

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.

STATE OF NEW YORK
DEPARTMENT OF STATE
FILED
AUG 30 2002

~~County~~
~~City~~ of Caroline
~~Town~~
~~Village~~

MISCELLANEOUS
& STATE RECORDS

Local Law No. 2 of the year 2002

A local law providing for the defense of employees of the Town of Caroline
(Insert Title)

Be it enacted by the town board of the
(Name of Legislative Body)

~~County~~
~~City~~ of Caroline 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, but shall not include a volunteer, any person not compensated for his services or 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 Caroline.

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 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. Such defense shall not be provided where such action or proceeding is brought by or on behalf of the Town.

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

b. Subject to the conditions set forth in this local law, the employee shall be represented by the Attorney for the Town 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 an Attorney for the Town, (2) the Town Board determines based upon its investigation and review of the facts and circumstances of the case that representation by the Attorney for the Town would be inappropriate, or (3) a court of competent jurisdiction determines that a conflict of interest exists and that the employee cannot be represented by the Attorney for the Town. Reasonable attorneys' 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 Supervisor 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 Attorney for the Town 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 request for a defense to the Attorney for the Town or the Town Supervisor as required by Section 3 of this local law, the Attorney for the Town or the Town 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 judgment, pending resolution of any question relating to the obligation of the Town to provide a defense.

SECTION 3. The duty to defend provide in this local law shall be contingent upon (a) delivery to the Attorney for the Town 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 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 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 the defense pursuant to this local law, unless the employee shall state in writing that a defense is not requested.

SECTION 4. 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 provisions of this local law be construed to affect, alter or repeal any provisions of the Worker's Compensation Law.

SECTION 5. 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 6. 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 by, in accordance with, or by reason, any other provision of state or federal statutory or common law.

SECTION 7. 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 8. This local law shall take effect immediately upon adoption and the compliance with the provisions of the Town Law and Municipal Home Rule Law as they pertain to the adoption of local laws.

(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. 2 of 2002 of the ~~(County)(City)~~(Town)(Village) of Caroline was duly passed by the Town Board on August 15, 2002, 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 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved)(repassed after disapproval) by the _____ and was deemed duly adopted on _____ 20____, 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 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved)(repassed after disapproval) by the _____ on _____ 20____. 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 _____ 20____, 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 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved)(repassed after disapproval) by the _____ on _____ 20____. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____ 20____, 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 20____ 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 _____ 20____, 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 20____ of the County of _____ State of New York, having been submitted to the electors at the General Election of November _____ 20____, 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.

Kim Case

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

(Seal)

Date: 8/28/02

(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 TOMPKINS

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.

Lawrence

Signature

Town Attorney
Title

XXXXX
County
XXX
City of Caroline
Town
XXXXX
Village

Date: August 22, 2002