

PROPOSED LOCAL LAW Q - 2017

A Proposed Local Law to amend Chapter 342 of the Code of the Village of Mamaroneck  
(Zoning) regarding membership clubs in the Marine Recreation District

BE IT ENACTED by the Board of Trustees of the Village of Mamaroneck as follows:

(Language in strike-through ~~as defined~~ to be deleted; language in **bold** is to be added)

*Section 1.*

The following definitions established by section 342-3 of the Code of the Village of Mamaroneck, are amended as follows:

**CLUB, MEMBERSHIP**

A not-for-profit corporation or organization with its facilities catering exclusively to members and/or their guests for recreational, athletic or social purposes and where vending stands, merchandising, commercial or business activities are not conducted, except as required generally for the membership and purpose of such club. Clubs shall operate without profit or division of any revenues to its members, except as reasonable compensation for special services actually rendered, devoting all revenues received to supporting the purposes and objectives of the club or to charitable uses. Club facilities and property interests shall be owned or leased by the corporation or organization and shall not be owned, leased, rented, or otherwise encumbered for use by individual members or nonmembers. **Membership clubs in the MR Marine Recreation Districts must adhere to the regulations, laws and guidance governing not-for-profit entities as set forth in Internal Revenue Code §501(c)(7) and the applicable laws, rules and regulations of the State of New York, including but not limited to those laws, rules and regulations which define what constitutes a member, member event and non-member event and concern governance of the entity.**

**COVERAGE**

That percentage of the lot area covered by the combined area of all buildings or structures, **including non and/or semi-pervious sports courts**, on the lot. A parking garage whose height is at least ~~50%~~ **80%** below ~~finished~~ **average** grade **using the lowest elevations at any points within 10 feet of the proposed structure prior to undertaking the project** is exempt from this definition, provided that the roof of the parking garage is landscaped. The height of a parking garage that is located in the one-hundred-year floodplain may exceed 50% below finished grade, provided there is sufficient mitigation including landscaping, screening and setbacks.

**RESIDENCE, SEASONAL**

Living quarters **in the main clubhouse** for transient **(short term hotel type)** use by members and guests of members when accompanied by a member, and may be occupied between April 15 and October 15 and may not be occupied

between October 16 and April 14. A seasonal residence may not be occupied by the same person(s) for more than 30 days in a calendar year. A seasonal residence is limited to a maximum of ~~600~~**400** square feet. Seasonal residences shall not have kitchen or cooking facilities.

## *Section 2.*

Section 342-35 of the Code of the Village of Mamaroneck is amended as follows:

- A. **Intent.** It is the expressed intent that a membership club in the Marine Recreation zoning district be for members, in a club run and governed by members and that the Zoning Board of Appeals, in its sole determination, shall determine compliance, taking into account laws regulations and guidance from the Internal Revenue Service and New York State governing such entities, starting with the review of the club's IRS 990 filing and supplemental information provided by each club.
- B. Permitted principal uses. The following are the only principal uses permitted in MR Marine Recreation Districts:
- (1) ~~Recreational facilities of membership clubs, such as beach, golf, country, yacht, and similar clubs, whether or not they are wholly contained within buildings, including:~~
    - (a) ~~Tennis courts, paddle tennis courts, swimming pools, beaches, facilities for docking, mooring and launching boats, basketball courts and other similar outdoor recreation uses (in accordance with any applicable local, county, state or federal laws);~~
    - (b) ~~Boathouses, gymnasiums, cabanas, health and fitness facilities, raequetball courts, squash courts and other similar types of recreational facilities.~~ **Not-for-profit membership clubs where such clubs are organized and operate in full compliance with the requirements of (a) Internal Revenue Code §501(c)(7) and (b) State of New York laws and regulations governing such not-for-profit corporations.**
  - (2) ~~A principal clubhouse with activities and spaces customarily included within a membership club's principal clubhouse structure, such as where~~ **members can socialize and entertain their guests in meeting rooms, lounges, reception areas, game rooms, libraries, bathroom facilities and including incidental minor storage spaces, coat rooms, kitchen and pantry areas, but not including dining, entertainment and bar facilities, residential uses, with no more than 10 temporary seasonal residence rooms, together with any associated administrative offices or maintenance and storage facilities supporting club operations.**
- C. Permitted accessory uses. The following accessory uses are permitted in MR Marine Recreation Districts only in conjunction with a principal permitted use:

- ~~(1) Any accessory buildings or accessory use permitted in a residential district, except excluding professional offices, non club offices, non club business activities, studios and customary home occupations.~~
- ~~(2) Dining, entertainment, and bar facilities, not to exceed 40% of the square footage of the principal clubhouse structure; however, kitchen facilities and outdoor, seasonal, unenclosed facilities shall not be included in calculating the percentage of dining, entertainment, or bar facilities, and this provision shall not apply to any clubhouse or principal structure which does not exceed 2,500 square feet.~~
- ~~(3) Club administrative offices, locker rooms, maintenance facilities, storage buildings and laundry facilities necessary for club operations, boat storage, dock master and guard houses, cart storage, fuel and oil sales to members and guests only, facilities for pumping out of marine holding tanks, facilities for waste oil collection and other similar types of club support facilities. Recreational facilities, including buildings, such as beach, golf, tennis, racquetball, squash courts and other sports courts, swimming pools, cabanas, gymnasiums and in-water and upland boat facilities.~~
- ~~(42) Residences Accessory residential facilities for full-time, including full-time and seasonal, caretakers and staff during the time of their employment workers employed by the membership club.~~
- ~~(5) Seasonal residences for club members and their guests. The maximum number of seasonal residences permitted at any membership club is 12.~~
- ~~(63) Day camps, sports and educational programs (not including schools) for members.~~
- ~~(74) Fences, walls or retaining walls pursuant to § 342-14, except that fences of not less than 3/4 open construction shall be permitted up to not more than 12 feet in height around tennis athletic courts and other similar facilities.~~
- ~~(85) Other accessory buildings and accessory uses customarily incidental to the principal club use of the premises.~~
- ~~(6) Outdoor dining facilities such as grills, bars and dining areas.~~
- ~~(7) Any accessory use permitted in a residential district except for professional offices and customary home occupations.~~
- ~~(9) Nonmember events:~~
  - ~~(a) Any club which intends to conduct events or activities that are not restricted to members only or that are not hosted or financially guaranteed by a member (to be known as "nonmember events") must first obtain a special permit from the Zoning Board of Appeals in accordance with the procedures set forth in Article X. Such special permit shall be for periods of no more than three years, at which time an application for renewal must be made, except that an application for~~

~~a new special permit must be submitted upon a change or addition to the existing accessory uses. In order to obtain or renew a special permit, there must be a showing that, in addition to compliance with all applicable provisions of Article X and all other requirements of the Zoning Code, not more than 20% of the events or activities of any one of the foregoing accessory uses, in any calendar year, have been nonmember events. Upon application for renewal of any special permit, each club must demonstrate that, in addition to all other requirements, it has complied with any other conditions previously established by the Zoning Board of Appeals. A special permit to conduct nonmember events issued pursuant to this subsection shall apply to the entirety of the club property notwithstanding that a portion of such property extends beyond the MR Zoning District into an adjoining residential zoning district.~~

- ~~(b) In addition to all other requirements, any club which holds a special permit shall annually file a copy of Internal Revenue Service Forms 990 and 990T with the Clerk Treasurer of the Village.~~

**D. Conditions.**

- (1) To maintain its special permit, each club shall annually concurrently file with the Village Clerk IRS Forms 990 and 990T (Form 990EZ is not acceptable) with the filing with the IRS and NYS. The Board of Appeals shall review IRS Forms 990 annually to confirm the club is operating within the zoning parameters. Failure to file the 990 forms within 30 day of filing with the IRS and NYS shall automatically void the previously issued special permit. A club can reapply for a new special permit to the Board of Appeals but may not be undertaking any activities required for a special permit until such time as a special permit is granted by the Board of appeals.**
- (2) Each membership club shall be required to obtain a 3-year special permit from the Board of Appeals which would include allowing of non-member events. The Board of Appeals shall be authorized to request documentation substantiating the club's on-going status as a not-for-profit membership club.**
  - (a) The period for which such special permit is applicable shall immediately terminate upon the failure by the club holding such special permit to either (i) continue to be a membership club or (ii) comply with the filing requirements set forth in clause (b) of this §342-35.**
  - (b) For non-member events, the club must demonstrate that not more than 20% of the events or activities in conjunction with accessory uses with such determination showing that both (i) total revenue received by the club from nonmember events or activities of such accessory use is less than 20% of the total aggregate revenue received by such club from all the events or activities of such**

accessary use and (ii) the total number of nonmember events or activities of such accessary use is less than 20% of the total number of such events or activities of such accessary use.

- (i) A member shall be a “member” for purposes of determining if any event is a member event or a “non-member event” if the member (A) was a member for at least three months prior to entering into any agreement or obligation regarding the event or activity; (B) did not become a member in connection with such event or activity; (C) is present during the event, (D) has fully guaranteed payment and responsibility for such event or activity, and (E) is expected to, and does, avail himself or herself of membership privileges after such event or activity.
- (3) No commercial activity of any kind shall be allowed by the club or any other user within the MR Marine Recreation Districts. Non-member income must fall below the IRS thresholds applicable to a membership club or the special permit to operate shall be annulled as a matter of law.
- (4) Failure to maintain not-for-profit status with IRS or the State of New York shall result in annulment of the special permit.
- (5) No event or activity commenced Sunday through Thursday may continue past 12:00 midnight and no event commenced on a Friday, Saturday or the day before a legal holiday may continue after 2 a.m.
- (6) Outside speakers and amplification are prohibited after 10:00pm.

**E. Prohibited activities.**

- (1) No nonmember event may commence prior to 8:00 a.m.
- (2) No event or activity commenced Sunday through Thursday may continue after midnight, and no event commenced on a Friday, Saturday or the day before a legal holiday may continue after 2:00 a.m.

*Section 3.*

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 4.*

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

*Section 5.*

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.