

PROPOSED LOCAL LAW O – 2018

A Proposed Local Law to amend Chapter 342 of the Code of the Village of Mamaroneck (Zoning) regarding food service establishments.

**BE IT ENACTED BY THE BOARD OF TRUSTEES OF THE VILLAGE OF MAMARONECK  
AS FOLLOWS:**

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

*Section 1.*

The following definitions contained in Section 150-1(A) of the Code of the Village of Mamaroneck are amended as follows:

**CABARET**

Any room, place or space in the Village of Mamaroneck in which any live musical entertainment, singing, dancing or other similar amusement is permitted in connection with ~~the restaurant business~~ **a food service establishment** or the business of directly or indirectly selling to the public food or drink.

*Section 2.*

The following definitions contained in Section 281-3 of the Code of the Village of Mamaroneck are amended as follows:

**RETAIL SALES**

The transfer to a customer of goods in exchange for payment occurring in retail stores, sidewalk sales, farmers' markets, flea markets and ~~restaurants~~ **food service establishments**. The term "retail sales" does not include sales of goods at yard sales, tag sales, and other sales by residents at their home.

*Section 3.*

Section 285-4(B)(3) of the Code of the Village of Mamaroneck is amended as follows:

- (3) The name, address and telephone number of the ~~restaurant or other~~ food service establishment to be the subject of the application.

*Section 4.*

Section 285-5(A) of the Code of the Village of Mamaroneck is amended as follows:

- A. A permit for a sidewalk cafe may only be issued to the owner or the tenant of a building occupied and used for the sale of cooked and prepared food, ~~except fast-food restaurants~~, in a zoned district permitting such use and abutting the public sidewalk adjacent thereto, provided that the following requirements are met:

- (1) The sidewalk abutting the property, from the property line to the curbline, must not be less than 10 feet.
- (2) There shall be a minimum clear distance, exclusive of the area occupied by the sidewalk cafe, free of all obstructions (such as trees, parking meters, utility poles, streetlights, tree grates, etc.) in order to allow adequate pedestrian movement. The minimum clear distance must be in a straight line so as to create a continuous and unencumbered straight path. The minimum amount of clear distance is noted below:

<b>Width of Sidewalk</b>	<b>Minimum Clear Distance (feet)</b>
10 feet to 14 feet 11 inches	4
15 feet to 19 feet 11 inches	5
20 feet and above	10

- (3) A sidewalk cafe may only be located directly in front of the ~~restaurant or other~~ food service establishment with which it is associated. These requirements may, however, be waived by written permission from the owner and the tenant of the affected adjacent building and store.
- (4) No permanent structures may be affixed to the sidewalk area used for the cafe or affixed to the building abutting the area for purposes of the cafe, and the area may be occupied only by fencing, railings and planters and by chairs, tables, benches and umbrellas for the convenience of the patrons to be served in such area.
- (5) The applicant shall be responsible for delineating the cafe area by setting up a barrier such as planters, a railing or fencing to physically separate patrons from pedestrian traffic.
- (6) A clear, unoccupied space must be provided, not less than three feet in width, from all entrances of the building abutting the sidewalk to the unoccupied portion of the public sidewalk.
- (7) Prior to the issuance of a permit, the applicant shall file with the Village Manager an agreement to indemnify and save harmless the Village, its officers and employees against any loss or liability or damage, including expenses and costs for bodily injury and for property damage sustained by any person as a result of the applicant's operation of a sidewalk cafe on public property.
- (8) Prior to the issuance of a permit, the applicant shall also file a certificate of general liability insurance naming the applicant and also naming the Village of Mamaroneck, its officers, agents and employees as additional named insureds, with the following limits: for personal injury, \$1,000,000 per individual and \$1,000,000 per occurrence; and for property damage, \$1,000,000 per individual and \$1,000,000 per occurrence, effective for the duration of the permit. The level of insurance may be amended by a resolution enacted by the Board of Trustees.

- (9)The site plan submitted by the applicant shall comply with all conditions noted herein.

*Section 5.*

Section 285-5(A) of the Code of the Village of Mamaroneck is amended as follows:

- C. A ~~restaurant or other~~ food service establishment operating under a special permit issued by the Board of Appeals shall not be required to apply to said board for modification thereof in connection with the use of seasonal sidewalk cafe seats.

*Section 6.*

Section 285-7(C) of the Code of the Village of Mamaroneck is amended as follows:

- C. All alcoholic beverages to be served at sidewalk cafes shall be prepared within the existing ~~restaurant or other~~ food service establishment, and alcoholic drinks shall only be served to patrons seated at tables. The drinking of alcoholic beverages by a member of the public while a patron at a sidewalk cafe, within the confines of the sidewalk cafe area, shall not be construed as a violation of any local law controlling consumption of alcoholic beverages in a public area. The operator of a sidewalk cafe shall be in full compliance with the licensing requirements of the State Liquor Authority, as may exist, and shall comply with all other laws and regulations concerning the sale of alcoholic beverages in New York State. In the event that said sidewalk cafe is not in full compliance with the State Liquor Authority's laws, rules and regulations, then the serving and consumption of alcoholic beverages in the sidewalk cafe shall be prohibited.

*Section 7.*

Section 285-7(D) of the Code of the Village of Mamaroneck is amended as follows:

- D. The ~~restaurant or other~~ food service establishment shall not serve food or beverage to a patron at a sidewalk cafe unless that patron is seated at a table.

*Section 8.*

The following definitions contained in Section 342-3(B) of the Code of the Village of Mamaroneck are amended as follows:

**CAR SERVICE**

Service from a ~~restaurant~~ **food service establishment** provided to customers remaining in their vehicles and parked in a designated parking area of the ~~restaurant~~ **food service establishment** parking lot.

## DELICATESSEN

~~A business engaged in the retail sale of food, beverages and grocery items for consumption off premises and where meats, fish, salads, cheese, relishes and delicacy items might be specially prepared as sandwiches and other consumable items for lunch, snacks and other off premises consumption. Such use shall not include tables and seating for on premises food consumption. No drive up or car service shall be permitted.~~

## FOOD SERVICE ESTABLISHMENT

Any use which ~~includes~~**involves** the serving of food and/or beverages that requires an eating place permit, or is otherwise required by either county or state law to be licensed **to serve food**, including, but not limited to, **brewpub** restaurants, ~~carry-out restaurants, delicatessens,~~ and fast-food restaurants. ~~No drive up or car service shall be permitted.~~

## RESTAURANT

~~A business engaged in the preparation and sale of food and beverages selected by patrons seated at a table or counter, served by a waiter or waitress and consumed on the premises. The term "restaurant" does not include a business whose principal operation is as a bar or cabaret, carry-out restaurant, delicatessen or fast food restaurant. No drive up car service shall be permitted. Car service shall be permitted by special use permit only.~~

## RESTAURANT, CARRY-OUT

~~A business enterprise primarily engaged in the retail sale of food or beverages, which may include grocery items, for consumption off the premises, but which also includes the incidental sale of ready to consume food and beverages from a counter type installation for consumption on the premises, provided that the area devoted to customer seating is clearly accessory to the main business and complies with the area requirements of the New York State Uniform Fire Prevention and Building Code. No drive up or car service shall be permitted.~~

## RESTAURANT, FAST-FOOD

~~A business enterprise~~ **food service establishment** primarily engaged in the sale of food and beverages generally served in disposable or prepackaged containers or wrappers ready for consumption in a facility where most or all of the sales to the public are stand-up services. The term ~~"fast food restaurant"~~ shall not include a ~~carry-out restaurant or delicatessen~~. No drive up or car service shall be permitted. Where a fast food restaurant contains multiple counters, each serving one or more brands or types of fast food (for example, one counter for pizza and another for hamburgers), parking requirements shall be increased by 10% for each counter in excess of one.

*Section 9.*

Section 342-30(A)(1)(e) of the Code of the Village of Mamaroneck is amended as follows:

- (e) ~~Restaurants~~ **Food service establishments**, subject to § 342-45, **but not fast-food restaurants larger than 3,000 square feet**. (This use is subject to the approval procedure set forth in Article X and shall conform to any additional requirements made in connection with such approval.)

*Section 10.*

Section 342-30(C) of the Code of the Village of Mamaroneck is amended as follows:

- C. All above C-1 District uses, whether principal or accessory, including storage, but excluding parking of permitted used cars, and outdoor ~~restaurant services~~ **food service establishments**, as specifically permitted by § 342-45, shall be carried on in fully enclosed buildings.

*Section 11.*

Section 342-30.1(D)(1)(c)(4) of the Code of the Village of Mamaroneck is amended as follows:

- (4) If ground-level retail stores, ~~restaurants~~ **food service establishments**, personal service stores, clubs, dancing studios, dancing schools, or other similar uses are provided that, in the opinion of the Planning Board, will encourage an active street environment for pedestrians, the Planning Board may exempt up to 3,000 square feet of gross floor area, of such use, or 1/3 of the ground floor area, whichever is greater, from the calculation of maximum FAR.

*Section 12.*

Section 342-31(A)(2) of the Code of the Village of Mamaroneck is amended as follows:

- (2) All above uses, except parking, loading, permitted used cars and permitted outdoor ~~restaurant~~ **food service establishments**, shall be conducted within fully enclosed buildings, as limited by § 342-45.

*Section 13.*

Section 342-32(A)(1)(i) of the Code of the Village of Mamaroneck is amended as follows:

- (i) Retail uses, ~~including restaurants~~, within 150 feet of the center line of Fenimore Road.

*Section 14.*

Section 342-32(A)(1) of the Code of the Village of Mamaroneck is amended by adding subsection (j), as follows:

**(j) Food service establishments, within 150 feet of the center line of Fenimore Road.**

*Section 15.*

Section 342-36(B)(5) of the Code of the Village of Mamaroneck is amended as follows:

- (5) Restricted accessory uses. Restricted accessory uses include a clubhouse (which may include a ~~restaurant~~ **food service establishment**), a pool and the sale of ice, food and beverages for consumption on and off premises by boaters and their guests, provided that these uses meet the following conditions:
- (a) Such accessory uses may only be conducted in connection with principal uses being conducted on lots of five acres or more.
  - (b) Such uses are solely for the use of boaters and their guests.
  - (c) Catering of any type is prohibited.
  - (d) Any pool shall be closed by 8:00 p.m., although its associated sitting areas may be utilized until 10:00 p.m. No food or beverages shall be served after 10:00 p.m.
  - (e) All outdoor lighting, except security lighting, shall be shut off at 10:00 p.m.
  - (f) All restricted accessory uses, including their required parking areas, shall not constitute more than 20% of the total land area of the zoning lot. The building coverage of a clubhouse shall not constitute more than 5% of the gross land area of the zoning lot. A ~~restaurant~~ **food service establishment**, if provided, shall not exceed a total gross square footage, including the required kitchen area, of 2,500 square feet.
  - (g) Any restricted accessory use must be set back a minimum of 50 feet from the property line of any adjoining residential property or of a public street, or, in the case of an adjoining residential property improved with a cluster development, a minimum of 150 feet.
  - (h) No restricted accessory structure shall exceed a height of 2 1/2 stories or 35 feet.
  - (i) The design of any restricted accessory buildings must be compatible with a residential neighborhood in architectural style and material if the Planning Board determines that there is a visual effect on neighboring residential properties.

*Section 16.*

Section 342-45 of the Code of the Village of Mamaroneck is amended as follows:

§ 342-45. Food service establishments ~~and taverns~~.

- A. No food service establishment ~~or tavern~~ shall provide outdoor counter, drive-in or ~~curb~~ car service, but it may provide service at tables on a porch, ~~or~~ terrace ~~or sidewalk cafe~~ where this is incident and clearly subordinate to the operation conducted within the main building.
- B. In a C-1 District, no more than 20% of all indoor seats in a food service establishment ~~or tavern~~ shall be counter seats. ~~In a C-2 District, no fast food restaurant, carry-out restaurant or delicatessen shall be permitted on Mamaroneck Avenue closer than 200 linear feet to another existing fast food restaurant, carry-out restaurant or delicatessen on the same side of the avenue. Such distance shall be measured from the closest lot line of the respective food service establishments.~~
- C. If a food service establishment contains multiple counters, each serving one or more brands or types of fast food (for example, one counter for pizza and another for hamburgers), the parking requirement shall be increased by 10% for each counter in excess of one.
- D. The area within a food service establishment devoted to customer seating must be clearly accessory to the main business and must comply with the area requirements of the New York State Uniform Fire Prevention and Building Code.

*Section 17.*

Section 342-50(A)(4)(c) of the Code of the Village of Mamaroneck is amended as follows:

- (c) Compatibility of use. The Planning Board shall allow infill housing above commercial uses or in conjunction with commercial uses only if such uses are found to be compatible with such housing. The Planning Board shall consider noise, smell pollution, hours of operation and expected traffic volumes in making this determination. The following use groups of the C-1 District shall normally be considered incompatible without proof of the contrary from the applicant that is satisfactory to the Planning Board: § 342-30A(1)(e), ~~restaurants~~ **food service establishments**, § 342-30A(1)(g), motor vehicle service stations and public garages, § 342-30A(1)(i), printing plants, § 342-30A(1)(j), clubs, § 342-30A(1)(m), farms, § 342-30A(1)(n), transformer stations and § 342-30A(1)(o), motels.

*Section 18.*

Section 342-56 of the Code of the Village of Mamaroneck is amended as follows:

- |  |   |
|--|---|
| <del>Restaurants</del> <b>Food service establishments.</b> | 1 for each 3 seats, plus 1 for each 2 employees |
|--|---|

*Section 19.*

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 20.*

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 21.*

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.