

**INTRODUCTORY LOCAL LAW No. 2 OF 2021
ADOPTED AS LOCAL LAW No. 3 OF 2021**

A LOCAL LAW AMENDING CHAPTER 122 OF THE CODE OF THE VILLAGE OF MONTGOMERY ENTITLED “ZONING” AND TO AMEND THE ZONING MAP IN FURTHERANCE OF THE IMPLEMENTATION OF RECOMMENDATIONS OF THE VILLAGE’S 2017 COMPREHENSIVE PLAN UPDATE.

BE IT ENACTED by the Board of Trustees of the Village of Montgomery, New York as follows:

SECTION 1. Legislative Findings, Purpose and Intent.

The Board of Trustees of the Village of Montgomery adopted its 2017 Comprehensive Plan Update on April 7, 2020. Said Comprehensive Plan Update made 87 short and long-term recommendations across a wide span of areas including, but not limited to, Natural Resource Protection, Downtown Revitalization, Economic Development and Land Use and Planning. It is, therefore, the purpose of this Local Law to begin the implementation of the 2017 Comprehensive Plan Update.

Pursuant to the statutory powers vested in the Board of Trustees of the Village of Montgomery to regulate and control land use and to guide and regulate orderly growth, development and redevelopment of the Village, the Village Board adopted Local Law No. 2 of 2020 on June 2, 2020, which became effective as of June 30, 2020, imposing a six month moratorium on all land use applications involving developments in business, industrial and multi-family residential zoning districts in the Village in order to give the Board of Trustees ample time to evaluate and consider changes to the Zoning regulations as recommended by the Comprehensive Plan Update. This land use moratorium was extended for an additional three-month period by Local Law No.3 of 2020 and for an additional two months by Local law No. 1 of 2021. It is also pursuant to its statutory powers that the Village hereby enacts this Local Law.

SECTION 2. AUTHORITY.

This Local Law is enacted by the Board of Trustees of the Village of Montgomery pursuant to its authority to adopt local laws under Article IX of the New York State Constitution, Section 10 of the Municipal Home Rule Law and Article XIII of Chapter 122 of the Village Code regarding amendment of the Village’s zoning regulations and zoning map.

SECTION 3.

Section 122-2(B) of the Code of the Village of Montgomery entitled “Definitions” is hereby amended by deleting the following definitions: AGRICULTURE, BILLIARD PARLORS and ROOMER, BOARDER or LODGER.

SECTION 4.

Section 122-2(B) of the Code of the Village of Montgomery entitled “Definitions” is

hereby amended to add the following terms in alphabetical order”

AGRICULTURE/HORTICULTURE OPERATION: The raising of crops and practices related to the production, preparation and harvesting thereof whether in enclosed buildings or outdoors, but not including the raising, breeding or keeping of animals for commercial purposes.

GENERAL INDUSTRY: An establishment primarily engaged in manufacturing, production, fabrication or assembly of raw products or unprocessed materials which may also include testing, repair and packing of components, devices and equipment systems.

INDOOR RECREATION BUSINESS: A business that offers recreation services or activities including video or virtual games, bowling, miniature golf, batting cages, court or field sports, fitness equipment or billiards within an enclosed building.

INDUSTRIAL BUSINESS PARK: A development which contains two or more buildings containing a combination of office, warehouse and non-nuisance industry **or any other permitted use in the zone**, in a unified, campus design. The development may also contain accessory uses such as cafes, cafeterias, conference rooms or other services intended to serve employees of the site.

PERSONAL SERVICE: An establishment which provides services or duties performed for the general public and their personal property, such as a barbershop, salon, tailor shop, photocopying, pet grooming, tutor or small class instruction for arts, dance or music, shoe repair shop and other similar places of business.

WHOLESALE BUSINESS: An establishment which sells goods, generally in large quantities, to retailers or professional businesses who, in turn, sell to consumers. Such establishments are not generally open to the general public.

SECTION 5.

Section 122-6. C. of the Code of the Village of Montgomery entitled “Environmental subdistricts” is hereby repealed.

SECTION 6.

Section 122-7.2. of the Code of the Village of Montgomery entitled “Floating districts: planned development districts. Is hereby amended by enacting a new Subsection H as follows:

§122-7.2. H. Expiration of approvals. Any PDD that has received final site plan approval by the Planning Board shall automatically expire three (3) years after such approval is granted if no substantial construction of the PDD has commenced. For the purposes of this Subsection, “substantial construction” shall mean installation of 50% of the required infrastructure, whether intended to be public or privately owned. Upon expiration of a PDD, the Board of Trustees shall amend the Zoning Map to designate the Zoning District of the lands encompassed by the expired PDD. In addition, any PDD existing as of the date of the adoption of this local law that has already exceeded the three-year expiration period stated herein shall have three (3) years from the effective date of this local law to complete “substantial construction” as that term is defined herein.

SECTION 7.

Sections 122-9 and 122-11 of the Code of the Village of Montgomery entitled “Additional restrictions for FP and A Districts” are hereby repealed.

SECTION 8.

Section 122-12 of the Code of the Village of Montgomery entitled “Prohibited uses” is hereby amended by repealing Subsection I and enacting a new Subsection I as follows:

§122-12. I. Outdoor carnival devices, such as sky rides, Ferris wheels, roller coasters, shooting galleries and amusement arcade machines, except on a temporary permit issued by the municipality.

SECTION 9.

Section 122-16 of the Code of the Village of Montgomery entitled “Yards” is hereby renamed to “Yards and setbacks” and is further amended to add a new Subsection G. as follows:

G. Lots bordering streams.

- (1) **No building permit shall be issued for the construction of any permitted or accessory structure on any land with slopes over 20% and within 100 feet of the Wallkill River nor within 50 feet of the normal water edge of any direct tributary branches thereof. Distances shall be measured horizontally and shown on site plans. A bridge may be permitted within this area with approval by the Planning Board.**
- (2) **There shall be no removal or deposition of natural ground cover or soil on lands, in any district, with slopes over 20% and within 100 feet of the bank of the Wallkill River.**

SECTION 10.

Section 122-20 of the Code of the Village of Montgomery entitled “Minimum residential floor area” is hereby amended by repealing Subsection B and enacting a new Subsection B as follows:

§122-20. B. Minimum schedule. Every dwelling or other building devoted in whole or in part to a residential use, which is hereafter erected or converted to accommodate additional families, shall provide a minimum floor area per family on finished floors, as defined by the NYS Building Code and in conformity with the following schedule and with other provisions of this section. The minimums stipulated herein shall be deemed to be exclusive of unenclosed porches, breezeways, garage areas and basement and cellar rooms or areas.

SECTION 11.

Section 122-25. B. of the Code of the Village of Montgomery entitled “Schedule of off-street parking space requirements for residential uses” is hereby amended by deleting therefrom Residential membership club or fraternity.

SECTION 12.

Section 122-25.C. of the Code of the Village of Montgomery entitled “Schedule of off-street parking space requirements for nonresidential uses” is hereby amended by deleting therefrom Hospital and Nursing Home and changing reference from Gasoline station to Filling station.

SECTION 13.

Section 122-25.C. of the Code of the Village of Montgomery entitled “Schedule of off-street parking space requirements for nonresidential uses” is hereby amended by deleting therefrom Home occupation or home professional office and Wholesale establishment or warehouse and enacting the following:

Home occupation or home professional office

In addition to the spaces for the residential use, 1 additional space plus, one additional space for each employee not residing in the home.

Wholesale establishment or warehouse

1 per 2,000 square feet of warehouse space plus 1 space per 200 feet of floor area for onsite office space plus appropriate parking for any tractor trailer or commercial vehicles.

SECTION 14.

Section 122-47.C. of the Code of the Village of Montgomery entitled “Special conditions and safeguards for certain special exception uses” is hereby amended by deleting the following uses: AIRPORT, BUS PASSENGER SHELTER, DWELLING UNITS OVER FIRST FLOOR NONRESIDENTIAL USES, FUEL STORAGE, HOSPITAL, SANATORIUM, NURSING HOME OR REST HOME, MEMBERSHIP CLUB, NONPROFIT, PRINTING AND PUBLISHING PLANTS, QUARRY, MINING, LOADING, HAULING AND/OR PROCESSING SAND, GRAVEL, SHALE OR TOPSOIL, TEMPORARY SAND AND GRAVEL REMOVAL OPERATIONS, and WAREHOUSE.

SECTION 15.

Section 122-47.C. of the Code of the Village of Montgomery entitled “Special conditions and safeguards for certain special exception uses” is hereby amend by adding the following uses in correct alphabetical order:

DWELLING UNITS OVER FIRST FLOOR NONRESIDENTIAL USES:

- (1) Minimum floor area for dwelling units shall not be less than:**

- (a) Two hundred fifty (250) square feet for a studio or efficiency unit.
 - (b) Five hundred (500) square feet for a one-bedroom unit.
 - (c) Two hundred (200) square feet for each additional bedroom.
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- (2) For purposes of Subsection (1), “floor area” shall mean the horizontal area of the following spaces: kitchen, living rooms, bedrooms, studies, dens and family rooms together with adjoining closets and hallways.
 - (3) At least two off-street parking spaces shall be provided within 500 feet of the dwelling. This requirement shall not be satisfied by utilizing a space or spaces in any municipal parking district established pursuant to §122-30B, except as expressly provided by resolution of the Board of Trustees.

INDUSTRIAL BUSINESS PARK:

- (1) No building dedicated solely to a warehouse use shall have a footprint of more than 80,000 square feet.
- (2) No open storage is allowed. All materials for storage or sale must be stored in completely enclosed buildings.
- (3) The façade of any warehouse with more than two loading docks shall be setback an additional 70 feet from residentially zoned properties.
- (4) No loading shall occur from the façade of the building facing a public street.
- (5) Building design. The Planning Board shall review the color, materials and design of all structures, including roof pitch, as to their conformity with surrounding structures, visibility from public roads, scenic areas and consistency with community character. Variations in materials, façade depths and other architectural design elements shall be used to break up the visual mass of large buildings. All structures on a single site should have a unified design.
- (6) Landscaping. Care shall be taken to provide an aesthetically pleasing, well-landscaped and well-maintained facility. Parking and loading areas and required yards shall be landscaped with a mix of evergreen and deciduous trees, shrubs of varying sizes and vegetative ground cover as appropriate to the site and approved by the Planning Board.
- (7) Parking should be calculated for the full site based on the standards established in Section 122-25 herein and shall be designed so that all buildings share parking. If an applicant can demonstrate that the overall parking demand is less for the full Industrial Business Park than for the sum of the individual uses based on shared parking and varying peak parking times, the Planning Board shall have the authority to reduce the parking by up to 25% of the total demand required herein.
- (8) Where an Industrial Business Park development includes research, design and development offices, including the development of software, bio-medical or other technology development, the allowable development coverage may be increased to 50%.
- (9) Permitted ancillary uses may include classrooms, conference rooms, employee break or dining areas, fitness or locker rooms and product showrooms are allowed provided such uses are intended for employees or their invited guests only.

WAREHOUSE: No authorization for a building permit or certificate of occupancy (for a proposed change in use) for a warehouse shall be granted by the Planning Board, unless the Planning Board shall specifically find that the proposed special exception use is in

keeping with the intent of the Comprehensive Plan while meeting the following special conditions:

- (1) No warehouse shall be situated on a site that is less than one (1) acre).
- (2) No warehouse building shall be greater than 35,000 square feet in the B-1 and I-2 Districts and no greater than 80,000 square feet in the I-1 District.
- (3) Off-street parking and loading spaces shall be provided in accordance with §§122-25 and 122-26 of this chapter.
- (4) Safe and adequate internal vehicular traffic circulation patterns shall be provided on site so that trucks do not have to maneuver within public rights-of-way and to allow access by emergency service vehicles.
- (5) No open storage is allowed. All items and materials shall be stored completely within the confines of the warehouse building.
- (6) Permitted ancillary uses. Professional offices, classrooms, conference rooms, employee break or dining areas and showrooms are allowed provided such uses do not occupy more than 20% of the total building area of the principal warehouse use.
- (7) Building design. The Planning Board shall review the color, materials and design of all structures, including roof pitch, as to their conformity with surrounding structures, visibility from public roads, scenic areas, and consistency with community character. Variations in materials, façade depths and other architectural design elements shall be used to break up the visual mass of large buildings. Multiple structures on a single site should have a unified design.
- (8) Landscaping. Care shall be taken to provide an aesthetically pleasing, well-landscaped and well-maintained facility. Parking and loading areas and required yards shall be landscaped with a mix of evergreen and deciduous trees and shrubs of varying sizes and vegetative ground cover as appropriate to the site and approved by the Planning Board.
- (9) Lighting plans should be provided with the Site Plan for review by the Planning Board. Lighting fixtures should be downcast and shielded so there is no glare or spillover onto other properties.
- (10) Such facilities are prohibited from storing or allowing the storage of toxic, explosive, flammable or otherwise dangerous and noxious materials that are incompatible with the public health and safety or that may pose a risk of groundwater or other contamination.
- (11) The facade of any warehouse with more than two loading docks shall be setback an additional 70 feet from residentially-zoned properties.
- (12) No loading shall occur from the faced of a building facing a public street.

SECTION 16.

Section 122-52 of the Code of the Village of Montgomery entitled “Criteria” is hereby amended by repealing Subsection I and re-lettering Subsection J to Subsection I.

SECTION 17.

The Table of Use Regulations for Residence and Agriculture Districts denoted as Attachment 3 of the Zoning Code of the Village of Montgomery is hereby repealed and a new Attachment 3 is hereby enacted and is attached to and incorporated in this Local Law.

SECTION 18.

The Table of Use regulations for Business and Industrial Districts denoted as Attachment 5 of the Zoning Code of the Village of Montgomery is hereby repealed and a new Attachment 5 is hereby enacted and is attached to and incorporated in this Local Law.

SECTION 19. Zoning Map Amendment.

The Zoning Map of the Village of Montgomery is hereby amended by re-zoning the following lot from the R-4 Zoning District to the B-2 Zoning District:

SECTION 201, BLOCK 2, LOT 6 Lands N/F Agotaras Properties, LLC

SECTION 20. Zoning Map Amendment.

The Zoning Map of the Village of Montgomery is hereby amended by re-zoning the following lot from the I-2 Zoning District to the R-4 Zoning District:

Section 211, Block 1, Lot 23 Lands N/F Gambelunghe

Section 211, Block 1, Lot 24 Lands N/F Miller

Section 211, Block 1, Lot 26 Lands N/F Reale

Section 211, Block 1, Lot 27 Lands N/F Malley

Section 211, Block 1, Lot 28.1 Lands N/F Embro

SECTION 21. Zoning Map Amendment.

The Zoning Map of the Village of Montgomery is hereby amended by re-zoning the following lots from the I-2 Zoning District to the B-2 Zoning District:

Section 202, Block 13, Lot 1.123 Lands N/F Rowley Development

Section 202, Block 13, Lot 5.22 Lands N/F Rowley Development

Section 202, Block 13, Lot 1.2 Lands N/F Middletown & NJ Railroad, LLC

Section 202, Block 13, Lot 2 Lands N/F Chambers Family Realty

Section 202, Block 1, Lot 1 Lands N/F Reliable Pump & Well Services, LLC

Section 202, Block 1, Lot 2 Lands N/F Reliable Pump & Well Services, LLC

SECTION 22. Zoning Map amendment.

The Zoning Map of the Village of Montgomery is hereby amended by re-zoning the following lot from the I-1 Zoning District to the B-2 Zoning District:

Section 213, Block 1, Lot 2 Lands N/F TID Realty

SECTION 23. Zoning Map Amendment.

The Zoning Map of the Village of Montgomery is hereby amended by re-zoning the following lot from the I-2 Zoning District to the R-6 (1 and 2 Family) District:

SECTION 24. Zoning Map amendment.

The Zoning Map of the Village of Montgomery is hereby amended by re-zoning the following lot from the RM-1 Multi-Family District to the R-2 (1 Family) District:

Section 204, Block 1, Lot 3.1 Lands N/F Meyer
Section 204, Block 1, Lot 3.2 Lands N/F Williams
Section 204, Block 1, Lot 4 Lands N/F Husinko
Section 204, Block 1, Lot 5 Lands N/F Orange Mental Retardation Property, Inc.
Section 204, Block 1, Lot 6.1 Lands N/F Baker
Section 204, Block 1, Lot 6.2 Lands N/F Williams

SECTION 25. Zoning Map Amendment

The Zoning Map of the Village of Montgomery is hereby amended by re-zoning that part of **Section 202, Block 1, Lot 9.2 Lands N/F Chambers Family Realty** that is presently Zoned RM-1 Multi-Family District consisting of approximately 9.5 acres of land situated approximately 300 feet north of said property's boundary line with the right of way line of NYS Route 17K to the R-2 (1 Family) Zoning District.

SECTION 26. Supersession.

To the extent that this Local Law is inconsistent with any State statute or regulation, it is the intent of this Local Law to supersede any such statute or regulation.

SECTION 27. SAVINGS CLAUSE.

If any clause, sentence, paragraph, section or part of this Local Law shall be adjudicated by any court of competent jurisdiction to be invalid, such judgment shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the controversy in which such judgment shall have been rendered.

SECTION 28. Effective date.

This Local Law shall take effect immediately upon filing in the office of the Secretary of State in Albany in accordance with Section 27 of the Municipal Home Rule Law.