



## Village of Mamaroneck Planning Department

# Memo

To: Mayor and Board of Trustees  
From: Greg Cutler, AICP- Village Planner  
CC: Jerry Barberio- Village Manager, Dan Sarnoff- Assistant Village Manager, Robert Spolzino- Village Attorney, Dan Gray- Building Inspector  
Date: 4/22/2019  
Re: PLL-X Regarding Food Service Establishments

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### Background

This item was identified as a potential area of concern by the former Village Attorney and the Building Inspector. The memo from the former Village Attorney dated February 16, 2017 states the following:

The Code contains definitions of "Food Service Establishment," "Restaurant," "Restaurant, Carry-Out," "Restaurant, Fast-Food," and "Delicatessen." Food Service Establishment is defined to encompass all of the others. However, the only one of these listed as a Permitted Use (by special permit) is a Restaurant. Since the definition of Restaurant specifically excludes Delicatessen, Carry-out Restaurants and Fast-Food Restaurants, it would appear these are not actually permitted anywhere in the Village. In some zones Restaurants are permitted by special permit pursuant to §342-45, except §342-45 is titled Food Service Establishments and Taverns (Tavern being another undefined term) and includes requirements for each of the defined types of establishments, even though they don't seem to be permitted. It is clear the definitions and terms used in the Code need to be cleaned up and the Board will need to determine exactly what type of establishments it does want to permit and where, since we do not believe the Code as drafted provides for what it is generally believed to provide.

In the C-2 and the C-1 (or anywhere in the Village) it appears the code does not permit Delicatessen, Carry-out Restaurants or Fast-Food Restaurants. However, in both the C-2 and C-1 restaurants are subject to a special permit pursuant to §342-45, which details additional requirements that would only apply to Delicatessen, Carry-out Restaurants and Fast-Food Restaurants. Due to this reference it seems that the intent of the code is to permit these types of uses in the C-1 and C-2, subject to a special permit. Furthermore, the Village of Mamaroneck Building Department and the Land Use Boards have been permitting Delicatessen, Carry-out Restaurants and Fast-Food Restaurants in the C-1 and C-2 by special permit since the adoption of the 1968 zoning code.

The proposed action is a local law amending various sections of Village Code with respect to food service establishments in response to the initial concerns identified by the former Village Attorney and new issues that were raised by the Board of Trustees during the course of the review and drafting of the proposed local law. The proposed local law is intended to do the following:

- 1) remove ambiguities
- 2) limit the size of fast food restaurants
- 3) better define fast food restaurants
- 4) remove fast food as an allowed use in the C-1, MC-2 and M-1 zones
- 5) allow curb service subject to new special permit conditions
- 6) create a new definition for casual food establishments
- 7) eliminate a distance requirement for delicatessens and carry-out restaurants within the C-2
- 8) expressly permit sidewalk café's in front of casual food establishments and fast food establishments
- 9) create a new parking requirement for casual food establishments

### **SEQRA Analysis**

It is recommended that the proposal be treated as type 1 action pursuant to 6 CRR-NY 617.4 (b) (2): *the adoption of changes in the allowable uses within any zoning district, affecting 25 or more acres of the district*. The proposal will eliminate the fast food use from the C-1 zoning district, affecting an area in excess of 25 acres.

### **Referrals**

Required:

- GML and Westchester County Administrative Code- Westchester County Department of Planning
- Harbor and Coastal Zone Management Commission for an Advisory Consistency Determination

Recommended:

- Planning Board
- Zoning Board of Appeals