

**LOCAL LAW NO. 2 OF 2026 OF THE TOWN OF SCIPIO**  
**A LOCAL LAW PROVIDING FOR THE DEFENSE AND INDEMNIFICATION OF  
OFFICERS AND EMPLOYEES OF THE TOWN OF SCIPIO**

Be it enacted by the Town Board of the Town of Scipio as follows:

**SECTION 1. AUTHORITY.**

This local law is adopted pursuant to Article IX of the New York State Constitution (§§ 2(c)(6) and (10)), Sections 10(1) and (7) of the New York Statute of Local Governments, Sections 261-263 of the Town Law and Section 10 of the Municipal Home Rule Law of the State of New York.

**SECTION 2. PURPOSE & INTENT.**

Public Officers Law §18 authorizes municipalities to adopt that section and provide for the defense and indemnification protections to its officers and employees in connections with civil actions or proceedings, state or federal, arising out of an alleged act or omission which occurred or allegedly occurred while the officer or employee was acting within the scope of his or her public employment or duties. The purpose and intent of this Local Law is to confer the benefits of Public Officers Law §18 and thereby provide legal and financial protection for those individuals serving the Town of Scipio as to claims which may be brought against them in their individual capacities or for actions taken while in the performance of their official duties and responsibilities. The State of New York has enacted similar provisions for the legal and financial security of its officers and employees. By enactment of this Local Law, the Town Board does not intend to limit or otherwise abrogate existing rights or responsibilities of the Town or its officer and employees with regard to indemnification or legal defense. It is solely the intent of this Local Law to provide coverage for local officers and employees pursuant to Public Officers Law §18 in order to continue to attract qualified individuals to local government service.

**SECTION 3. DEFINITIONS.**

**EMPLOYEE**-- Any member of a public board, employee or volunteer authorized to participate in a publicly sponsored volunteer program, or any other person holding a position by election, appointment, or employment in the service of the Town of Henderson, whether or not compensated, but shall not include any independent contractor. The term "employee" shall explicitly include a former employee, his or her estate, or judicially appointed personal representative.

**TOWN** -- The political subdivision of the State of New York comprising the Town of Scipio.

**TOWN ATTORNEY** – Chief legal officer of the Town of Scipio.

**TOWN BOARD** – The Town of Scipio Town Board.

**TOWN SUPERVISOR** – The Supervisor of the Town of Scipio.

#### **SECTION 4. DUTY TO DEFEND.**

- A.** Upon compliance by the employee with Section 6 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 within the scope of public employment or duties. This duty to provide for a defense shall not arise where such civil action or proceeding is brought by or on behalf of the Town.
- B.** Subject to the conditions set forth in Paragraph A of this Section, the employee shall be entitled to be represented by the Town Attorney; provided, however, that the employee shall be entitled to representation by private counsel of choice in any civil judicial proceeding whenever the Town Attorney determines, based upon investigation and review of the facts and circumstances of the case, that representation by the Town Attorney would be inappropriate or whenever a court of competent jurisdiction, upon appropriate motion or by a special proceeding, determines that a conflict of interest exists and that the employee is entitled to be represented by private counsel of choice.
  - 1. The Town Attorney shall notify the employee in writing of such determination that the employee is entitled to be represented by private counsel of choice.
  - 2. The Town Attorney may require, as a condition to payment of the fees and expenses of such representation, that appropriate groups of employees be represented by the same counsel. If the employee or a group of employees is entitled to representation by private counsel under the provisions of this chapter, the Town Attorney shall certify to the Town Board.
  - 3. Reasonable attorney's fees and litigation expenses shall be paid by the Town to such private counsel from time to time during the pendency of the civil action or proceeding with approval from the Town Board.
  - 4. Any dispute with respect to representation of multiple employees by a single counsel or the amount of litigation expenses or the reasonableness of attorney's fees shall be resolved by the court upon motion or by way of a special proceeding.
- C.** Where the employee delivers process and a request for a defense to the Town Attorney, as required by Section 6 of this Local Law, the Town Attorney shall take the necessary steps, including the retention of private counsel, 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 pertaining to the obligation to provide for a defense.
- D.** Notwithstanding any other provision contained in this chapter herein, an employee is deemed to have waived his or her right to a defense pursuant to this chapter if the employee elects to defend the matter pro se or to engage a law firm in which the employee has an interest, affiliation or direct business relationship.

#### **SECTION 5. DUTY TO INDEMNIFY.**

- A. The Town shall indemnify and save harmless its employees in the amount of any judgment obtained against such employees in any state or federal court or in the amount of any settlement of a claim, provided that the act or omission from which such judgment or settlement arose occurred while the employee was acting within the scope of his or her public employment or duties; provided further that in the case of a settlement the duty to indemnify shall be conditioned upon the approval of the amount of settlement by the Town.
- B. Except as otherwise provided by law, the duty to indemnify prescribed by this section shall not arise when the injury or damage resulted from the intentional wrongdoing or recklessness on the part of the employee.
- C. Upon entry of a final judgment against the employee or upon the settlement of the claim, the employee shall cause to be served a copy of such judgment or settlement, personally or by certified or registered mail within 30 days of the date of entry or settlement, upon the Supervisor; and if not inconsistent with the provisions of this chapter, such judgment or settlement shall be certified for payment by such Supervisor. If the Attorney concurs in such certification, the judgment or settlement shall be paid upon the audit and warrant of the Town Board.

## **SECTION 6. CONDITIONS OF DEFENSE AND INDEMNIFICATION.**

The duty to defend or indemnify and save harmless provided by this chapter shall be conditioned upon delivery to the Town Attorney or his assistant, at his office, by the employee of the original or a copy of any summons, complaint, process, notice, demand or pleading within five days after he is served with such document; and 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 pursuant to this chapter.

## **SECTION 7. LIMITATION OF APPLICABILITY.**

- A. The benefits of this Local Law shall apply only to employees as defined herein and shall not enlarge or diminish the rights of any other party, not shall any provision of this section be construed to affect, alter or repeal any provision of the Worker's Compensation Law.
- B. The provisions of this Local Law shall not be construed to impair, alter, limit or modify the rights and obligations any insurer under any policy of insurance.
- C. The provisions of this Local Law shall apply to all actions and proceedings pending upon the effective date thereof or thereafter instituted.
- D. 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 and/or indemnification provided for any governmental

officer or employee by, in accordance with or by reason of any other provision of state or federal statutory or common law.

**SECTION 8. SEVERABILITY.**

The invalidity or unenforceability of any section, subsection, paragraph, sentence, clause, provision, or phrase of the aforementioned sections, as declared by the valid judgment of any court of competent jurisdiction to be unconstitutional, shall not affect the validity or enforceability of any other section, subsection, paragraph, sentence, clause, provision, or phrase, which shall remain in full force and effect.

**SECTION 9. EFFECTIVE DATE.**

This Local Law shall be effective upon its filing with the New York Secretary of State.