

VILLAGE OF LARCHMONT

LOCAL LAW NUMBER 2-2024 OF THE VILLAGE OF LARCHMONT

A LOCAL LAW PROVIDING FOR THE DEFENSE AND INDEMNIFICATION OF  
VILLAGE EMPLOYEES

BE IT ENACTED by the Board of Trustees of the Village of Larchmont, Westchester County, New York, as follows:

Section 1. There is hereby added to the Code of the Village of Larchmont a new Chapter 25 to be read as follows:

**§ 25-1. Purpose; intent.**

The purpose of this chapter is to provide legal and financial protections for the employees serving the Village of Larchmont, including those of the Larchmont Public Library, from lawsuits which may be brought against them in their individual capacity for actions taken while in the performance of their official duties and responsibilities. By enactment of this chapter, the Board of Trustees does not intend to limit or otherwise abrogate any existing right or responsibility of the Village of Larchmont or its employees with regard to indemnification or legal defense. The provision of this section shall be in addition to any other statute or contract providing legal defense and indemnification in civil actions brought against such officer or employee.

**§ 25-2. Definitions.**

As used in this chapter, the following words shall have the meanings indicated:

EMPLOYEE

Any mayor, administrator, trustee, director, officer, member of a Village/Library board or commission, commissioner, or any other person holding a position by election, appointment or employment in the service of the Village of Larchmont, whether compensated or uncompensated, and including those of the Larchmont Public Library. The term “employee” shall include a volunteer specifically authorized or appointed by the Board of Trustees or its designee to participate in an official Village-sponsored volunteer program. The term “employee” shall also include the Village Prosecutor, the Village’s Attorney(s), and the Village’s Consulting Planner(s) and Engineer(s). The term “employee” shall also include a former employee, their estate or judicially appointed personal representative, but shall not include an independent contractor, unless otherwise specified.

**§ 25-3. Village to provide defense; exception.**

A. At the request of the employee and upon compliance by the employee with the provisions of § 25-5 of this chapter, the Village of Larchmont shall provide for the defense of the employee in any civil or criminal action or proceeding in any state or federal court or before any board or tribunal arising out of any alleged act or omission

which the Village's Attorney(s) finds occurred or allegedly occurred while the employee was acting within the scope of their public employment and in the discharge of their duties.

- B. 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 Larchmont.

**§ 25-4. Duty to indemnify and save harmless; exception**

- A. At the request of the employee and upon compliance by the employee with the provisions of § 25-5 of this chapter, the Village of Larchmont 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 approved by the Board of Trustees, provided that the act or omission from which judgment or settlement arose occurred while the employee was acting within the scope of their public employment and in the discharge of their duties at the time the alleged damages were sustained, as determined by the Village's Attorney(s).
- B. Upon entry of a final judgment against the employee or upon 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 Board of Trustees. If the Village's Attorney(s) concurs in such certification, the judgment or settlement shall be paid upon review of the Board of Trustees.
- C. Except as otherwise provided by law, the duty to indemnify and save harmless shall not arise where the injury or damage resulted from intentional wrongdoing or recklessness on the part of the employee.
- D. Notwithstanding subsection C of this section, the duty to indemnify and save harmless shall include punitive or exemplary damages, provided that the act or omission from which the damages arose occurred while the employee was acting within the scope of their public employment or duties, and the punitive or exemplary damages are not awarded on account of any recklessness or intentional misconduct on the part of the employee.

**§ 25-5. Conditions on duty to defend or indemnify and save harmless.**

The duty to defend or indemnify and save harmless as prescribed by this chapter shall be conditioned upon:

- A. Delivery by the employee to the Village's Attorney(s) of a written request to provide for their defense together with the original or a copy of any summons, complaint, process, notice, demand or pleading within ten (10) days after he/she is served with such document, and

- B. The full cooperation of the employee in the defense of such action or proceeding and in defense of any action or proceeding against the Village of Larchmont or other employees thereof based upon the same act or omission, and in the prosecution of any appeal.

**§ 25-6. Duty of the Village's Attorney(s) to avoid entry of default judgment.**

Where the employee delivers process and a written request for a defense to the Village's Attorney(s) under § 25-5 of this section, the Village's Attorney(s) shall take the necessary steps 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.

**§ 25-7. Representation by counsel; fees and expenses.**

- A. Subject to compliance with § 25-5 of this chapter, the employee shall be entitled to be represented by the Village's Attorney(s). The employee shall be entitled to representation by private counsel of their choice in judicial and/or administrative proceedings if the Village's Attorney(s) determines, based upon their investigation and review of the facts and circumstances of the case, that a conflict of interest exists or that representation by the Village's Attorney(s) 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 their choice.
- B. Reasonable attorneys' fees and litigation expenses shall be paid by the Village of Larchmont to such private counsel from time to time during the pendency of the civil action or proceeding with the approval of the Board of Trustees.
- C. The Village's Attorney(s) may require, as a condition of payment of the fees and expenses of such private representation, that appropriate groups of such employees shall be represented by the same counsel.

**§ 25-8. Applicability of provisions.**

- A. Except as otherwise specifically provided in this chapter, the provisions of this chapter 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 any public entity by, in accordance with, or by reason of any other provision of state or federal statutory or common law.
- B. This chapter shall not in any way affect the obligation of any employee to give notice to the Village under § 50-e of the General Municipal Law, or any other provision of law.
- C. The provisions of this chapter shall not be construed to affect, alter or repeal any provision of the Workers' Compensation Law.

Section 2. Severability. 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, such portion shall be deemed a separate, distinct and independent portion. Such declaration shall not affect the validity of the remaining portions hereof, which other portions shall continue in full force and effect.

Section 3. Effective Date. This local law shall take effect immediately upon filing in the Office of the Secretary of State of the State of New York.