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STATE OF NEW YORK
DEPARTMENT OF STATE
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~~County~~
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Village

of MAMARONECK

Local Law No. 8 of the year 20.04

MISCELLANEOUS
& STATE RECORDS

A local law repealing Chapters 12 (Coastal Zone Management Commission), 146
(Insert Title)
(Coastal Management) and 210 (Harbor Management and Watercraft)
of the Code of the Village of Mamaroneck and adding a new Chapter
240 (Management of Coastal Zone, Harbor and Watercraft) to the
Code of the Village of Mamaroneck

Be it enacted by the Board of Trustees of the
(Name of Legislative Body)

~~County~~
~~City~~
~~Town~~
Village

of Mamaroneck

as follows:

SECTION 1. The intent of this local law is to (1) consolidate the current Coastal Zone Management Commission of the Village of Mamaroneck and the current Harbor Commission of the Village of Mamaroneck into a new commission known as the Harbor and Coastal Zone Management Commission; and (2) consolidate Chapters 12 (Coastal Zone Management Commission), 146 (Coastal Management) and 210 (Harbor Management and Watercraft) of the Code of the Village of Mamaroneck into a new Chapter 240 (Management of Coastal Zone, Harbor and Watercraft) of the Code of the Village of Mamaroneck.

SECTION 2. Chapter 12 (Coastal Zone Management Commission) of the Code of the Village of Mamaroneck is hereby repealed in its entirety.

SECTION 3. Chapter 146 (Coastal Management) of the Code of the Village of Mamaroneck is hereby repealed in its entirety.

SECTION 4. Chapter 210 (Harbor Management and Watercraft) of the Code of the Village of Mamaroneck is hereby repealed in its entirety.

SECTION 5. A new Chapter 240 (Management of Coastal Zone, Harbor and Watercraft) of the Code of the Village of Mamaroneck is hereby established, which shall read as follows:

(If additional space is needed, attach pages the same size as this sheet, and number each.)

Chapter 240, MANAGEMENT OF COASTAL ZONE, HARBOR AND WATERCRAFT

ARTICLE I, Title; Findings; Authority; Purpose; and Definitions

§ 240-1. Title.

This chapter shall be cited as the "Management of Coastal Zone, Harbor and Watercraft Law" of the Village of Mamaroneck.

§ 240-2. Findings.

- A. Mamaroneck Harbor is an important and intensely used area that supports a wide range of public and private in-water uses, including recreational and commercial boating and anchorage and mooring areas, recreational fishing and swimming, boatyards and marinas, and yacht and beach clubs. The Village of Mamaroneck finds that, in order to allocate and manage the safe and efficient use of the harbor and its underwater lands and waters, and to allocate adequate space for these uses, Chapter 240 of the Code of the Village of Mamaroneck shall hereby be adopted to implement a plan for the management of Mamaroneck Harbor.
- B. It is the intention of the Village of Mamaroneck that the preservation, enhancement and utilization of the natural and man-made resources of the Village's unique coastal area take place in a coordinated and comprehensive manner to ensure the proper balance between those natural resources and the need to accommodate the needs of population growth and economic development. Accordingly, it is the intention of this chapter to achieve a balance between economic development and preservation that will permit the beneficial use of coastal resources while preventing the loss of living marine resources and wildlife; diminution of open space areas or public access to the waterfront; shoreline erosion and impairment of scenic beauty; losses due to flooding, erosion and sedimentation; or permanent adverse changes to ecological systems.

§ 240-3. Authority.

This chapter is adopted pursuant to the following laws of the State of New York: Article 42 of the Executive Law, Section 46-a of Article 4 of the Navigation Law, Article 2 of the Municipal Home Rule Law and Article 9 of the State Constitution. This chapter is also adopted pursuant to the Waterfront Revitalization and Coastal Resources Act¹ in order to implement the policies of the Village of Mamaroneck Local Waterfront Revitalization Program.

§ 240-4. Purpose.

¹ See Art. 42 of the Executive Law.

The operation and mooring of watercraft in Mamaroneck Harbor and the safe and efficient use of space within the harbor, being a matter affecting public interest, is and should be subject to the regulatory, supervisory and administrative controls hereinafter set forth. The preservation, enhancement and utilization of the Village's coastal area is also a matter of public interest. Pursuant to the Waterfront Revitalization and Coastal Resources Act and the Village of Mamaroneck Local Waterfront Revitalization Program, it is the intent of this chapter that proposed actions be reviewed to determine their consistency with the policies of the Village of Mamaroneck Local Waterfront Revitalization Program and that this review be coordinated with and made a part of each agency's existing procedures.

The purpose of this chapter is to:

- A. Establish standards, requirements and procedures for the safe and sanitary operation of watercraft and regulation of matters relevant to safety, sanitation and environmental conservation in the Village of Mamaroneck.
- B. Implement a plan for the management and use of surface waters and underwater lands within the harbor.
- C. Provide a framework for Village agencies to consider coastal management policies contained in the Village of Mamaroneck Local Waterfront Revitalization Program when reviewing applications for actions or proposing direct agency actions.
- D. Define the Harbor and Coastal Zone Management Commission and its duties.

§ 240-5. Definitions.

As used in this chapter, the following terms shall have the meanings stated after each such term:

ACTIONS -- *Either Type I, Type II or unlisted actions as defined in Chapter 168, Environmental Quality Review, as amended from time to time, and the State Environmental Quality Review Act.*²

AGENCY -- Any department, board, commission, public authority or other agency of the Village of Mamaroneck which has jurisdiction by law to approve or directly undertake a given action.

ANCHORAGE -- An area reserved for the anchoring of watercraft as designated on the Harbor Management Plan Map.³

² See Art. 8 of the Environmental Conservation Law.

³ Said map is on file in the office of the Village Clerk.

BREAKWATER -- A structure primarily designed to break the force of waves or to influence the course of current or tide. The term includes jetties.

BULKHEAD -- A marine structure or partition to retain or prevent sliding and/or erosion of the adjacent upland. A secondary purpose is to protect the upland from wave action. The term includes seawalls, walls, walks and riprap.

CERTIFICATE OF DETERMINATION -- A notice prepared by the Harbor and Coastal Zone Management Commission or other appropriate agency and filed with the Clerk of the Village of Mamaroneck, which notice shall contain:

- A. A statement that is a "certificate of determination" for the purposes of this chapter, the name and address of the applicant, the name and telephone number of a person who can provide further information and the name of the agency which prepared the certificate.
- B. A brief statement and precise description of the nature, extent and location of the action.
- C. A brief statement of the reasons supporting the determination.

CHANNEL -- A federally designated navigation accessway in the harbor, as shown on the Harbor Management Plan Map.⁴

COASTAL AREA or COASTAL ZONE -- The lands and waters within the Village of Mamaroneck's jurisdiction as described in the Village of Mamaroneck Local Waterfront Revitalization Program.

DIRECT ACTION -- An action planned and proposed for implementation by the Village of Mamaroneck. "Direct actions" include but are not limited to capital projects, procedure-making, policy-making and zoning.

DRY SAILING -- The storage of boats in commission on land on specially constructed racks, or otherwise, during the normal boating season and launched by some mechanical means when the boat is to be used. Exempt from dry sailing are watercraft such as sail boards, sunfish, sailing dinghies, inflatables, dinghies, skiffs, jet skis, wave runners and rowboats.

EAST BASIN -- That portion of the inner harbor lying easterly of Harbor Island Park.

FAIRWAY -- An area in the harbor, other than a federally designated channel, commonly used as an open accessway between marine structures or designated channels and mooring areas.

⁴ Said map is on file in the office of the Village Clerk.

GUEST MOORING SPACE -- A mooring space to be used on a temporary basis by a guest.

HARBOR -- All waters, inlets, bays and coves, including the area between the mean high and mean low water mark, within or bounding the Village of Mamaroneck to a distance of 1,500 feet from the shore.

HARBOR MANAGEMENT PLAN -- A plan comprised of written policies and objectives approved by the Village of Mamaroneck Board of Trustees.

HARBOR MANAGEMENT PLAN MAP -- A map of Mamaroneck Harbor, approved by the Village of Mamaroneck Board of Trustees, which may be amended from time to time by resolution of the Harbor and Coastal Zone Management Commission, subject to approval by the Village of Mamaroneck Board of Trustees, which is on file in the office of the Village Clerk.

HARBOR MASTER -- The Harbor Master duly appointed by the Village of Mamaroneck, who is a peace officer pursuant to § 2.10, Subdivision 19, of the New York State Criminal Procedure Law.

INNER HARBOR -- That portion of the harbor extending shoreward from a line running from Shore Acres Point to the concrete pier north of the foot of Bleeker Avenue.

LITTER -- Any garbage, refuse or rubbish and other waste material which is thrown or deposited and which tends to create a danger to the public health, safety and welfare.

MAMARONECK HARBOR -- All of the underwater lands and waters seaward of mean high water as shown on the Harbor Management Plan Map⁵ for Mamaroneck Harbor.

MARINA -- Any public, private, commercial or educational facility which provides accommodations or facilities for watercraft, including mooring, docking, storing, leasing, sale or servicing of watercraft within the harbor or uplands adjacent thereto, including yacht clubs, beach clubs, boatyards and any other installation providing for services or storage space for watercraft.

MARINE STRUCTURES -- Any structure, including but not limited to jetties, groins, breakwaters, bulkheads, floats, piers, boathouses, moorings and/or docks in or upon any waters or underwater lands within the Village of Mamaroneck or bounding the Village of Mamaroneck to a distance of 1,500 feet from shore.

MEAN HIGH WATER -- The average height of the high waters over a nineteen-year period immediately preceding the current year.

⁵ Said map is on file in the office of the Village Clerk.

MOORING -- The attachment of a watercraft to a pier or dock or other structure or the attachment of a watercraft to the ground or lands underwater by means of tackle so designed that, when such attachment is terminated, some portion of the tackle remains below the surface of the water and is not under the control of the watercraft or its operator.

MOORING AREA -- The areas designated by the Harbor Master or by the federal government, as shown on the Harbor Management Plan Map,⁶ that are reserved specifically for the mooring and anchorage of vessels.

MOORING DEVICE -- A permanent or semipermanent vessel-anchoring device and its associated tackle, such as chains, buoys and other equipment, other than a common anchor, manufactured and/or used specifically for the permanent or semipermanent anchoring or mooring of vessels.

MUNICIPAL DOCK -- A dock owned and operated by the Village of Mamaroneck.

OUTER HARBOR -- That portion of the harbor extending into and toward the Long Island Sound to the point that is 1,500 feet from the shore from a line running from Shore Acres Point to the concrete pier north of the foot of Bleeker Avenue.

PERIMETER -- The in-water boundary of an area consisting of a series of connected imaginary lines on a plan, map or other diagram, that encompass all related marine structures that function together to create a component of an in-water facility or use.

PERIMETER PERMIT -- A permit issued by the Building Department of the Village of Mamaroneck, upon the recommendation of the Harbor and Coastal Zone Management Commission, authorizing eligible entities to reconfigure marine structures within a prescribed perimeter and, if so authorized in the permit, to add to, delete from, reconstruct or otherwise alter such marine structures.

PERMIT -- A permit, lease, license, certificate or other entitlement for use or permission to act that may be granted or issued by an agency of the Village of Mamaroneck.

POLICE BAY CONSTABLES -- The Bay Constables appointed by the Village of Mamaroneck, who are peace officers pursuant to § 2.10, Subdivision 18, of the New York State Criminal Procedure Law.

REPAIR IN KIND -- The rebuilding of a damaged structure or a portion thereof at the same site and in the same envelope, using similar material as the structure being repaired.

⁶ Said map is on file in the office of the Village Clerk.

REPLACEMENT IN KIND -- New construction at the same site and in the same envelope, using similar material as the structure being replaced.

VESSEL -- Any boat or other craft 12 feet or more in length propelled in any manner other than by oars or paddles.

VILLAGE VISITORS' DOCK -- A temporary docking space provided by the Village of Mamaroneck for nonresident visitors.

WATERCRAFT -- Any floating boat, vessel or other floating object used or capable of being used as a means of transportation over the water, other than an aid to navigation or a mooring buoy.

WEST BASIN -- That portion of the inner harbor lying westerly of Harbor Island Park.

ARTICLE II, Designated Areas and Restrictions on Harbor Uses and Activities

§ 240-6. Designated areas within Mamaroneck Harbor.

Channels, anchorages and mooring areas are hereby established in Mamaroneck Harbor, as shown on the Harbor Management Plan Map on file in the Village Clerk's office.

§ 240-7. Method of operation of watercraft.

- A. Dangerous operation prohibited. No person shall operate a watercraft at a speed greater than is reasonable and prudent, or in a manner which unreasonably endangers the users of the harbor, under the conditions and having regard to the actual and potential hazards then existing.
- B. Use of power. No person shall operate any watercraft having mechanical power without using such power while entering or leaving the harbor inside of Buoy 8.
- C. Speed limit. No watercraft shall be operated by any person within the posted limits of the harbor at a speed in excess of five miles per hour, nor shall any watercraft be operated by any person within such limits so as to make dangerous wakes that have the potential to cause injury to persons on another watercraft or to cause damage to another watercraft, structure or shoreline.
- D. Identification. Watercraft operators shall, at all times, identify themselves and produce the watercraft's registration to Village, State and Federal authorities upon request. Failure to produce such registration upon request shall be a violation of this section.

§ 240-8. Harbor use restrictions.

- A. Anchoring and mooring. No person shall anchor or moor any watercraft in such a manner that it lies within the lines of any channel or fairway within the harbor, except in emergencies.
- B. Fishing. No person shall fish from any watercraft located in a channel within the harbor.
- C. Waterskiing, etc. No person shall use or operate a watercraft to tow a person on water skis, boards, tubes or any other devices through the waters of the harbor shoreward from Buoys 5 and 8 or in any anchorage area, with the exception of sanctioned and regulated shows or events approved by the United States Coast Guard and the New York State Commissioner of the Office of Parks, Recreation and Historic Preservation.
- D. Instruction classes and races. Between the dates of May 25 and November 1, no races or instruction classes involving two or more watercraft shall be conducted in the harbor shoreward from Buoys 5 and 8 or in any anchorage area.

§ 240-9. Erection of marine structures in harbor.

- A. Erection of marine structures requires a permit from the Building Department. No person shall construct or erect any marine structure without a valid permit from the Village. The application process is set forth in §§ 240-20 and 240-21 of this chapter. The issuance of any necessary permits from the federal or state government or any other regulatory authority does not relieve any party seeking to erect a marine structure from the requirements of this chapter.
- B. No marine structure shall be placed, nor shall any person construct or place any marine structure, so that it lies within the lines of any channel and/or fairway.

§ 240-10. Excavating, dredging or filling.

Excavating, dredging or filling in the harbor is subject to the issuance of all necessary federal and state regulatory agency permits. All applicants are responsible for applying for all necessary federal and state regulatory agency permits and, at the same time, must submit one copy of the application packages made to such agencies to the Harbor and Coastal Zone Management Commission.

§ 240-11. Prohibition on littering and discharge of pollutants.

- A. Littering. No person shall place, throw, deposit or discharge or cause to be placed, thrown, deposited or discharged into the harbor from any watercraft, marina or from the shoreline any litter or any other solid or

liquid materials, including but not limited to hydrocarbons and other noxious liquids, which render the waters unsightly, noxious, unwholesome or otherwise detrimental to the public health or welfare, to marine, animal or plant life or to the enjoyment of the water for recreational purposes.

- B. Discharge of nonwatercraft sewage. The Code of the Village of Mamaroneck prohibits the discharge of nonwatercraft sewage, litter and refuse within the harbor limits. Nothing in this section shall conflict with the regulation of the disposal of sewage from watercraft pursuant to the Navigation Law of the State of New York. Nonwatercraft sewage shall include but not be limited to any sewage resulting from a source other than a watercraft or other floating object. In addition, nothing in this section shall be construed so as to prohibit the discharge of treated nonwatercraft sewage into the harbor by the Westchester County sewage treatment facility.
- C. Discharge of vessel sewage. No person, corporation or any other entity at any time shall discharge any treated or untreated sewage from any watercraft in Mamaroneck Harbor, a designated No-Discharge Zone.

§ 240-12. Sanitation requirements.

- A. Litter receptacles. The owner or other person vested with the possession, management and control of a marina or any other docking facility shall be required, under this chapter, to provide and maintain a sufficient number and selection of trash receptacles for the deposit of litter at locations where they are convenient to watercraft users.
- B. Toilet facilities.
 - (1) The owner or other person vested with the possession, management or operation of a marina or any other docking facility shall maintain suitable toilet facilities onshore for the accommodation of watercraft users who are patrons of such facility.
 - (2) The owner or other person vested with the possession, management or operation of a marina or any other docking facility accommodating 25 or more vessels with United States Coast Guard approved on-board marine sanitation devices shall install and maintain suitable vessel waste sewage and waste pumping facilities onshore for the purpose of servicing watercraft.

ARTICLE III, Anchorage and Mooring Areas

§ 240-13. Location and placement of anchorages and moorings.

- A. Anchorage and mooring areas. Anchorage grounds for short-term anchoring and mooring areas for watercraft in the harbor include the outer harbor and the inner harbor, except those areas within the fairways and channels, as shown on the Harbor Management Plan Map,⁷ used for ingress to and egress from the harbor. The Harbor Master is authorized to designate the areas within anchorage and mooring areas where individual watercraft may be moored or placed at anchor, including guest vessels. No person shall moor any watercraft in any area except a designated mooring area, and no person shall temporarily anchor a watercraft in the anchorage grounds for any longer than 48 hours, unless specifically authorized by the Harbor Master.
- B. Location of moorings.
- (1) The location of all moorings in mooring areas for watercraft shall be designated on a map maintained by and on file with the Harbor Master.
 - (2) No person shall moor a watercraft in Mamaroneck Harbor until its location and position have been approved by the Harbor Master.
 - (3) The Harbor Master shall have authority for reasons of safety or other documented reasons to direct and order that the location or position of moorings be changed. Such notice shall be provided to the owner or operator of the subject watercraft using such mooring and compliance shall be required within 10 days thereof. Failure to comply with such direction or order of the Harbor Master shall be a violation of this section.
- C. Placement of moorings; qualified contractors; minimum qualifications.
- (1) No mooring shall be placed in the waters of the harbor, except by a mooring contractor approved by the Village of Mamaroneck.
 - (2) The Harbor Master shall maintain a listing of mooring contractors approved by the Village of Mamaroneck.
 - (3) In order to be approved by the Village of Mamaroneck and to be placed on the listing noted hereinabove, a mooring contractor shall demonstrate to the Village Manager that it has the following minimum qualifications:
 - (a) Possession of equipment necessary to install and remove moorings.

⁷ Said map is on file in the office of the Village Clerk.

- (b) Possession of or proof of ability to obtain a mooring barge which is capable of lifting and setting moorings.
- (c) Past experience (minimum of one year) in the installation and removal of moorings.
- (d) Past experience (minimum of one year) in inspection of moorings.
- (e) Proof of insurance; minimum of \$1,000,000 liability insurance.
- (f) Proof of Workers' Compensation Insurance, should the contractor have employees.
- (g) Proof of comparable insurance, if Workers' Compensation Insurance is not carried by the contractor.

§ 240-14. Mooring tackle and buoy permits.

- A. No person shall moor or dock a watercraft without a mooring tackle and buoy permit, except at a structure erected pursuant to the requirements of § 240-9, nor shall any person lay any mooring tackle unless a permit is issued therefor, and then only for the watercraft specified in the permit and only at the location specified in the permit. Vessels situated at a private or commercial facility, while not required to obtain a mooring tackle and buoy permit, must nevertheless register their craft with the Harbor Master. The issuance of a mooring tackle and buoy permit shall be evidenced by a decal.
- B. Mooring tackle and buoy permit process.
 - (1) Any person desiring to procure a mooring tackle and buoy permit shall file with the Harbor Master a written application upon a form furnished by the Harbor Master. Such application shall state the name, type, length and registration number, if any, of the watercraft. An application for a mooring tackle and buoy permit shall also include the name, address and telephone number of the owner or lessee or charterer, if any, together with such proof of ownership or right to use of the watercraft as the Harbor Master may require. A company making such application shall designate an individual as its representative. The annual administrative fee, as set forth in Chapter A347, Fees, shall accompany the application.
 - (2) The Harbor Master has the authority to approve or deny each application for a permit.

- (3) Mooring tackle and buoy permits shall be issued only to the owner, lessee or charterer of the watercraft to be moored.
 - (4) A mooring tackle and buoy decal shall be issued upon the payment of an annual administrative fee as set forth in Chapter A347, Fees, for watercraft moored offshore, irrespective of where moored.
 - (5) Each watercraft shall be measured from bow to stern on a center line over the deck.
 - (6) There shall be a charge as set forth in Chapter A347, Fees, for the issuance of a duplicate decal to replace a lost or misplaced decal.
 - (7) Requests for a new mooring tackle and buoy permit may be filed with the Harbor Master at any time, specifying the type and size of the watercraft for which mooring tackle and buoy permits are requested. After March 15, the last date for filing applications for renewal of mooring tackle and buoy permits, applications for new permits will be forwarded to those persons who have requested the same as space is available for the type and size of watercraft for which mooring tackle and buoy space has been requested. Within the limits of type and size of watercraft, priority will be given in the forwarding of applications for permits in the order in which requests for such permits have been filed with the Harbor Master.
 - (8) Only one mooring tackle and buoy space shall be allotted to any one watercraft.
- C. Display of permit. The mooring tackle and buoy permit decal issued pursuant to this chapter shall be conspicuously displayed on the exterior port side of said watercraft, and only on the particular watercraft for which an application is on file.
- D. Transfer of permit.
- (1) Mooring tackle and buoy permits are not transferable or assignable from person to person or watercraft to watercraft, except as herein provided. Subject to the consent of the Harbor Master and upon payment of a fee as set forth in Chapter A347, Fees, the holder of a permit may exchange such permit with the holder of another permit so as to allow an exchange of locations between such two holders. The holder of a permit may substitute another watercraft of which such holder is the owner, lessee or charterer for the watercraft originally specified in such mooring tackle and buoy permit, provided that the Harbor Master approves such substitution upon written application therefor.

- (2) In the event that the holder of a mooring tackle and buoy permit sells his watercraft while the permit is still in force, he shall immediately notify the Harbor Master, in writing. The party holding such mooring tackle and buoy permit shall cause the decal to be removed prior to the watercraft's delivery to the purchaser.
 - (3) It is a violation of this chapter for any person issued a permit to transfer or cause to be transferred such permit to any other person or watercraft, except as outlined in § 240-14D(1). This violation shall apply to both the person so transferring and the person so receiving or benefiting from the transfer.
- E. Renewal of permit. Priority will be given in the issuance of permits to those persons applying for the renewal of permits granted in the preceding year. The applicant shall file with the Harbor Master a renewal application for such a permit on or before March 15, or the last business day prior thereto, of the year for which the permit is to be effective. The Harbor Master reserves the right to reassign space based upon availability and size of watercraft. The prescribed fee for the renewal of the necessary permit shall be paid at the time the application is filed. In the event that any permit holder fails to file a renewal application with the Harbor Master by 5:00 p.m. of the last business day on or before March 15 of the year in question, said party shall forfeit the priority for a renewal permit as provided in this section and must make a new application for any such permit.
- F. Municipal ramp and rack fees.
- (1) Ramp service charges, when floats and/or moorings are not utilized, shall be as set forth in Chapter A347, Fees.
 - (2) Rack fees, including use of ramp. The season fee for residents of the Village of Mamaroneck shall be as set forth in Chapter A347, Fees.
- G. Storage of private floats. Any individual or commercial marine operator planning to store private floats in the inner harbor (East or West Basin) at the end of the boating season shall adhere to the following procedure:
- (1) A request must be filed, in writing, to the Harbor Master prior to October 1 indicating the size of the float and the position in which the float will be anchored. These requests will be considered in the order they are received on a space-available basis.
 - (2) The Harbor Master shall review and approve all storage requests and shall be the sole judge as to proper placement and installation.

- (3) After payment of a fee as set forth in Chapter A347, Fees, the Harbor Master may authorize the storage of these floats.
 - (4) All stored floats must be removed prior to March 29 and may not be put in place prior to November 15.
- H. Service floats. Commercial marine operators planning to utilize service floats shall observe the following procedure:
- (1) An application must be filed with the Harbor Master together with the payment of the fee as set forth in Chapter A347, Fees.
 - (2) The Harbor Master shall review each request and shall, in conjunction with the marine operator, decide on the size and placement of any service float.
 - (3) In no case shall the total length of a service float be more than 50 feet, and only one float shall be permitted for each permitted operator.
 - (4) In conjunction with said application, the applicant shall provide any additional information reasonably requested by the Harbor Master in connection with his consideration of said application.
 - (5) Should a service float be connected to a fixed marine structure, all other Federal, State and Village permits must be obtained, pursuant to § 240-9.

§ 240-15. Method of mooring.

- A. Name on mooring. The name of the owner of the mooring tackle shall be permanently marked on the buoys by the mooring contractor. Winter buoys, when used, shall be similarly marked. Failure to mark the buoy(s) shall be a violation of this chapter by both the owner of the buoy(s) and the mooring contractor. In the event that it is determined that any such contractor has violated this provision on more than one occasion, and in addition to any other penalty herein provided, said determination shall be sufficient reason to remove such mooring contractor from the list of qualified mooring contractors maintained by the Harbor Master.
- B. If a mooring buoy or winter buoy becomes a hazard to navigation, the Harbor Master may remove it, or have it removed, at the owner's expense, and hold the same until the cost of such removal is paid. In such instances, the Harbor Master, the Village or other agent of the Village shall not be responsible for loss of the mooring or mooring tackle.
- C. Multiple vessels on mooring buoys. No person shall moor more than one vessel to any single mooring buoy, nor shall any other floating object be

secured to a mooring buoy by any person without the advance permission of the Harbor Master.

- D. In the inner harbor, no person shall fail to moor a vessel forward and aft.

§ 240-16. Responsibilities of mooring tackle and buoy owners.

- A. All mooring tackle and buoy owners, as well as their representatives or agents, shall be responsible for compliance with all the provisions of this chapter and shall be subject to the penalties provided for any violation of this chapter.
- B. Maintenance of mooring buoy equipment. All persons shall maintain mooring buoy equipment in good condition to prevent the moored watercraft from breaking adrift and damaging other watercraft and property, and endangering public safety. Whenever a mooring buoy is exchanged in accordance with this chapter, the mooring buoy tackle shall be raised and inspected before another watercraft is placed on that mooring buoy. No person shall reset mooring buoy tackle found to be in poor condition until it has been made safe by the owner or his agent. This section shall apply to mooring buoy tackle which has been installed or raised and inspected during the season for which the current mooring tackle and buoy permit has been issued. Mooring buoy tackle must be raised and inspected every three years, and defective parts must be replaced.
- C. Responsibility of owner upon expiration or revocation of mooring tackle and buoy permit. Mooring buoy tackle in a space for which a permit has expired and for which a renewal application has not been received shall be removed by the owner. If such tackle is not removed by May 1, the Harbor Master may remove it or have it removed and hold the same until the cost of such removal is paid. Mooring buoy tackle in a space for which a permit has been revoked shall be removed within 10 days of notification of revocation.
- D. Unauthorized mooring tackle and buoys. Failure of an owner to remove unauthorized mooring tackle and buoy, including one for which no permit has been issued, may result in the owner being assessed for charges of mooring tackle and buoy removal, fined as defined in this chapter, and subjected to liability for obstruction to navigation pursuant to this chapter.

§ 240-17. Guest vessels.

- A. Guest mooring space permits.
 - (1) The Harbor Master is hereby authorized to assign to marinas and yacht clubs having water frontage in Mamaroneck Harbor as many

mooring spaces as he shall deem necessary for the accommodation of guest vessels of such marinas and yacht clubs.

- (2) Annual fees for such guest mooring space permits, other than those situate at a commercial facility, shall be as set forth in Chapter A347, Fees.
- (3) Applications for renewal of guest mooring space permits shall be accomplished in the same manner as set forth in this chapter.
- (4) Mooring spaces assigned to a marina or yacht club for guest moorings, approved by the Harbor Master, shall be marked with the name or initials of the marina or yacht club and the word "guest." No watercraft shall be moored to such a guest mooring for more than seven days without the written permission of the Harbor Master.

B. Temporary mooring of guest vessels. Guest vessels, with the approval of the Harbor Master, may be moored at mooring buoys or tied to docks maintained by the Village of Mamaroneck or may be placed at anchor in locations approved by the Harbor Master for not more than four days without a permit. Guest vessels may be moored at mooring buoys provided by marinas located in Mamaroneck Harbor for not more than seven days, or longer if under repair or service by said marina. The mooring of vessels at mooring buoys maintained by the Village may be extended upon application, in writing, made to and approved by the Harbor Master, for a maximum of 21 days. Notwithstanding the foregoing, vessels undergoing repairs or in process of commissioning or decommissioning may be moored to a dock, pier or other structure maintained by a marina.

ARTICLE IV, Municipal Docks

§ 240-18. Municipal docks.

A. Permits.

- (1) Annual municipal dock permit fees for all floats other than the special float known as the "S-float" shall be in accordance with the schedule set forth in Chapter A347, Fees.
- (2) In addition to the fee schedule referred to above, there shall be an annual fee as set forth in Chapter A347, Fees, applicable to all nonresidents.
- (3) The annual municipal dock permit fees for special floats with finger piers, known as the "S-float," shall be as set forth in Chapter A347, Fees.

- (4) A decal for the parking of one car shall be issued with each municipal dock permit.
- (5) There shall be an additional fee, annually, as set forth in Chapter A347, Fees, for those permit holders desiring a locker.
- (6) Senior citizen discount. Duly authorized permittees who are residents of the Village of Mamaroneck and have been issued municipal dock permits for at least three consecutive years and have attained the age of 65 years shall be entitled to a discount for charges incurred in connection with municipal dock permits, as specified in Chapter A347, Fees.
- (7) Each watercraft shall be measured from bow to stern on a center line over the deck.
- (8) Ramp service charge and rack fees shall be as set forth in Chapter A347, Fees.

B. Municipal dock permit process.

- (1) Any person desiring to procure a municipal dock permit shall file with the Harbor Master a written application upon a form furnished by the Harbor Master. Such application shall state the name, type, length and registration number, if any, of the watercraft. Applications for municipal dock permits shall include the name of the owner, together with such proof of ownership as the Harbor Master may require. A company making such application shall designate a living person as its representative. The annual permit fee, as set forth in Chapter A347, Fees, shall accompany the application.
- (2) The Harbor Master has the authority to approve or deny each application for a permit and to designate the space to be used in connection with such permit.
- (3) Municipal dock permits shall be issued only to the owner, lessee or charterer of the watercraft.
- (4) Municipal dock permits shall be valid from May 1 through November 1.
- (5) There shall be a charge as set forth in Chapter 347, Fees, for the issuance of a duplicate decal to replace a lost or misplaced decal.
- (6) Requests for municipal dock permits may be filed with the Harbor Master at any time, specifying the type and size of the watercraft for which a permit is requested. Priority shall be given to those

persons seeking to renew a permit granted in the preceding year. After March 1, the last date for filing applications for renewal of municipal dock permits, applications for new permits will be forwarded to those persons who have requested the same as space is available for the type and size of watercraft for which municipal dock space has been requested. Within the limits of type and size of watercraft, priority will be given in the forwarding of applications for permits in the order which requests for such permits have been filed with the Harbor Master.

- (7) Municipal dock permits shall be displayed conspicuously as indicated in this chapter only on the particular watercraft with respect to which application was made. Municipal dock permits are not transferable or assignable from person to person or watercraft to watercraft, except as herein provided. Subject to the consent of the Harbor Master and upon payment of a fee as set forth in Chapter A347, Fees, the holder of a permit may exchange such permit with the holder of another permit so as to allow an exchange of locations between such two holders. The holder of a permit may substitute another watercraft of which such holder is the owner, lessee or charterer for the watercraft originally specified in the permit, provided that the Harbor Master approves such substitution upon written application therefor.
- (8) In the event that the holder of a municipal dock permit sells his watercraft while the permit is still in force, he shall immediately notify the Harbor Master, in writing. The party holding such municipal dock permit shall cause the decal to be removed prior to the watercraft's delivery to the purchaser.
- (9) It is a violation of this chapter for any person issued a permit to transfer or cause to be transferred such permit to any other person or watercraft. This violation shall apply to both the person so transferring and person so receiving or benefitting from the transfer.

C. Restrictions and standards.

- (1) No persons other than municipal dock permit holders, members of their families, bona fide guests of municipal dock permit holders and authorized servicemen servicing vessels of municipal dock permit holders shall be permitted on municipal docks. Guests not accompanied by a permit holder must be prepared to show the permit holder's New York State vessel registration or written authorization to use the vessel. Persons under 16 years of age who do not hold a New York State, or equivalent, safe boating certificate must be accompanied by an adult. All persons using

municipal docks shall, upon request, identify themselves to Village authorities.

- (2) No person shall swim or dive from municipal docks.
- (3) No person shall fish from municipal docks or from watercraft tied to such docks.
- (4) No person shall clean fish on or within 100 feet of the municipal docks.
- (5) No person shall keep or store gasoline or other volatile substances in Village locker buildings.
- (6) No person shall take watercraft up or down gangways leading to municipal docks, nor shall any person haul watercraft up on a municipal dock for any purpose.
- (7) No person shall tie any watercraft to a municipal dock in other than the watercraft's assigned location, except when using the Village pump-out facilities or when picking up or discharging passengers or gear at a landing stage and then for no longer than 15 minutes.
- (8) Any watercraft not removed from the harbor area, whether in the water or on land, by November 1 shall be considered abandoned property. Upon written request for an extension and weather permitting, the Harbor Master may give permission to an applicant to keep his or her watercraft in the water at a designated float. Such watercraft not removed at the expiration of the extended period shall be considered abandoned property. Watercraft declared abandoned property by virtue of noncompliance with the above provisions may be disposed of by the Village Manager pursuant to public auction; provided, however, that, prior to any said auction taking place, the Village Manager or the Harbor Master shall cause the permit holder to be notified, by certified mail, of the impending public sale. If said watercraft is claimed by its true owner subsequent to the date given by the Harbor Master for watercraft to be out of the harbor area, then the Village Manager can assess reasonable removal and storage fees based upon those rates prevailing in the area at the time said watercraft is claimed, and said fees must be paid prior to receipt of the watercraft by the permit holder or owner. Any moneys expended by the Village of Mamaroneck associated with removal or auction must be paid by either the new owner or the previous owner.
- (9) Assigned watercraft space at municipal docks which has not been occupied by the watercraft assigned to the space by July 1 of the

current year shall be forfeited and reassigned, unless the Harbor Master grants an extension upon application for good cause shown.

- (10) If an assigned watercraft is to be removed from its space for a period of 30 days or more after July 1 and before September 1, the owner shall notify the Harbor Master. Failure to notify the Harbor Master shall be a violation of this section and the space shall be forfeited and reassigned, unless the Harbor Master agrees to waive this provision.
- (11) No part of a watercraft or its equipment shall be permitted to project over the edge of a municipal dock more than 12 inches.
- (12) Watercraft at municipal docks shall be moored by a bow line and side spring lines in such a manner as to maintain the watercraft perpendicular to the dock.
- (13) Visitors' docks in the Village of Mamaroneck shall be regulated by the Harbor Master for the purpose of providing temporary stay for visitors' vessels. The relocation or removal of visitors' docks shall be directed by the Harbor Master with the approval of the Village Manager.

§ 240-19. Removal of moorings, record keeping and other harbor-related regulations.

- A. Record of mooring. The Harbor Master shall record in a proper register the location and the names, length, draft, beam and type of all watercraft moored in the harbor, as well as the names and addresses of the owners of all such watercraft, and the position of each approved mooring shall be noted upon a map or chart of the harbor. Such records, maps and charts shall be kept at the office of the Harbor Master.
- B. Inspection of watercraft. The Harbor Master, Assistant Harbor Master and/or Police Bay Constables of the Village of Mamaroneck, while performing their special duties, may enter and survey all watercraft within the harbor for the purpose of determining compliance with the Navigation Law and the Environmental Conservation Law of the State of New York and with this chapter in the presence of the owner or operator of the watercraft or the owner or operator's representative. However, in case of emergency, the Harbor Master, Assistant Harbor Master and/or Police Bay Constables may board and enter any watercraft to prevent damage or harm to life or property.
- C. Revocation of permits. Upon conviction for any violation of this chapter or any regulation promulgated by any applicable state or federal law, all permits issued pursuant to this chapter may be revoked by the Harbor Master, except that any aggrieved party has the right to appeal any such

determination to the Village Manager within five business days from notification of such revocation, at which time the Village Manager shall hear and determine the appeal.

- D. Removal of watercraft. The Harbor Master may remove unattended watercraft from their mooring or anchorage location in order to protect life or property.
- E. If directions given by the Harbor Master, with the approval of the Village Manager, with respect to removing unauthorized moorings or changing the location of existing moorings, shortening of mooring chains, cables or ropes or with respect to other provisions of this chapter are not complied with within 10 days after notice of such direction has been given as herein provided, the Harbor Master, with the approval of the Village Manager, may cause such moorings to be removed or changed or may drop the same to the bottom. The cost of such removal, change or dropping will be assessed against the owner of the watercraft, and an action therefor may be instituted in the Village Court. Whenever the Harbor Master shall be unable to find the owner of a watercraft or mooring or any agent or person in possession, charge or control thereof upon whom notice may be served, he shall address, stamp and mail such notice, by certified mail, to such person at his last known address and, in addition thereto, shall, during the notice period, attach said notice to the subject watercraft.
- F. Any watercraft or marine structure or part thereof, including moorings, which becomes a menace to navigation or a danger to life, property or the environment, which is unseaworthy or sinks to the bottom or is run aground or otherwise becomes disabled, shall be removed by the owner or person in charge thereof within 10 calendar days of issuance of an order to correct said hazard by the Harbor Master. If such menace to navigation and/or safety is not removed or corrected within 10 calendar days as aforesaid, it may be removed or corrected by the Harbor Master or at his direction, and the cost thereof shall be charged against said owner or person in charge of said navigation hazard. Nothing herein contained shall prevent the Harbor Master from moving or removing a watercraft or vessel or marine structure that creates an immediate hazard to human life, property or the environment, or from taking such immediate action as he deems necessary for the protection of life and limb, property or the environment.

ARTICLE V, Perimeter Permits

§ 240-20. Permit process for perimeter permits for in-water activity in Mamaroneck Harbor.

- A. Any person desiring to commence in-water construction or move or reconfigure any marine structure to moor, dock or service 10 or more

watercraft at a single site may either apply for a perimeter permit pursuant to this article or may apply for a construction or reconstruction permit pursuant to Article VI of this chapter.

- B. In the event that a perimeter permit is issued pursuant to the provisions of this article, then compliance with the provisions of Article VI of this chapter shall not be required.
- C. For a perimeter permit, an application may be made, in writing, to the Building Department of the Village of Mamaroneck for in-water marine structures for mooring, docking or servicing 10 or more watercraft at a single site, and the Building Department shall refer said application to the Harbor and Coastal Zone Management Commission within five days of the date of the application, provided that it appears to conform, in all respects, to all other applicable laws and ordinances.
- D. As applicable, the application for a perimeter permit shall include information necessary to complete the Village building application to erect marine structures. In addition, the perimeter permit application shall include the following:
 - (1) A notarized letter of consent if the applicant is not the owner of the upland property.
 - (2) A site plan map, prepared and sealed by a registered professional engineer or architect, which includes an upland reference of a suitable scale detailing existing conditions of the in-water structures of said property, as well as for a distance of a minimum of 50 feet on all water sides of the proposed perimeter permit area, showing the uses of the properties within 400 feet. The Harbor and Coastal Zone Management Commission may require a larger site plan map depending on the area. The site plan map shall include all dimensions of fairways immediately adjacent to the permit area defining access to open waters.
 - (3) A statement describing the nature of planned in-water activity and the type, size and number of watercraft contained in the perimeter area.
 - (4) Proposed plans for changes of construction and usage within the perimeter during the term of the permit.
 - (5) A listing of names and addresses of all property owners within 400 feet of the subject premises.
- E. Limitations of the perimeter permit.

- (1) No additional boat slips may be incorporated beyond the number which is authorized and approved in the perimeter permit, unless authorized by the Harbor and Coastal Zone Management Commission.
- (2) No change in the function or use of the docking facility of the perimeter water area may be undertaken (e.g., floating to fixed docks).
- (3) Excavation, dredging, bulkheading or filling shall not be commenced by any person prior to receiving all local, state and federal regulatory approvals or permits.
- (4) Boats may not protrude outside of the approved perimeter.

F. Review procedure for perimeter permits.

- (1) Upon receipt of a perimeter permit application and appropriate documentation, the Building Department shall circulate the application to the Harbor and Coastal Zone Management Commission, the Village's engineering consultant, the Harbor Master, the Clerk-Treasurer and the Village Manager for their review and comment.
- (2) The Harbor and Coastal Zone Management Commission shall review the application at a public meeting and set a hearing date. Such hearing date, unless for good cause shown, shall be a regularly scheduled meeting of the Harbor and Coastal Zone Management Commission, no less than 31 days or more than 62 days from the date of receipt of the application from the Building Department, and all property owners within 400 feet shall be notified of said hearing date by the applicant, who shall provide proof to the Harbor and Coastal Zone Management Commission of such notification.

G. Criteria for consideration of perimeter permits. The Harbor and Coastal Zone Management Commission shall approve, approve with conditions or disapprove an application for a perimeter permit. The approval, approval with conditions or disapproval of any application for a perimeter permit shall be by the majority vote of the Harbor and Coastal Zone Management Commission members present, using as a guide the following criteria:

- (1) General criteria. The proposal for which an application is made shall not result in:
 - (a) Conflicts with the Harbor Management Plan or any of the activities stated in this chapter.

- (b) Navigation. An actual or potential hazard to navigation.
 - (c) Environment. An adverse environmental impact (in accordance with the State Environmental Quality Review Act).
- (2) Specific criteria. The permit shall be denied if:
- (a) The proposal does not provide adequate fairways for access to and from open waters.
 - (b) The application does not adequately describe the nature of activities to reconfigure or relocate docks, pilings and ramps within the perimeter area.
 - (c) The application plans construction activities for which insufficient specifications are set forth.
 - (d) The proposal is determined to be inconsistent with the policies and purposes of the Local Waterfront Revitalization Program of the Village of Mamaroneck and the Harbor Management Plan contained within it, pursuant to Article VIII of this chapter.
 - (e) The proposal is determined to be inconsistent with the Harbor Management Plan.
 - (f) The proposal would result in a significant adverse environmental impact.
- (3) The permit may be denied for any other documented reason in writing.

H. Duration and revocation. A perimeter permit, upon approval, shall remain in effect for four years and may be renewed by the Harbor and Coastal Zone Management Commission as of right for two additional three-year terms, unless denied by the Harbor and Coastal Zone Management Commission, and provided that the Harbor and Coastal Zone Management Commission has not revoked the permit upon a determination that the permittee has failed to comply with the terms and conditions of the permit.

ARTICLE VI, Construction and Reconstruction Permits

§ 240-21. Permit process for construction or reconstruction in Mamaroneck Harbor.

- A. Construction or reconstruction, as defined in Subsection B hereof, is prohibited unless the party seeking to perform the same obtains a permit with respect to the same.
- B. An application for a permit for the construction or reconstruction, as defined herein, of a marine structure within the harbor shall be submitted to the Building Department and referred by the Building Department to the Harbor and Coastal Zone Management Commission, provided that it appears to conform, in all respects, to all other applicable laws and ordinances. For the purpose of this section, "construction" and "reconstruction" shall mean any new construction of any value or the addition to or alteration of any existing marine structure where the estimated cost of construction or reconstruction is more than \$3,000. "Addition" or "alteration" or "erection," as used herein, shall refer to activity respecting a single project, or collectively for any projects or portions thereof, over a one-year period, which relates to any marine structure under common ownership. Estimated cost shall be deemed or computed pursuant to § 126-14 of Chapter 126, Building Construction, as amended.
- C. Notwithstanding the provisions of the above Subsection B, an application for a permit shall be filed for a construction or reconstruction which results in a changed configuration to an existing marine structure or which the Harbor and Coastal Zone Management Commission determines may result in an interference with navigation within the harbor or a conflict with the approved Harbor Management Plan.
- D. If a construction or reconstruction results in a changed configuration, the applicant shall notify, in writing, all property owners within 100 feet of the property line and shall provide proof to the Harbor and Coastal Zone Management Commission of such notification.
- E. No permit shall be required for replacement in place and in kind, provided that the applicant can substantiate the previous structure with documents on file in the Building Department. In no case shall the applicant use this section if the replacement cost is in excess of \$5,000.
- F. In the event that an existing structure is damaged by storm or other act of God, it may be replaced in kind without a permit, provided that the existence of said structure can be substantiated by proof to the satisfaction of the Harbor and Coastal Zone Management Commission, and provided that said construction is completed within six months from the date of the damage and the total replacement cost is less than \$10,000. Notwithstanding the aforementioned, no such dollar limit shall apply for the replacement of bulkheads.

§ 240-22. Public hearings.

The Harbor and Coastal Zone Management Commission shall conduct a hearing on each application referred to it. Such hearing, unless for good cause shown, shall be at a regularly scheduled meeting of the Harbor and Coastal Zone Management Commission, no less than 31 and no more than 62 days from the date of receipt of the application from the Building Department.

§ 240-23. Consideration of application.

The Harbor and Coastal Zone Management Commission may approve, approve with conditions, approve in whole or in part or disapprove any application for a permit referred to it. Such approval, approval with conditions or disapproval shall be by the majority vote of the Harbor and Coastal Zone Management Commission members present. The Harbor and Coastal Zone Management Commission shall not approve an application for a permit if the Harbor and Coastal Zone Management Commission finds that the marine structure for which the permit was applied would, if erected, be detrimental to the desirability or development of the harbor by reason of:

- A. Method and manner of construction: unsuitable materials, methods or design which can be reasonably expected to result in a marine structure that may fail to accomplish its stated and intended purpose or will present a safety hazard to any person utilizing the harbor for commercial or recreational pursuits.
- B. Inappropriateness of marine structure: inappropriate size, design or material which will result in a marine structure that is ill-suited or ill-adapted to its stated and intended purpose or is reasonably anticipated to conflict with the lawful use of any existing marine structure in the harbor or any land-based structure located within 500 feet of the proposed marine structure.
- C. Conflict with the Harbor Management Plan: a determination that approval of the marine structure would be inconsistent with or result in conflict with the Harbor Management Plan or any of the activities stated in this chapter.
- D. Navigation: an actual or potential hazard to navigation.
- E. Environment: significant adverse aesthetic or environmental impacts.

§ 240-24. Action on application and appeal process.

- A. Upon approval by the Harbor and Coastal Zone Management Commission of a permit application in whole or in part or with conditions, the Building Department shall issue a permit to construct or reconstruct a marine structure. If the Harbor and Coastal Zone Management Commission approves a permit application with conditions, the Building Department shall include the conditions of the Harbor and Coastal Zone Management Commission in the permit.

- B. The Building Department shall not issue any permit for a permit application disapproved as provided in this chapter. Failure on the part of the Harbor and Coastal Zone Management Commission to act on any permit application referred to it under this chapter within 124 days from the date of receipt of the application by the Harbor and Coastal Zone Management Commission from the Building Department shall be deemed to constitute disapproval, unless the time limit is extended by a resolution, adopted by a majority of the members present of the Harbor and Coastal Zone Management Commission, not to exceed a total of 180 days.
- C. The Building Department shall forthwith issue an order to stop all work of construction or reconstruction of any marine structure if an applicant proceeds after the application has been disapproved by the Harbor and Coastal Zone Management Commission or if the applicant proceeds in a manner inconsistent with the conditions or specifications under which the Harbor and Coastal Zone Management Commission approved the application or if a marine structure is constructed or reconstructed without obtaining the necessary permits as outlined in Articles V and VI.
- D. Any party aggrieved by a decision of the Harbor and Coastal Zone Management Commission in disapproving a permit application or approving a permit application with or without conditions may take an appeal to the Supreme Court of the State of New York, County of Westchester, pursuant to Article 78 of the Civil Practice Law and Rules, within 30 days of the filing of the decision of the Harbor and Coastal Zone Management Commission.
- E. With respect to marine structures, this section shall supersede the provisions of the Building Code and Chapter 126, Building Construction, as amended.

ARTICLE VII, Enforcement

§ 240-25. Enforcement generally; penalties for offenses; additional regulations.

- A. Enforcement. The enforcing authority of Articles II through VI of this chapter shall be the Harbor Master, the enforcing authority of the Building Department, the members of the Village of Mamaroneck Police Department, the Police Bay Constables and any other official of the Village of Mamaroneck authorized to issue summonses and appearance tickets pursuant to Article 150 of the New York State Criminal Procedure Law.
- B. Penalties for offenses.

- (1) Any person, firm, association or corporation violating any of the foregoing provisions of this chapter shall be guilty of an offense and may, upon conviction, be punished by a fine not exceeding \$250 or imprisonment not exceeding 15 days, or both, for each and every day in violation.
- (2) In addition, any person who has been convicted of a violation of § 240-14D(3) or § 240-18B(9) herein shall have any current permits revoked and may not be permitted to apply for or to receive permits for two years.

C. Appeals. The Village Manager of the Village of Mamaroneck shall be empowered to hear and decide appeals from and review any order, requirement, decision or determination made by the Harbor Master with respect to the issuance or revocation of mooring tackle and buoy permits or municipal dock permits as provided for in this chapter.

- (1) Request for hearing. Upon the denial of a permit by the Harbor Master in connection with the issuance of a mooring tackle and buoy permit or municipal dock permit, or upon the issuance of a notice of revocation of any such permit, the aggrieved applicant may, within 10 days after receiving written notice from the Harbor Master, file an appeal, in writing, in the office of the Village Manager requesting a review of any such determination by the Harbor Master. The Village Manager shall hear and decide such appeals and may reverse or affirm, wholly or partly, or may modify the determination appealed from and/or make such determination and order which, in his or her opinion, should be made under the circumstances.
- (2) Filing fee. Each request for a review of any order, requirement, decision or determination made by the Harbor Master with respect to the issuance or revocation of mooring tackle and buoy permits or municipal dock permits shall be accompanied by the required fee as set forth in Chapter A347, Fees.
- (3) Hearing. Upon receipt of a request for a hearing as provided above, the Village Manager shall set a time and place for a hearing. Such hearing shall commence no later than 30 days after the date on which the request was filed, unless an extension of said time period is agreed upon by both the Village Manager and the aggrieved party. Failure by the Village Manager to commence said hearing within the above-specified time period shall not be deemed to constitute approval of such request if good and sufficient reason exists.

- (4) Conduct of hearing. The applicant or his representative shall be given an opportunity to show cause why such decision by the Harbor Master should be modified or withdrawn. The burden of proof in this regard shall be upon said applicant or his representative, who shall be required to demonstrate by a fair preponderance of the evidence that the Harbor Master's decision should be withdrawn or modified.
 - (5) Findings. Upon consideration of the evidence presented, the Village Manager shall sustain, modify or revoke the Harbor Master's decision. Any decision of the Village Manager to sustain, modify or revoke the Harbor Master's decision shall be consistent with the Village's approved Harbor Management Plan and any other applicable law.
- D. Adoption of administrative regulations. In the event that administrative regulations are required for the safe and efficient maintenance of the harbor and related moorings and float facilities, the following procedure shall apply:
- (1) Any proposed administrative regulation relative to Chapter 240 shall be submitted to and reviewed by the Harbor and Coastal Zone Management Commission, the Harbor Master, the Village Manager and the Village Attorney. Any comments by the Harbor and Coastal Zone Management Commission, the Harbor Master, the Village Manager or the Village Attorney shall be forwarded to the Village Board of Trustees for its review and consideration prior to the meeting at which the proposed regulations are considered for approval or disapproval by the Village Board of Trustees.
 - (2) Any proposed administrative regulation relative to Chapter 240 shall be approved or disapproved by the Village Board of Trustees.
 - (3) If proposed administrative regulations are approved by the Village Board of Trustees, said regulation shall be posted in five designated public places within the Village of Mamaroneck and shall be enforced by the Harbor Master.

ARTICLE VIII, Coastal Management

§ 240-26. Compliance required; consistency with other provisions.

- A. No local agency involved in an action shall carry out or approve the action until it has complied with the provisions of this article.
- B. Actions directly undertaken by local agencies and actions approved by local agencies within the coastal area shall be consistent, to the maximum extent practicable, with the applicable coastal policies set forth in the

Village of Mamaroneck Local Waterfront Revitalization Program, as adopted on November 13, 1984, and amended from time to time, so as to achieve a balance between the protection of natural resources and the need to accommodate the needs of population growth and economic development. It is intended that this balancing occur in the manner specified in §§ 240-27 through 240-30.

- C. Nothing in this article shall be construed to authorize or require the issuance of any permit, license, certificate of determination or other approval which is denied by the agency having jurisdiction pursuant to other provisions of law or which is conditioned by such agency pursuant to other provisions of law until such conditions are met.

§ 240-27. Review of actions required.

As early as possible in an agency's formulation of a direct action or as soon as an agency receives an application for approval of an action, the agency shall follow the review procedures set forth in this article.

§ 240-28. Coastal assessment form.

- A. For direct agency actions, the agency shall complete, and for approval of an action, the agency shall cause the applicant to complete, a Coastal Assessment Form (CAF). The CAF shall be completed prior to the agency's determination of the environmental significance pursuant to Chapter 168, Article I, and the State Environmental Quality Review Act.⁸
- B. Where any question on the CAF is answered yes, a brief and precise description of the nature and extent of the action shall be provided on the CAF, and a copy of the CAF shall be forwarded to the Harbor and Coastal Zone Management Commission.

§ 240-29. Determination of consistency.

Prior to an action or approval of an action by an agency of the Village, such action shall be certified as consistent, to the maximum extent practicable, with the policies of the Village of Mamaroneck Local Waterfront Revitalization Program, as follows:

- A. For Type I and unlisted actions, the Harbor and Coastal Zone Management Commission shall determine whether the actions are consistent, to the maximum extent practicable, with the policies of the Village of Mamaroneck Local Waterfront Revitalization Program.

⁸ See Art. 8 of the Environmental Conservation Law.

- B. For Type II actions, the lead agency shall determine whether the actions are consistent, to the maximum extent practicable, with the policies of the Village of Mamaroneck Local Waterfront Revitalization Program.

§ 240-30. Certificate of determination; filing and contents; building permit.

- A. A certificate of determination shall be filed with the Village Clerk by the appropriate agency, pursuant to the provisions of § 240-29, within a thirty-day period from the filing of the Coastal Assessment Form or within time allowed for comments under the State Environmental Quality Review Act,⁹ whichever is later. In the event that no certificate is issued within such time period, an affirmative determination shall be deemed to have been issued.
- B. The certificate shall state that the action will not substantially hinder the achievement of any of the policies set forth in the Village of Mamaroneck Local Waterfront Revitalization Program and, whenever practicable, will advance one or more of such policies.
- C. If the action will substantially hinder the achievement of any policy, the certificate shall state that the following four requirements are satisfied:
- (1) No feasible alternatives exist which would permit the action to be taken in a manner which would not substantially hinder the achievement of such policy.
 - (2) The action taken will minimize all adverse effects on such policies to the maximum extent practicable.
 - (3) The action will advance one or more of the other coastal policies.
 - (4) The action will result in an overriding public benefit.
- D. Such certification shall constitute a determination that the action is consistent, to the maximum extent practicable, with the policies of the Village of Mamaroneck Local Waterfront Revitalization Program.
- E. Permit required. In addition to all other required permits and approvals, a permit from the Planning Board shall be required for any building, structure or parking area otherwise requiring subdivision or site plan approval that is wholly or in part hereafter constructed, altered, enlarged and/or enclosed within 50 feet from the mean high-water line of Long Island Sound or any body of water which flows into Long Island Sound. A dock, mooring, breakwater or other structure which must, due to the nature of its use, be located on, in or immediately adjacent to the water shall be exempt from this provision. Application shall be made to the

⁹ See Art. 8 of the Environmental Conservation Law.

Planning Board on such forms as it shall require and shall be coordinated with the subdivision or site plan approval process. Notwithstanding any inconsistent provision of the Village Code, this provision shall not apply to normal maintenance or to the replacement in kind of any existing building or structure which has been damaged or destroyed by fire, storm or other casualty; however, damage or destruction due to neglect shall not be exempt from the requirement of a permit. The permit applicant shall demonstrate to the Planning Board's satisfaction that the encroaching building, structure, or parking area is water-dependent (based upon the criteria in the Village of Mamaroneck Local Waterfront Revitalization Program) or cannot reasonably be located elsewhere on the property. Water-dependent buildings or structures may include, as an illustration, marinas, cabanas, boat storage, and boat mechanics' work areas.

§ 240-31. Environmental impact statements; notice of completion.

- A. The body of draft and final environmental impact statements shall contain an identification of the applicable policies of the Village of Mamaroneck Local Waterfront Revitalization Program and a discussion of the effects of the proposed action on such policies.
- B. Draft and final environmental impact statements, together with notices of completion, shall be filed with the Secretary of State, as well as with the Harbor and Coastal Zone Management Commission and other involved agencies.

§ 240-32. Penalties for offenses.

Any person violating any of the provisions of this article shall be punishable, upon conviction thereof, by a fine not exceeding \$250 or imprisonment not exceeding 15 days, or both.

ARTICLE IX, Harbor and Coastal Zone Management Commission

§ 240-33. Creation.

The Village of Mamaroneck, by this legislation, does create a permanent Harbor and Coastal Zone Management Commission, the function of which is to serve in an advisory capacity to the Village Board of Trustees in matters relating to the coastal zone in the Village of Mamaroneck and the harbor and to manage the harbor in accordance with this chapter.

§ 240-34. Legislative Intent.

In establishing the Harbor and Coastal Zone Management Commission, the Village Board of Trustees is aware that mutual concerns will be shared by the Harbor and Coastal Zone Management Commission and other nonelective Village boards and commissions as well as other public and private agencies. It is the

intention of this legislation that the Harbor and Coastal Zone Management Commission will, in submitting its recommendations to the Village Board of Trustees on coastal zone and harbor management matters, seek out, cooperate with and avail itself of the experience and expertise of boards and commissions of the Village of Mamaroneck. In addition, the Harbor and Coastal Zone Management Commission will draw upon sources that are available on a state and county level and neighboring municipalities in order that it may assemble and disseminate the best possible work product for the benefit of the entire Village.

§ 240-35. Findings; goals and purpose of the Harbor and Coastal Zone Management Commission.

- A. The Village Board of Trustees is acutely aware that its harbor, coastline, waterfront and river tributaries, their use and their development are vital to the Village of Mamaroneck and its future. Additionally, the Village of Mamaroneck is concerned with the present and future uses in the development of the surrounding upland areas which affect the runoff, silting and riparian interests of the Village of Mamaroneck. The establishment of the Harbor and Coastal Zone Management Commission will enable the Village of Mamaroneck to protect and enhance its coastal zone as an integral part of the future development of the Village and achieve its long-range goals, which shall include but not be limited to the following:
- (1) The quality of the coastal environment, water and air quality, fish, wildlife, wetlands and natural areas shall be preserved, protected and enhanced.
 - (2) Recreational opportunities shall be expanded, and open access to the waterfront shall be guaranteed for residents.
 - (3) The present flooding and silting condition caused by flood tides and upland actions along the tributaries of the rivers traversing the Village must be carefully monitored and eliminated where possible.
 - (4) Sedimentation of the harbor should be controlled and reduced.
 - (5) The land adjacent to the tidal area of the coastal zone, which is one of the Village's principal assets, should be studied and a plan should be submitted to the Village Board of Trustees in order that it be used in such a manner as to contribute to the overall development of the Village, the economic vitality of the Village being likewise essential to the future of its coastal zone.
 - (6) Upgrading the zoning in and around the coastal zone.

- B. In establishing this article, the Village Board of Trustees recognizes that the present excellent quality of life within the Village is, in great measure, due to the present balance of land and water uses within the coastal zone. The Harbor and Coastal Zone Management Commission shall develop recommendations to the Village Board of Trustees in order that the Village Board of Trustees, by legislative acts, will achieve and guarantee that this present delicate balance is maintained.
- C. In establishing this Harbor and Coastal Zone Management Commission, the Village Board of Trustees recognizes that the coastal zone is a delicate ecosystem. Pollution, destruction of marshlands and failure to protect fish and wildlife can destroy that ecosystem. The Village Board of Trustees, therefore, seeks the help and advice and the recommendations of the Harbor and Coastal Zone Management Commission, in conjunction with the Village boards and commissions, county agencies, state and federal governments and with the cooperation of Village residents, to recommend all possible actions to preserve the coastal zone.
- D. The establishment of the Harbor and Coastal Zone Management Commission will enable the Village of Mamaroneck to implement a plan for the management of the Mamaroneck Harbor and coastal area.

§ 240-36. Membership and terms; representatives from other official bodies.

- A. The Harbor and Coastal Zone Management Commission within the Village of Mamaroneck shall consist of seven (7) members, who shall be residents of the Village and who shall be appointed by the Village Board of Trustees for terms of three (3) years, each term to expire at the end of the official year of the Village, except that, of those first appointed, three (3) shall be appointed to serve for three (3) years, two (2) shall be appointed to serve for two (2) years, and two (2) shall be appointed to serve for one (1) year. The members of the Harbor and Coastal Zone Management Commission shall serve without compensation. Any vacancy on the Harbor and Coastal Zone Management Commission shall be filled for the unexpired term in the same manner in which the original appointment was made. The Chairperson of the Harbor and Coastal Zone Management Commission shall be appointed by the Harbor and Coastal Zone Management Commission.
- B. Additional representatives.
 - (1) In addition, there shall be a representative, who shall be designated as a liaison person without voting rights from the following commissions and boards, who shall also serve on the Harbor and Coastal Zone Management Commission:
 - (a) One (1) representative from the Planning Board.

- (b) One (1) representative from the Recreation and Parks Commission.
- (2) Their terms shall be ongoing in accordance with their terms of office in the respective Board or Commission on which they serve and at the discretion of the particular Board or Commission which the member represents.
- (3) The Harbor Master shall be a nonvoting ex officio member of the Harbor and Coastal Zone Management Commission.
- (4) The Fire Department and the Chairperson of the Recreation and Parks Commission or their designees shall receive a copy of the agenda and minutes of each meeting to determine if their attendance at any Harbor and Coastal Zone Management Commission meeting is advisable. In addition, a member of the Police Bay Constable force shall attend each Harbor and Coastal Zone Management Commission meeting during the boating season, unless otherwise directed by the Chief of Police.
- (5) The Harbor and Coastal Zone Management Commission may, from time to time, appoint nonpaid consultants as it deems necessary to carry out its obligations.

§ 240-37. Powers and Duties.

- A. The Harbor and Coastal Zone Management Commission shall have the following powers and duties:
 - (1) To establish its own rules of procedure. Said rules of procedure shall be approved by the Village Board of Trustees within four (4) months after the Harbor and Coastal Zone Management Commission is established.
 - (2) To establish a meeting schedule at intervals sufficient in number per year to accomplish the business of the Harbor and Coastal Zone Management Commission.
 - (3) To keep minutes of its meetings and to submit the minutes to the Village Board of Trustees and for distribution to other Village boards and commissions as directed by the Village Board of Trustees, and which minutes shall be made part of the official records of the Village of Mamaroneck.
 - (4) To pursue the goals and objectives contained in the Coastal Zone Management Program of the Village of Mamaroneck as adopted by the Village Board of Trustees from time to time and to act in advisory capacity to the Village Board of Trustees and such other

boards and commissions of the Village of Mamaroneck as the Harbor and Coastal Zone Management Commission may determine on matters relating to the coastal zone and environs in the Village of Mamaroneck as well as the uplands.

- (5) To review proposed actions that may affect the coastal zone in order to determine their consistency with the Village of Mamaroneck Local Waterfront Revitalization Program.
- (6) To consult with, advise and make recommendations to the Village Board of Trustees on all matters relating to the health and safety of people and the safety and security of facilities, marine structures and watercraft on, in or using the harbor and the land, structures and facilities abutting the harbor, including but not limited to:
 - (a) The use and operation of watercraft.
 - (b) The erection of marine structures.
 - (c) Dredging.
 - (d) The anchoring, mooring and docking of watercraft.
 - (e) The storing of watercraft.
 - (f) Pollution and the prevention thereof.
 - (g) The environment of the harbor.
 - (h) All marine-related recreational and commercial activities in the harbor.
 - (i) Safety and navigation.
 - (j) The functioning, performance and budget of the Harbor Master's Department.
 - (k) Utilization and development of the harbor.
- (7) To continually update the Harbor Management Plan.
- (8) To oversee the implementation of the Harbor Management Plan as adopted by the Village Board of Trustees.
- (9) To recommend to the Village Board of Trustees long-range plans relating to the harbor.
- (10) To recommend to the Village Board of Trustees adoption or amendment of ordinances relating to the harbor.

- (11) To consult with and advise the Chief of Police on matters relating to the Police Bay Constables.
 - (12) To consult with and advise the Fire Chief on matters relating to fire protection in the harbor.
 - (13) To consult with and advise the Recreation and Parks Commission on all matters of joint interest.
 - (14) To maintain liaison and consult with and advise appropriate federal, state and county officials on matters relating to the harbor.
 - (15) To submit to the Village Board of Trustees an annual report of the Harbor and Coastal Zone Management Commission's activities.
 - (16) To approve or disapprove requests for building permits for marine structures and perimeter permits in accordance with the provisions of this chapter.
- B. The Harbor and Coastal Zone Management Commission shall be further charged with the responsibility and duty of having reviewed the material contained in the document entitled "Village of Mamaroneck Coastal Zone Management Program, Phase I, Dated January 1981" with a view of using said document as a guideline in order that it may establish meaningful dialogue between the Harbor and Coastal Zone Management Commission and the Village Board of Trustees and other boards and commissions of the Village, County, State and Federal agencies. Further, the Harbor and Coastal Zone Management Commission shall assist the Village Board of Trustees and make recommendations to the Village Board of Trustees which may be contained in any Phase II, Phase III or any subsequent study involving the Coastal Zone Management Program for the Village of Mamaroneck.
- C. The Harbor and Coastal Zone Management Commission shall, in conjunction with the assistance of the Village Manager, develop data and application for financial grants from the federal, state and county governments to undertake the various studies and to obtain outside professional assistance as discussed in the Coastal Zone Management Report.
- D. The Harbor and Coastal Zone Management Commission shall diligently pursue the implementation of New York State Coastal Zone Legislation, maintaining close communication and dialogue with responsible state and county agencies and legislators.
- E. In connection with all matters relating to the oversight of the Harbor Management Plan and hearings under this chapter, the Chairperson or, in

the absence thereof, the Acting Chairperson may request the attendance of witnesses.

§ 240-38. Retention of expert assistance.

The Harbor and Coastal Zone Management Commission may hire any consultant and/or expert necessary to assist the Harbor and Coastal Zone Management Commission in reviewing and evaluating any applications before it, the cost of which shall be borne by the applicant.

SECTION 6. 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, such portion shall be deemed a separate, distinct and independent portion. Such declaration shall not affect the validity of the remaining portions hereof, which other portions shall continue in full force and effect.

SECTION 7. This Local Law shall become effective immediately upon filing in the office of the Secretary of State.

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ 8 _____ of 20⁰⁴ of the ~~(County)(City)(Town)~~(Village) of _____ Mamaroneck _____ was duly passed by the _____ Board of Trustees _____ on June 14, 20⁰⁴, in accordance with the applicable provisions of law.
(Name of Legislative Body)

2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer*.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20_____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved)(repassed after _____ disapproval) by the _____ and was deemed duly adopted on _____ 20____, in accordance with the applicable provisions of law.
(Name of Legislative Body)
(Elective Chief Executive Officer)*

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20_____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved)(repassed after _____ disapproval) by the _____ on _____ 20____. Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on _____ 20____, in accordance with the applicable provisions of law.
(Name of Legislative Body)
(Elective Chief Executive Officer)*

4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20_____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved)(repassed after _____ disapproval) by the _____ on _____ 20____. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____ 20____, in accordance with the applicable provisions of law.
(Name of Legislative Body)
(Elective Chief Executive Officer)*

* Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

5. (City local law concerning Charter revision proposed by petition.)

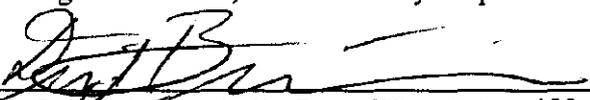
I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20_____ of the City of _____ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on _____ 20____, became operative.

6. (County local law concerning adoption of Charter.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20_____ of the County of _____ State of New York, having been submitted to the electors at the General Election of November _____ 20____, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph _____, above.



Clerk of the County legislative body, City, Town or Village Clerk or officer designated by local legislative body Village Clerk

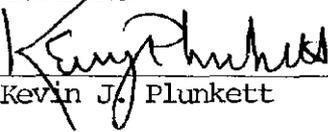
(Seal)

Date: June 16, 2004

(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized attorney of locality.)

STATE OF NEW YORK
COUNTY OF WESTCHESTER

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.



Signature Kevin J. Plunkett

Title Village Attorney

~~County~~
~~City~~ of Mamaroneck
~~Town~~
Village

Date: June 25, 2004