

Village of Mamaroneck



*Village Hall at the Regatta
P.O Box 369*

*123 Mamaroneck Avenue
Mamaroneck, NY 10543*

<http://www.villageofmamaroneck.org>

OFFICE OF
ROBERT A. SPOLZINO
VILLAGE ATTORNEY

Tel (914) 777-7737
Fax (914) 777-7769

TO: Mayor Murphy and the Board of Trustees

FROM: Robert A. Spolzino, Esq.

RE: Outstanding Legislative Issues

DATE: December 8, 2022

CC: Jerry Barberio, Village Manager
Dan Sarnoff, Assistant Village Manager
Agostino Fusco, Village Clerk-Treasurer
Sally Roberts, Deputy Village Clerk
Mary E. Desmond, Deputy Village Attorney

As you plan your legislative priorities for the coming year, I would like you to consider several items that the Village Attorney's Office is working on currently and others that have been discussed over the past few years but have never been brought to a conclusion.

1. **Building and fire code enforcement.** This is required by regulations recently adopted by the New York Department of State. We are currently working on a draft that should be for the Board's consideration at its first meeting in January.

2. **Code of Ethics.** In August 2021, the Ad Hoc Ethics Committee submitted proposed revisions to the Code of Ethics for the Board's consideration. The Board discussed the report but did not reach a resolution on whether to consider the proposed amendments. If the Board wishes to move forward on this issue, our suggestion is that we work with the Chair of the Ad Hoc Committee, Dan Karson, or the entire Ad Hoc committee or the Ethics Board, or all of them, to develop a proposed local law for the Board's consideration.

3. **Notice requirements for land use boards.** In April 2019, I submitted to the Board of Trustees a proposed local which, if adopted, would have consolidated the notice requirements for the Village's land use boards into one consistent approach and begun the process of transitioning from an early 20th century notice approach based on publication in the legal notices section of the newspaper to a 21st century technology based approach. We suggest that the Board consider this

as it is considering revising the chapter of the Village Code concerning building and fire code administration and enforcement.

4. **Wetlands protection.** In October 2020, the Harbor and Coastal Zone Management Commission proposed revisions to Chapter 192 of the Code – the “Freshwater Wetlands” Law. The Village Attorney’s Office revised the proposal in March 2022 and Planning Board submitted comments in April 2022. If the Board wishes to consider this, we would need to review the Planning Board’s comments and revise the proposed local law accordingly.

5. **Stormwater management.** We began working with then-Village Engineer Hernane de Almeda in 2018 to revise the Village’s stormwater management law. The law needs to be updated, but a great deal of work is required before it can be brought to the Board of Trustees.

6. **Rental registration.** In March 2022, Trustee Natchez proposed the adoption of a rental registration law. We suggested considering revising the proposed law to be consistent with a similar law adopted by the Town of Southampton which had been upheld against a legal challenge. We await direction from the Board of Trustees.

7. **Tree scholarships.** In October 2021, Mayor Murphy proposed that the Board adopt a tree scholarships program, which would provide funds to buy trees for property owners who would agree to care for the trees. A concern was raised about the legality of such a program and, at the Board’s direction, we submitted a request to the New York Ste Attorney General for an opinion. We have never received a response, despite our inquiries.

8. **Food service establishments.** In November 2017, I submitted a memo to the Board of Trustees regarding definitional problems in the zoning code with respect to businesses selling food and the inconsistent enforcement of the 200-foot separation requirement between certain “food establishment” uses on Mamaroneck Avenue, all of which were brought to the fore by various applications then pending before the Village’s land use boards. The Board of Trustees discussed the issue for several years without reaching a resolution. The definitional problems and inconsistent enforcement remain and should be addressed.

9. **Attorneys’ fees for representing Village officials.** In 2020, the Board of Trustees considered a proposed local law limiting the Village’s obligation to pay for the defense of Village officials in administrative proceedings to the lesser of an hourly rate established by the Board of Trustees in the law or a percentage of the hourly rate then charged to the Village by the Village Attorney for litigation services, unless the Board of Trustees by resolution chose to authorize a higher rate.

10. **Maker zone.** In 2018, the Industrial Area Committee proposed revisions to the zoning code to establish the “Maker Zone.” Proposed local laws were drafted and revised through 2019, but the proposal never moved to formal consideration. The Board may wish to take another look at this in connection with the comprehensive plan review.