

**TOWN OF PLEASANT VALLEY TOWN BOARD**

**TOWN BOARD RESOLUTION NO.: 142/2015**

**RE: ADOPTING LOCAL LAW X OF 2015, ENTITLED “A LOCAL LAW TO AMEND CHAPTER 17 OFFICERS AND EMPLOYEES, ARTICLE I DEFENSE AND INDEMNIFICATION”**

**WHEREAS**, a Resolution was duly adopted by the Town Board of the Town of Pleasant Valley introducing proposed Local Law X of 2015, entitled “A Local Law to Amend Chapter 17 Officers and Employees, Article I Defense and Indemnification”; and

**WHEREAS**, the Public Hearing was duly advertised in the Poughkeepsie Journal, the official newspaper of the Town; and

**WHEREAS**, the Public Hearing was held on August 12, 2015, and all parties in attendance were permitted an opportunity to speak on behalf of or in opposition to said proposed Local Law or any part thereof; and

**WHEREAS**, the Town Board determined that the proposed Local Law was not subject to Environmental Review; and

**WHEREAS**, Section 18 of the New York State Public Officers Law allows, at the Town’s discretion, for the defense and indemnification of employees; and

**WHEREAS**, the Town is desirous of providing for the defense and indemnification of employees subject to the provisions of Local Law No. X of 2015; now, therefore, be it

**WHEREAS**, the Town Board of the Town of Pleasant Valley after due deliberation finds that it is in the best interest of the Town to adopt said Local Law; now, therefore, be it

**RESOLVED**, that the Town Board of the Town of Pleasant Valley hereby adopts Local Law X of 2015 entitled “A Local Law to Amend Chapter 17 Officers and Employees, Article I Defense and Indemnification.”, a copy of which is attached hereto and made a part hereof.

MOTIONED BY: \_\_\_\_\_

SECONDED BY: \_\_\_\_\_

DATED: August 12, 2015

**ROLL CALL:**

AYE

NAY

Councilman Albrecht

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Councilman Figliozzi

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Councilman Latino

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Councilwoman Milicaj

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Supervisor Campbell

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**PROPOSED**

**TOWN OF PLEASANT VALLEY**

**LOCAL LAW NO. X OF THE YEAR 2015**

Re: **A LOCAL LAW OF THE TOWN OF PLEASANT VALLEY, NEW YORK TO AMEND CHAPTER 17 OFFICERS AND EMPLOYEES, ARTICLE I DEFENSE AND INDEMNIFICATION BEING LOCAL LAW NO. 5 OF 2001 AS AMENDED**

**BE IT ENACTED** by the Town Board of the Town of Pleasant Valley as follows:

**Section I: Title.**

This Local Law shall be known and cited as Town of Pleasant Valley as “A Local Law to Amend Chapter 17 Officers and Employees, Article I Defense and Indemnification.”

**Section II: Legislative Intent.**

The intent of this law is to provide for indemnification of Town employees as authorized by New York State Public Officers Law § 18.

**Section III: Authority.**

This Local Law is enacted pursuant to § 10 of the Municipal Home Rule Law and § 18 of Public Officers Law.

**Section IV:**

Chapter 17 of the Town of Pleasant Valley Code entitled “Officers and Employees, Article I Defense and Indemnification” Section 17-1 “Definitions” shall be amended as follows:

**EMPLOYEE**

Any person holding a position by election, appointment or employment in the service of the Town, but shall not include a ~~another~~ volunteer, any other person not compensated for his/her services or an independent contractor. The term “employee” shall include a former employee, his/her estate or judicially appointed personal representative.

**Section V:**

Chapter 17 of the Town of Pleasant Valley Code entitled “Officers and Employees, Article I Defense and Indemnification” shall be amended by adding a new Section 17-2.5 entitled “Provisions for Indemnification by Town” as follows:

§ 17-2.5 Provisions for Indemnification by Town.

- A. Subject to the conditions set forth in this chapter, the Town shall indemnify and save harmless its employees in the amount of any judgment in any state or federal court or in any administrative action, or in the amount of any settlement of any claim brought against such employee, provided that the employee has complied with the provisions of §17-3 of this chapter, and further provided that the act or omission from which such judgement or settlement arose occurred while the employee was acting or in good faith purporting to act within the scope of his or her public employment and duties. In the case of a settlement, the duty to indemnify and save harmless shall be further conditioned upon the approval of the amount of settlement by the Town Board.
- B. Except as otherwise prescribed by law, the duty to indemnify and save harmless prescribed by this section shall not arise where the injury or damage resulted from intentional wrongdoing or recklessness on the part of the employee.
- C. Any proposed settlement which may be subject to indemnification by the Town must be submitted to the Town Attorney who shall, after reviewing such proposal as to form and content and after consultation with and certification of such proposed settlement by the head of the department, commission, division, office or agency wherein the employee is employed, give his or her recommendation to the Town Board. If the Town Board believes it is in the best interest of the Town to accept such settlement, it shall give its approval thereto. Nothing in this section shall be construed to authorize the Town to indemnify or save harmless an employee with respect to a settlement not so revised and approved by the Town Board.
- D. Upon entry of a final judgment against the employee, or upon the settlement of the claim, the employee shall serve 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 Town Supervisor, and if not inconsistent with the provisions of this section, the amount of such judgment or settlement shall be paid by the Town.

**Section VI:**

Chapter 17 of the Town of Pleasant Valley Code entitled “Officers and Employees, Article I Defense and Indemnification” Section 17-3 “Duties of employee” shall be amended as follows:

- A.** The duties to defend or indemnify and save harmless provided in this chapter shall be contingent upon:

  - (i)** 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 he/she is served with such documents, and
  - (ii)** 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.
- B.** Such delivery shall be deemed a request by the employee that the Town provide for his/her defense pursuant to this chapter, unless the employee shall state in writing that a defense is not requested.

**Section VII: Numbering for Codification.**

It is the intention of the Town of Pleasant Valley and it is hereby enacted that the provisions of this Local Law shall be included in the Code of the Town of Pleasant Valley; that the sections and subsections of the Local Law may be re-numbered or re-lettered to accomplish such intention; the Codifier shall make no substantive changes to this Local Law; the word “Local Law” shall be changed to “Chapter,” “Section” or other appropriate word as required for codification; and any such rearranging of the numbering and editing shall not affect the validity of the Local law or the provisions of the Code effected thereby.

**Section VIII: Severability.**

If any clause, sentence, paragraph, subdivision, or part of this Local Law or the application thereof to any person, firm or corporation, or circumstance, shall be adjusted by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, or part of this Local Law or in its application to the

person, individual, firm or corporation or circumstance, directly involved in the controversy in which such judgment or order shall be rendered.

**Section IX: Effective Date.**

This local law shall take effect immediately upon filing in the Office of the New York State Secretary of State in accordance with Section 27 of the Municipal Home Rule Law.

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~~strike~~ notes deletion