reason of, any other provisions of State or Federal statutory or common law.

SECTION 9 APPLICABILITY DETERMINED BY DATE OF COMMENCEMENT OF ACTION

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 SEVERABILITY

If any provision of this local law or application thereof to any person or circumstance be held unconstitutional or invalid in whole or in part by any court of competent jurisdiction, such holding or unconstitutionality or invalidity shall in no way affect or impair any other provision of this local law or the application of any such provision to any other person or circumstance.

SECTION 11 EFFECTIVE DATE

This local law shall take effect immediately upon filing in the Office of the Secretary of State.

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

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as local law No. 3 of 1999 of the (County)(City)(Town)(Village) of Westville was duly passed by the Town Board of Westville on NOV. 8, 1999, in accordance with the applicable provisions of law.
(Name of Legislative Body)

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

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 19____, and was (approved)(not approved)(repassed after disapproval) by the _____ and was deemed duly adopted on _____ 19____, in accordance with the applicable provisions of law.
(Name of Legislative Body)
(Elective Chief Executive Officer)*

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 19____, and was (approved)(not approved)(repassed after disapproval) by the _____ on _____ 19____. Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on _____ 19____, in accordance with the applicable provisions of law.
(Name of Legislative Body)
(Elective Chief Executive Officer)*

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

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 19____, and was (approved)(not approved)(repassed after disapproval) by the _____ on _____ 19____. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____ 19____, in accordance with the applicable provisions of law.
(Name of Legislative Body)
(Elective Chief Executive Officer)*

* 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 chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

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

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 section (36)(37) 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)(general) election held on _____ 19____, became operative.

6. (County local law concerning adoption of Charter.)

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

Esther Reynolds
Clerk of the County legislative body, City, Town or Village Clerk
or officer designated by local legislative body

(Seal)

Date: 11/23/99

(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 FRANKLIN

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 Charles Dwyer
Signature
Town Attorney
Title

County _____
City _____ of Westville
Town Village

Date: 11/23/99