

Chapter 22

DEFENSE, HOLD HARMLESS AND INDEMNIFICATION

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[HISTORY: Adopted by the Board of Trustees of the Village of Saltaire 5-16-1987 as Local Law No. 3, 1987; Amended in its entirety on 1-10-2004 as Local Law No. 2, 2004.]

§ 22-1. Title.

This Local Law shall be entitled “Defense, Hold Harmless and Indemnification Law of the Village of Saltaire.”

§ 22-2. Enactment.

Pursuant to Section 10 of the Home Rule Law, Section 10(1)(a)(5) of the Municipal Home Rule Law, Section 18 of the Public Officers Law, and the Village Law of the State of New York, the Incorporated Village of Saltaire, County of Suffolk and State of New York, hereby enacts by this Local Law 2 of 2004, a Local Law of the Village of Saltaire to amend this Chapter 22 of the Village Code of the Village of Saltaire.

§ 22-3. Effective Date.

This local law shall take effect on the filing of the approved Local Law with the Secretary of State of New York, which shall be within twenty (20) days after its approval by the Board of Trustees of the Incorporated Village of Saltaire.

§ 22-4. Purpose and intent of local law.

The purpose and intent of this of this Local Law is to confer the benefits of Section 18 of the Public Officers Law on the officers and employees of the Village of Saltaire and to provide that the Village of Saltaire will incur the costs of providing those benefits to the officers and employees of the Village.

§ 22-5. Definitions. [Amended on 6-28-2008 as Local Law No. 6, 2008]

- A. **Officer.** The term officer shall mean the Mayor, any Trustee, member of the Board of Zoning Appeals, Planning Board, or other duly appointed or elected member of a Board as provided for in the New York State Village Law or other law of the State of New York, any duly appointed Commissioner, Treasurer, Clerk, Village Attorney, volunteer expressly authorized to participate in a publicly sponsored volunteer program, and such other persons, including deputies, as the Board of Trustees shall appoint or determine, serving the Village. The term “Officer” shall include a former officer, his or her estate or judicially appointed person representative.
- B. **Employee.** The term employee shall mean any person working for the Village of Saltaire for wages or salary which is or are subject to the withholding of taxes, or any independent contractor, given employee status for the purpose of this Local Law, by resolution duly adopted by the Board of Trustees. The term “employee” shall include a former employee, his or her estate or judicially appointed personal representative.”

§ 22-6. Provisions for holding harmless and indemnification. [Amended on 6-28-2008 as Local Law No. 6, 2008]

- A. The Village of Saltaire shall indemnify and hold harmless and provide for the defense of all officers and employees of the Village from financial loss, legal expenses, judgment or settlement in any civil action or proceeding, state or federal, arising out of any alleged act or omission which occurred while the officer or employee was acting within the scope of his or her public duties or employment, including providing for the defense of such official or employee in any such action or proceeding provided that the injury or damage did not result from intentional wrongdoing or recklessness on the part of the official or employee. This right of indemnification shall be conditioned upon the officer or employee seeking indemnification, within ten (10) days of the time he or she is served with any summons, complaint, process, notice, demand or pleading, delivering the original or a copy thereof to either the Village Clerk or the Village Attorneys, and thereafter

cooperating fully with the Village in the defense of such action or proceeding. This duty to provide a defense shall not arise where such action or proceeding is brought by or at the behest of the Village. The officer or employee seeking indemnification for a settlement must submit the proposed settlement terms to the Village Attorney or the Board of Trustees. The Village Attorney or the Board of Trustees shall review such proposed settlement as to form and amount and the Board of Trustees shall give approval if in its judgment the settlement is in the best interests of the Village.

- B. The Village, by act of its Board of Trustees, may hold harmless and indemnify and provide for the defense of any officer or employee of the Village to pay reasonable attorneys' fees and litigation expenses incurred by or on behalf of such officer or employee in his or her defense of a criminal proceeding in a state or federal court arising out of any act which occurred while such officer or employee was acting within the scope of his or her duties or employment upon his or her acquittal or upon the dismissal of the criminal charges against him or her, or reasonable attorneys' fees incurred in connection with an appearance before a grand jury which returns no true bill against such officer or employee or where such appearance was required as a result of any act which occurred while such officer or employee was acting within the scope of his or her public duties or employment unless such appearance occurs in the normal course of the duties or employment of such officer or employee. This right of indemnification is conditioned upon the officer or employee seeking indemnification, within ten (10) days of the time he or she is arraigned or served with any indictment, subpoena or other process, delivering to either the Village Clerk or the Village Attorney a written request for indemnification together with the original or a copy thereof of the written documentation served upon or received by such officer or employee.
- C. The benefits of this section shall inure only to officers and employees of the village and shall not enlarge or diminish the rights of any other party.
- D. The Village will incur the costs of providing the benefits that are available under Section 18 of the Public Officers Law.

§ 22-7. Reference to State Law. [Added on 6-28-2008 as Local Law No. 6, 2008]

The Village of Saltaire hereby confers the benefits of Section 18 of the Public Officers Law of the State of New York on the officers and employees of the Village. Any benefits accorded to officers and employees of the Village under said Section 18 or any other law having application to such officers and employees shall supplement and be available in addition to the other Sections of this Chapter and shall not take the place of same. To the extent that said Section 18 or any other provision of law shall provide greater benefits in connection with the defense and indemnification of the officers and employees entitled to same under this Chapter, such greater benefits shall apply.

§ 22-8. Effects on Pending Proceedings. [Added on 6-28-2008 as Local Law No. 6, 2008]

The provisions of this Chapter shall apply to all actions and proceedings pending upon the effective date hereof or thereafter instituted..

§ 22-9. Severability.

In the event that this local law or any portion of it is determined to be invalid or void then the remainder of the local law shall remain in full force and effect.