

LOCAL LAW 3 – 2023

A Local Law to amend Chapter 36 of the Code of the Village of Mamaroneck (Indemnification and Defense) regarding the cost of counsel for certain employees.

**BE IT ENACTED BY THE BOARD OF TRUSTEES OF THE VILLAGE OF MAMARONECK
AS FOLLOWS:**

Section 1.

Section 36-3 of the Code of the Village of Mamaroneck is amended as follows:

§ 36-3 Obligation of the Village to provide for defense.

Upon compliance by the employee with the provisions of § 36-7, the Village 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 his/her public employment or duties or which is brought to enforce a provision of § 1981 or 1983 of Title 42 of the United States Code, as the same may, from time to time, be amended. This duty to provide for a defense shall not arise where such civil action or proceeding is brought by or on behalf of the Village of Mamaroneck. If the employee is an elected official, an appointed volunteer member of a board or agency of the Village or an appointee of the Board of Trustees, the Village will also provide for the defense of the employee in any proceeding before any administrative body which has the authority to impose sanctions or penalties upon the employee, including any administrative body of the Village of Mamaroneck, except that (a) the Village will not pay for such defense where the administrative proceeding is brought by or on behalf of the Village of Mamaroneck at the direction of the Board of Trustees, the Village Manager or, in the case of a compensated employee, the employee's appointing authority; (b) the Village will pay only for legal services determined by the Village Manager, in accordance with this section, to be reasonable and related to the defense of the employee in the proceeding; and (c) the Village will not pay counsel at an hourly rate which exceeds by more than 20 percent the hourly rate then charged to the Village for litigation services by the Village's primary litigation counsel unless the Board of Trustees by resolution authorizes a higher rate. If the employee disputes the Village Manager's determination as to whether the legal services are reasonable and related to the defense of the employee in the proceeding, the Board of Trustees will retain, at the Village's expense, an independent attorney licensed to practice in the State of New York to determine whether the services were reasonable and related to the defense of the employee in the proceeding. The independent attorney's decision will be binding on the Village.

Section 2.

If any section, subsection, clause, phrase or other portion of this local law is, for any reason, declared invalid, in whole or in part, by any court, agency, commission, legislative body or other authority of competent jurisdiction, the portion of the law declared to be invalid will be deemed a separate, distinct and independent portion and the declaration will not affect the validity of the remaining portions hereof, which will continue in full force and effect.

Section 3.

This law is adopted pursuant to the authority granted by Municipal Home Rule Law § 10(1)(e)(3). It supersedes the provisions of the Village Law to the extent that they are inconsistent with this local law.

Section 4.

This local law will take effect immediately upon its filing in the office of the Secretary of State in accordance with Municipal Home Rule Law § 27.