

Local Law Number 4 of the year 2015

A Local Law Amending Chapter 57 of the Town code of the Town of Monroe

Be it Enacted by the Town Board of the Town of Monroe as Follows

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## Chapter 57 Zoning

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[HISTORY: Adopted by the Town Board of the Town of Monroe 6-7-1965 by L.L. No. 2-1965; readopted, as amended, 6-7-1976 by L.L. No. 3-1976; amended in its entirety 8-1-1983 by L.L. No. 2-1983 Subsequent amendments noted where applicable.]

### GENERAL REFERENCES

Building construction administration -- See Ch. 23.

Energy conservation -- See Ch. 26A.

Fees for building permits and certificates of occupancy -- See Ch. 26B.

Fire prevention -- See Ch. 27.

Flood damage prevention -- See Ch. 27B.

Lakefront lands -- See Ch. 32.

Administration of open space -- See Ch. 34.

Sewerage systems -- See Ch. 41.

Streets and sidewalks -- See Ch. 43.

Swimming pools -- See Ch. 45.

Communal water systems -- See Ch. 54.

Wetlands -- See Ch. 56.

Fire Protection District -- See Ch. A62.

Planning Board -- See Ch. A64.

Subdivision of land -- See Ch. A65.

Rules of the Zoning Board of Appeals -- See Ch. A66.

Environmental quality review -- See Ch. A68.

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### ARTICLE I, Title

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#### § 57-1. Short title.

The title of this chapter shall be the "Zoning Law of the Town of Monroe."

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### ARTICLE II, Word Usage and Definitions

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#### § 57-2. Word usage.

For the purposes of this chapter, the following words and terms are used as indicated:

- A. Unless the context clearly indicates the contrary, words used in the present tense include the future, the singular number includes the plural and the plural the singular.
- B. The word "person" includes a profit or nonprofit corporation, company, partnership or individual.
- C. The word "shall" is mandatory and not directory; the word "may" is permissive.
- D. The word "lot" includes the word "plot."
- E. The word "structure" includes the word "building."
- F. The word "use" and the word "used" refer to any purpose for which a lot or land or part thereof is arranged, intended or designed to be used, occupied, maintained, made available or offered for use and to any purpose for which a building or structure or part thereof is arranged, intended or designed to be used, occupied, maintained, made available or offered for use or erected, reconstructed, altered, enlarged, moved or rebuilt with the intention or design of using the same.

**§ 57-3. Definitions.**

For the purposes of this chapter, the following words and terms are defined as indicated:

**ACCESSORY BUILDING** -- A subordinate building customarily incidental to and located on the same lot occupied by the main use or building. The term "accessory building" may include a private garage, garden shed or barn, a child's playhouse if a foundation is required, a cabana, mikva and/or a private greenhouse. Trailers shall not be deemed a "building" pursuant to this chapter.

**ACCESSORY USE:** A subordinate use customarily incidental to and located on the same lot occupied by the main use or structure. The term "accessory use" may include hot tubs, swimming pools, tennis courts, and storage for the property.

**ARBORIST-** A person who has been certified to conduct business in New York State as an arborist, by the New York State Arborists Chapter of the International Society of Arboriculture (ISA).

**ADULT BOOKSTORE** -- An establishment having as a substantial or significant portion of its stock-in-trade books, magazines, films for sale or viewing on premises by use of motion-picture devices or any other coin-operated means, and other periodicals which are distinguished or characterized by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas or an establishment with a segment or section devoted to the sale or display of such material.

**ADULT ENTERTAINMENT CABARET** -- A public or private establishment which is licensed to serve food and/or alcoholic beverages, which features topless dancers, strippers, male or female impersonators or similar entertainers.

**ADULT MINI MOTION-PICTURE THEATER** -- An enclosed building with a capacity of less than 50 persons used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas for observation by patrons therein.

**ADULT MOTION-PICTURE THEATER** -- An enclosed building with a capacity of 50 or more persons used regularly and routinely for presenting material having as a dominant theme material distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas for observation by patrons therein.

**AGRICULTURAL ANIMAL** – See “LIVESTOCK.”

**AGRICULTURE or HORTICULTURE** -- The cultivation of the soil for food products or useful or valuable growths of the field or garden, exclusive of facilities for display of products and marketing on the premises, whether wholesale or retail, and shall not be deemed to include poultry or livestock. Such uses shall be located on lots of a least 60,000 square feet in area in all districts. [Amended 3-11-1985 by L.L. No. 1, 1985]

**ALTERATION** -- The act of changing, modifying or making different.

**ARTIST LIVE WORK SPACES** - Joint living-work quarters for artists are spaces in nonresidential buildings used for living quarters and studio workshops by artists and their households.

**BASEMENT** -- That portion of a building that is partially or completely below grade.

**BED-AND-BREAKFAST INN** -- A single-family dwelling which is operated with up to 14 rooms providing accessory sleeping accommodations for transient paying guests lodging with or without meals for periods not ordinarily exceeding 14 calendar days. (See § 57-13.S.)

**BED-AND-BREAKFAST RESIDENCE** -- A single-family dwelling occupied by one family but operated with up to three rooms providing accessory sleeping accommodations for transient paying guests lodging with or without meals for periods not ordinarily exceeding 14 calendar days. (See § 57-13.R.)

**BLOCK** -- A tract of land or lot or group of lots bounded by streets, public parks or parkways, railroad right-of-way, reservoir, lake or other body of water or watercourse, unsubdivided land or a boundary line or lines of the Town of Monroe or any combination of the above.

**BLOCK FRONTAGE** -- That portion of a block which abuts a single street.

**BUILDING** -- A structure constructed or erected on the ground, with a roof supported by columns or walls.

**BUILDING, AREA OF** -- The horizontal area measured around the outside of the foundation walls and of the floors of roofed porches and roofed terraces, inclusive, and including the area of accessory buildings, if any. In the case of split-level dwellings, the first floor area shall be deemed to include floor areas on two non-overlapping levels separated by a half-story, more or less, of height.

**BUILDING MATERIALS STORAGE YARD** – A facility where building materials such as lumber, plywood, drywall, paneling, cement blocks, brick, roofing materials and other building products are stored and sold. A building materials storage yard may also include the sale of associated building products including hand tools and fasteners and the sale of landscaping materials and tools but shall not include the sale or rental of building or landscaping equipment.

**BUILDING INSPECTOR** –SEE “CODE ENFORCEMENT OFFICER”

**BUSINESS PARK** -- A tract of land developed or used for more than one commercial, industrial, office or residential use listed in the HI, LI, or GB Districts as a permitted or special exception use, which is designed pursuant to an overall development plan and having some or all of certain infrastructure facilities shared in common, such as driveways, parking areas, drainage, utilities or screening and for which a Declaration of Development has been filed with the Town Clerk. [Added 5-4-1992 by L.L. No. 2, 1992; amended 3-21-1994 by L.L. No. 1, 1994]

**CAMP** -- One or more temporary or permanent tents, buildings or structures, together with the lot or tract of land appertaining thereto, established or maintained as living quarters for temporary occupancy and normally not arranged or intended for such occupancy except during the period or part of the period from April 1 to December 1 in any year.

**CELLAR** -- See “BASEMENT”

**CLUB, MEMBERSHIP, NON-PROFIT** - An association of persons for recreational, athletic, social, literary or similar activities, which association is not conducted for the purpose of pecuniary gain or profit, and is organized pursuant to the provisions of the Not-for-Profit Corporation or the Benevolent Order Law of the State of New York and is not a part of, related to or associated with a profit-making venture and which is managed by officers or directors serving with or without pay, and chosen directly by members who form such association.

**CODE ENFORCEMENT OFFICER**- The person designated by the Town Board to enforce the provisions of this Chapter, provided that they have all applicable New York State licenses and certificates. This definition shall include those representatives under direct supervision by the Designated Code Enforcement Officer as used by this chapter when performing duties as assigned by the Code Enforcement Officer related to the enforcement of this chapter.

**COMMERCIAL CENTER** -- A tract of land providing more than one retail or service use listed in the NB Zoning District, either as a permitted or special exception permit use. [Added 5-4-1992 by L.L. No. 2-1992]

**COURT** -- A space, either on the ground or above, excepting a main roof, situated on the same lot with a building and which is unoccupied and open to the sky and not a front yard, side yard or rear yard.

**COURT, DEPTH OF** -- The maximum horizontal dimension at right angles to the width.

**COURT, HEIGHT OF** -- The greatest vertical distance measured from the lowest level of such court up to the roof of the building.

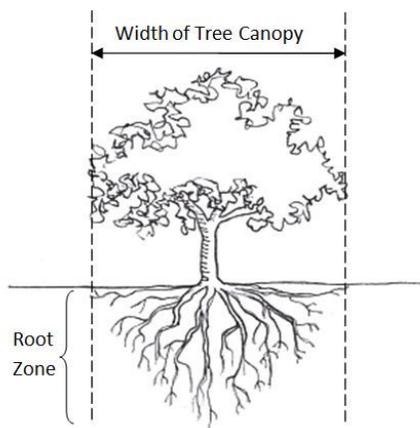
**COURT, INNER** -- A court which is not an outer court.

**COURT, OUTER** -- A court extending to a street, front yard or rear yard.

**COURT, WIDTH OF** -- The horizontal dimension parallel to the principal open side in the case of any outer court and the least horizontal dimension in the case of an inner court.

**CRITICAL ROOT ZONE**- A circular area around each tree with the trunk at the center and a diameter equal to or greater than the drip line as measured by the canopy of the tree, but in any event, at least a circumference of six feet from the tree trunk in any direction (see figure 1). The Code Enforcement Officer may reduce the size of a Critical Root Zone upon certification to the Code Enforcement Officer, by an arborist, that such Critical Root Zone is actually less than otherwise stated herein

Figure 1: Width of Tree Canopy



**CUSTOM WORK, SHOP FOR** (See also "workshop.") -- A business premises used for the making of clothing, millinery, shoes or other personal articles to individual order and measure for sale at retail on the premises only, not including the manufacture of ready-to-wear or standardized products.

**DAY-CARE CENTER** -- (See also "HOME DAY CARE") A facility other than a residence or other than a school where care and/or supervision are provided for seven or more children for a period of more than three hours in a day. A day-care center may also be known as a "day nursery" or "child-care center" and may exist as a discrete individual use or as an accessory to a church, business or industry where the same shall be allowed in the underlying zoning district (See § 57-13.0)

**DAY CAMP** Any plot of land, including any buildings or structures thereon, if any used for any assembly for recreational purposes on a seasonal basis, and primarily for school aged children, but not including any nursery school unless the bulk requirements for a "day camp" are met by said nursery school, nor including any living quarters except for one one-family residence on the plot. (See § 57-13.T)

**D.B.H. (Diameter at Breast Height):** The diameter, expressed in inches, of a tree measured at four and one-half feet (4 1/2') above ground level at the base of the tree.

**DEAD TREE:** For the purpose of this code, a Dead Tree is defined as a tree that has lost at least 50% of its branches due to natural causes or did not leaf out at the previous growing season. Proof of leafing may be provided by photograph of such tree (See also Hazardous Tree)

**DECLARATION OF DEVELOPMENT** -- A document filed by the initial developer of a business park with the Town Clerk, which shall state the name and place of business of the developer and describe the area and boundaries of the tract of land that will comprise the proposed business park, by reference to Tax Map parcels or any other means of reference acceptable to the Planning Board. The declaration shall also include a statement of intent setting forth the proposed plan of development for the business park. [Added 5-4-1992 by L.L. No. 2-1992]

**DOMESTIC ANIMAL** – Any of the various species of animals commonly kept as house pets including but not limited to dogs, cats, miniature pigs, rabbits, canaries and other small pet birds, gerbils, hamsters, mice, guinea pigs, weasels, ferrets, tropical fish, pet amphibians and reptiles not taken from the wild (See § 57-38.G).

**DEVELOPER** -- Any applicant seeking site plan, special use or subdivision approval, whether an owner, contract vendee, lessor, lessee, managing agent, etc., and shall include the agents of said applicant for approval and all successors in interest of same. The term developer shall include any owner, contract vendee, lessor, lessee, managing agent, etc., as the same exists at the time of site plan approval, at the time of building permit issuance and at the time that issuance of a certificate of occupancy is sought. [Added 12-4-2000 by L.L. No. 4-2000]

**DRIVE THROUGH/FAST FOOD RESTAURANT** --Any restaurant that serves food designed to be prepared quickly and paid for at a counter prior to eating it, is characterized by customer self-service after paying for the food, and provides dining accommodations for such guests, and as a feature of such restaurant has a drive through window intended to sell food to customers without leaving their vehicles.

**DUMP** -- A disposal facility or part of a facility where solid waste, including hazardous waste, is placed in or on land. As used herein, the terms "disposal facility," "waste" and "hazardous waste" shall have the same meaning as those terms are defined in Article 27, Title 9 (§ 27-0901), of the Environmental Conservation Law and, further, hazardous wastes shall include any such wastes as identified by the Commissioner of the Department of Environmental Conservation as such pursuant to his powers of identification contained in § 27-0903 of said law. [Amended 6-6-1988 by L.L. No. 2-1988]

**DWELLING** -- A building arranged, intended or designed to be occupied by one or more families living independently of each other on the premises. The term "dwelling" shall include prefabricated buildings and mobile homes, provided that they meet all the requirements of this chapter, the Building Code<sup>EN</sup> and all other requirements or ordinances applicable to dwellings.

**DWELLING GROUP, MULTIPLE** -- A building, group of buildings or housing development operated as a single project and arranged, intended or designed to be occupied by three or more families living independently of each other in separate dwelling units. The term "multiple dwelling group" shall include attached and semiattached single-family dwellings, patio homes, Townhouses, garden apartments, row houses and duplex buildings, which dwellings may be sold or leased individually, provided that a common area is retained by a homeowners' or condominium association or by the property owner for the exclusive benefit of the residents of the multiple dwelling group.

**DWELLING, MULTIPLE** -- A building arranged, intended or designed to be occupied by three or more families living independently of each other in separate dwelling units.

**DWELLING, REAR** -- A dwelling located on the same lot and to the rear of the main building for which the lot is used.

**DWELLING, SINGLE-FAMILY** -- A dwelling designed for and used by one family. The existence in design or otherwise of more than one room in a dwelling designed or used for cooking and food preparation and designed to contain or containing cooking facilities and food storage and preparation facilities, commonly known as a "kitchen," shall be prima facie evidence that the dwelling is not designed for or used by one family. This evidentiary rule, however, shall not apply to a kitchen designed for or used solely in observance of religious holy days or feast days. The existence in design of a floor and room layout for a second story substantially similar in design to the floor layout of the ground floor of the same dwelling, which second story can be isolated from the ground floor by a single door or partition, shall likewise be prima facie evidence that the dwelling is not designed for use by one family.

**DWELLING UNIT** -- One or more rooms with provisions for cooking, living, sanitary and sleeping facilities arranged for the use of one family.

**ENGINE REPAIR SHOP:** A business or portion of a business that repairs engines intended to be used as for any type of vehicular transportation, including autos, motorcycles, and recreational vehicles.

**ENVELOPE** --An area on property around a structure site where disturbance is necessary for completion of wells, septic systems, driveways, garages, yards (including poles, tennis/basketball courts, patios, porches or other accessory recreational uses) as designated on site plans outside of which there is no disturbance. If interpretation of this definition (or other provisions of this Chapter) is necessary, the Planning Board or Code Enforcement Officer may refer the same to the Zoning Board of Appeals for such interpretation.

**FAMILY** -- One or more individuals living independently as a single housekeeping unit and using cooking facilities and certain rooms in common. A "family" shall not be deemed to include the occupants of a boarding or rooming house, club or hotel.

**FILLING STATION** --- (See "GAS STATION")

**FLOOR AREA, MINIMUM HABITABLE** -- The total horizontal area of all stories of a dwelling unit measured at the outside wall of the building, but excluding garages, carports, open porches, terraces, utility rooms and floor areas with a clear ceiling height of less than seven feet six inches. The minimum habitable floor area of a dwelling unit having more than one story shall be discounted by 300 square feet to allow for stair and additional hallway areas.

**GARAGE** -- A building or part thereof used for the storage or parking of one or more motor vehicles.

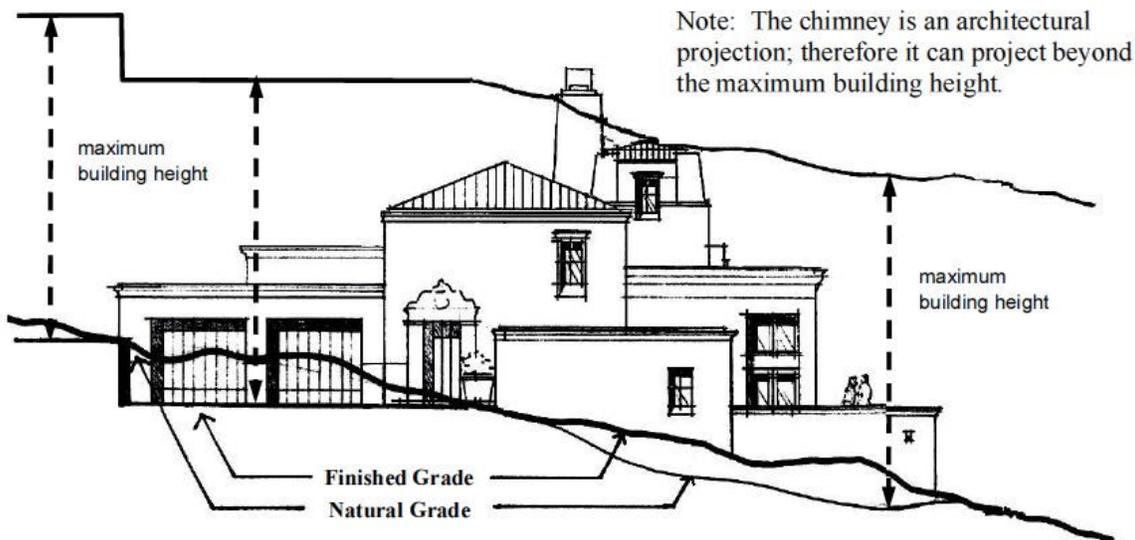
**GARAGE, PRIVATE** -- An accessory garage maintained primarily for the convenience of the occupant or occupants of the main building and in which no business or other use is carried on and no service is rendered to the general public.

**GARAGE, PUBLIC** -- Any garage other than a private garage. A "public garage" may include gas station and service station facilities.

**GAS STATION** -- A place where gasoline or other equivalent fuel for motor vehicles, motor oil, lubricants and other minor accessories are retailed directly to the public on the premises in combination with the retailing of items typically found in a convenience store or supermarket. (See § 57-13.K)

**HAZARDOUS TREE:** As used in this chapter, a hazardous tree is tree that places is in imminent danger of falling in the public right of way or on buildings or structures.

**HEIGHT OF STRUCTURE** -- The maximum vertical height of a building or a structure at all points measured at the proposed perimeter of the building, from the natural or finished grade, whichever is lower, as described on the approved subdivision or site grading plan. Architectural elements that do not add floor area to a building such as chimney, vents, and antenna are not considered part of the height of the building but all portions of a roof are considered. See following Illustration:



**HOME DAY CARE:** A Family Day Care Home or Group Family Day Care home as defined by the New York State Law, Part 413.2 (Day Care Regulations), with no more than 12 children, including the families own children on the premises at any given time (See also § 57-13.V).

**HOME OCCUPATION** -- A customary personal service occupation such as dressmaking, millinery and home cooking, by way of description but not limited to these, provided that such occupation shall be conducted solely by members of the resident family and no more than one floor of the building or 1000 square feet, whichever is less is used for such business and that no display of advertising other than a small nameplate and no display of products made shall be visible from the street. A home occupation shall not be deemed to include an Engine Repair Shop as defined herein. (See also § 57-13.U.)

**HOME PROFESSIONAL OFFICE** -- The office or studio of a resident physician, surgeon, dentist, lawyer, architect, engineer, realtor, insurance agent, musician or teacher, or similar profession, by way of description but not limited to these, provided that not more than two persons are employed who are not members of the family and that such office shall not require modifications of such residence to be out of character with the surrounding homes, be in the main building and shall not occupy more than the equivalent one floor of said building or 1000 square feet, whichever is less. For the purposes of this definition, a "teacher" shall be restricted to a person giving individual instruction in a musical instrument, in singing or in academic or scientific subjects to a single pupil at a time. (See § 57-13. U.)

**HOSPITAL** -- A building used for the diagnosis, treatment or other care of human ailments, unless otherwise specified. A "hospital" shall be deemed to include a sanitarium, sanatorium, clinic, convalescent home, nursing home, rest home or other building with an equivalent appellation.

**HOTEL** -- A building or part thereof which has a common entrance, common heating system and general dining room and which contains seven or more living and sleeping rooms designed to be occupied by individuals or groups of individuals for compensation. Such occupation by groups and individuals shall be characterized by transient stays, normally less than 3 weeks. (See § 57-13.J.)

**INDOOR SPORTS FACILITIES** -- A commercial establishment in which athletic, recreational or physical activities, training or instruction are primarily conducted. An indoor sports facility may include but is not limited to any of the following: tennis and other racquet courts, swimming pool, spa and sauna facilities, handball and other ball courts, nonmotorized cycling tracks, running tracks, skating, roller or skateboard rink or facility, health and physical fitness training or gym, including free weight and other physical fitness machines, climbing facility, self-defense or martial arts studios, fitness and dance studios, bowling alleys, miniature golf, billiard tables, archery or shooting ranges. Indoor sports facilities may also include electronic and coin-operated devices such as electronic golf and batting cages, as well as other electronic devices such as video games, pinball, mechanical grab machines and the like. Indoor sports facilities may be combined with outdoor sports facilities and may include shower facilities, locker rooms, restaurants and dining facilities as accessory uses and the sale of necessary equipment and appurtenances for the purposes of serving clientele of such facility.

**INDUSTRY, NONNUISANCE** -- Any industry which is not detrimental to the environment in which it is located by reason of the emission of smoke, odor, dust or other air pollutants, radioactivity or electromagnetic disturbances, liquid or solid wastes, noise, vibration or excessive light beyond the limits of its lot, or by reason of generating excessive traffic with attendant hazards, or by potential hazards of fire or explosion and which does not include any open storage yard or outdoor processing of materials.

**INTEGRATED RESIDENTIAL USE** -- A residential component of a Business Park, designed as an integral part of an overall development plan for a contiguous parcel of land comprising at least 160 acres, which may include contiguous lands located in adjacent municipalities provided at least 50% of the parcel that is the subject of the overall development plan is located within the Town of Monroe, providing an opportunity for housing to the prospective employees of the Business Park, residents of the Town and others, utilizing central water and sewer facilities and having some or all of other infrastructure facilities shared in common with the Business Park, such as driveways, parking and recreation areas, drainage, utilities, or screening. It may be developed in the form of a multiple dwelling group, as that term is defined herein, and may include detached single family and multiple dwellings. [Added 3-21-1994 by L.L. No. 1-1994]

**JUNKYARD** -- A lot, land or structure or part used in whole or in part for the storage and/or sale of refuse, which includes but is not limited to wastepaper, rags, scrap metal or other scrap or discarded materials and/or for the collecting, dismantling, storage or salvaging of machinery or unregistered vehicles and/or for the sale of parts thereof. Two or more such vehicles, unregistered, located on a property for more than 30 days shall be deemed to be a "junkyard." A property on which is located one cubic yard or more of refuse as defined above for more than 30 days shall also be deemed to be a "junkyard." Exceptions to the foregoing machinery and

vehicles owned by a resident owner of the premises or immediate family residing on the premises may be stored in a legal accessory garage or storage structure for repair, storage or customizing for resident and family use only and not for sale, storage or repair for others. Storage of the above shall not interfere with required garage space for registered vehicles. [Amended 9-5-1989 by L.L. No. 7-1989]

**KENNEL** – More than four dogs kept in a primary and/or accessory structure on a residential lot shall be considered a kennel, whether maintained for private or commercial use (See also §57-13.N.)

**LANDMARK TREE** --A particular tree determined by the Town Board upon the recommendation of the Town of Monroe Conservation Commission to be significant to the community on the basis of specimen quality, historical significance or other unique characteristic. A Landmark tree may be an outstanding example of a tree that has some historical connection with the community's past. Such Trees shall be designated “Landmark Trees” by the Town Board by resolution.

**LIVESTOCK** – Includes, but is not limited to cattle, sheep, hogs, goats, horses, llamas, other fur-bearing animals, poultry, ostrich, emu, rhea, other ratite (a group of flightless birds having a flat breastbone) and rabbits. (See §57-13 M.)

**LOT** -- A parcel of land occupied or which may be occupied by a building and its accessory buildings, by a dwelling group and its accessory buildings or by a related group of uses or structures, together with such open spaces as are required under the provisions of this chapter. A lot on which a proposed use is intended to be located shall have not less than the minimum area and width required by this chapter for a lot in the district in which such land is situated and shall have its principal frontage on a street or on such other means of access as may be determined in accordance with the provisions of law.

**LOT AREA** -- The total area included within lot lines.

**LOT, CORNER** -- A lot which has an interior angle of less than 135° at the intersection of two street lines. A lot abutting upon a curved street shall be considered a corner lot if the tangents to the curve at the points of intersection of the side lot lines intersect at an interior angle of less than 135°.

**LOT COVERAGE** -- The percentage of the lot area that is occupied by the area of buildings, structures and all impermeable and/or compacted surfaces, including but not limited to parking lots, access and circulation drives. [Amended 2-23-1998 by L.L. No. 1-1998]

**LOT, INTERIOR** -- A lot other than a corner lot.

**LOT LINE** -- Any line dividing one lot from another or from a street or other right-of-way. Any lot line that is not a rear lot line nor a front lot line shall be deemed a side lot line.

**LOT LINE, FRONT** -- A lot line which separates a lot from a street or other means of access. On a corner lot, the owner may specify the front lot line on the plat plan. Otherwise, the "front lot line" shall be deemed to be the lesser of the straight lines which abut the street.

**LOT LINE, REAR** -- The lot line generally opposite to the front lot line. If the rear lot line is less than 10 feet in length or if the lot comes to a point in the rear, the "rear lot line" shall be deemed to be a line parallel to the front lot line not less than 10 feet long lying farthest from the front lot line.

**LOT, THROUGH** -- An interior lot having frontage on two parallel or approximately parallel streets. On a through lot, the owner may designate the front lot line on a plat plan or site plan. The line opposite the front lot line shall be the rear lot line.

**LOT, WIDTH OF** -- The mean dimension of the two lines measured at both the required minimum rear and front yard depths or, in a case where a building setback line is established by the Planning Board at the time of subdivision approval, which line is further removed from the street line than the minimum front yard depth, at such lines. The dimension of width shall be measured along such lines as extended the straight distance from side lot line to side lot line, which lines are generally parallel to the front lot line. In such case where a front or rear lot line is curved, the dimension of lot width shall be measured along a line which is perpendicular to a line bisecting the lot from front to rear. Every point along a lot width line shall be the minimum required distance from the front or rear lot line. (See § 57-39B)

**PROTECTED TREE**--Any living tree species designated by the NYSDEC in the "New York Natural Heritage Program: New York Rare Plant Status List" as endangered, threatened, rare, or vulnerable ; or any living tree species designated by the Town Board of Monroe as protected because of its uniqueness or vulnerability in the wild as a result of environmental stress. A list of protected tree species, whether on the list designated by the Town Board or on the New York Natural Heritage Program: New York Rare Plant Status List" will be developed by the Town of Monroe Conservation Commission and appended to this Article; after approval of the same, by Resolution of the Town Board.

**MAIN USE OR BUILDING** -- The principal or most important use or building on a lot.

**MANUFACTURED HOME** -- A structure, which is not a mobile home, and which is transportable in one or more sections, which in the traveling mode, is eight body feet or more in width or forty body feet or more in length, or, when erected on site, is three hundred twenty or more square feet, and which is built on a permanent chassis, not intended to be moved, and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained therein.

**MANUFACTURED HOME PARK** -- A contiguous parcel of privately owned land which is used for the accommodation of three or more **manufactured homes** occupied for year-round

living. (See Section 57-13.L)

**MEDICAL ARTS BUILDINGS** -- A building in which are located offices used by persons having professional knowledge or skill in the diagnosis and/or treatment of human ailments, including medical, dental, optometric, chiropractic, podiatric, diagnostic and other similar offices and related facilities and laboratories.

**MEDICAL MARIJUANA FACILITY**-A building, structure, or land, legally engaged in the growing or manufacture of products containing marijuana in accordance with Chapter XIII, Part 1004, Title 10 (Health) of the Official Compilation of Codes, Rules and Regulations of the State of New York.

**MEMBERSHIP CLUB** -- A building, structure, lot or land area used as a private club or social organization with annual membership dues and not conducted for profit or gain.

**MOBILE HOME** -- A moveable or portable unit, manufactured prior to January first, nineteen hundred seventy-six, designed and constructed to be towed on its own chassis, comprised of frame and wheels, connected to utilities, and designed and constructed without a permanent foundation for year-round living. A unit may contain parts that may be folded, collapsed or telescoped when being towed and expanded later to provide additional cubic capacity as well as two or more separately towable components designed to be joined into one integral unit capable of being again separated into the components for repeated towing. "Mobile home" shall mean units designed to be used exclusively for residential purposes, excluding travel trailers. (See § 57-54.C)

**MOTEL** -- A building or group of buildings, whether detached or in connected units, used as individual sleeping or dwelling units with direct outside access, designed primarily for transient automobile travelers and provided with accessory off-street parking facilities. The term "motel" includes buildings designated as tourist courts, overnight cabins, motor lodges and other similar appellations, but shall not be construed to include properties that accommodate the parking and use of recreational motor homes or mobile homes. See § 57-13.J)

**NONCONFORMING STRUCTURE** -- A structure lawfully existing at the effective date of this chapter or any amendment thereto affecting such structure which does not conform to the building regulations of this chapter for the district in which it is situated, irrespective of the use to which such structure is put. (See § 57-5.)

**NONCONFORMING USE** -- Any use of a building, structure, lot or land or part thereof lawfully existing at the effective date of this chapter or any amendment thereto affecting such use, which does not conform to the use regulations of this chapter for the district in which it is located.

**OUTDOOR SPORTS FACILITIES** -- A commercial establishment in which athletic, recreational or physical activities, training or instruction are primarily conducted. An outdoor sports facility may include but is not limited to any of the following: tennis courts, swimming

pool, ball courts or fields, including but not limited to croquet, bocce, volleyball, football, baseball, softball, field hockey, lacrosse and soccer, running tracks, nonmotorized cycling tracks, skating, roller or skateboard rink or facility, miniature golf and batting cages. Outdoor sports facilities may also include incidental spectator viewing facilities appurtenant to each individual such court or field where appropriate; provided, however, that no event that involves the public assembly of more than 500 persons at any one time to the outdoor sports portion of the site shall be permitted. Outdoor sports facilities shall specifically exclude the following: sports or activities that would generate unreasonably large crowds, excessive noise or otherwise result in the creation of hazardous or nuisance conditions, including but not limited to the use of motorized watercraft and/or jet skis, tracks, trails or facilities for snowmobiles, tracks, trails or other facilities for any kind of motorized vehicle and/or motorized cycle, whether battery-powered or powered by combustion, aviation and tracks for racing horses, dogs or other animals. Outdoor amplified music systems and/or speakers are specifically prohibited. Outdoor sports facilities shall not include amphitheaters, band shells, campgrounds nor shall the definition mean or otherwise be interpreted to include adult entertainment, adult bookstore, adult motion-picture theater or adult mini motion-picture theater as those terms are defined in this chapter. [Added 4-17-2000 by L.L. No. 1-2000] (See § 57-13.W.)

**PARKING AREA** -- A lot or part thereof used for the storage or parking of motor vehicles, with or without the payment of rent or charges in money and/or other consideration.

**PARKING SPACE** -- A stall or berth which is arranged and intended for parking of one motor vehicle in a garage or parking area.

**PERFORMANCE BOND** -- Any written and executed guaranty, obligation or promise, made by an owner or developer of property who has received site plan, special use or subdivision approval from the Planning Board, to install public improvements required by the Planning Board or to perform other required acts within a fixed period of time that may be required by the Planning Board pursuant to plan approval, Town Board or any local law or ordinance of the Town. [Added 12-4-2000 by L.L. No. 4-2000]

**PERSON** -- Any person, firm, partnership, corporation, association or legal representative, acting individually or jointly.

**PLANNED UNIT DEVELOPMENT** -- A grouping of residential dwelling units, combined with and serviced by compatible commercial service establishments constructed as a unified project in accordance with a general development plan approved by the Town Board and implemented as provided for herein.

**PLANNING BOARD** -- The Planning Board of the Town of Monroe, New York.

**PUBLIC IMPROVEMENT** -- Any street, roadway, curb, gutter, sidewalk, parking lot, retaining wall, water main, fire hydrant, sanitary waste disposal facility or structure, storm drain, retention or detention pond, wetland restoration facility, street signs, streetlights, trees, seeding, sodding, tree planting, landscaping improvement or any other public facility or requirement of the

Planning Board or any local law or ordinance of the Town identified or characterized as a public improvement as part of an approved plan in order to protect the public health, safety and welfare. [Added 12-4-2000 by L.L. No. 4-2000]

**PUBLIC IMPROVEMENT SECURITY AGREEMENT** -- A written agreement entered into between a developer and the Town, which provides a schedule for the completion of public improvements required by the Planning Board as part of its approval and which provides for the deposit of a certain amount of cash with the Town in escrow to secure installation of the required public improvements or to permit the Town to adequately safeguard the project site in those instances where a developer has failed to make public improvements according to the schedule. [Added 12-4-2000 by L.L. No. 4-2000]

**RESEARCH INSTITUTE OR LABORATORY** -- A building for experimentation in pure or applied research, design, development and production of prototype machines or devices or of new products and uses accessory thereto, wherein products are not manufactured primarily for wholesale or retail sale, wherein commercial servicing or repair of commercial products is not performed and where there is no display of any materials or products. A research institute or laboratory shall meet the same performance standards as a non-nuisance industry. (See "industry, non-nuisance" above.)

**RESTAURANT** – An establishment where food and drink are prepared, served and consumed and whose design or principal method of operation is characterized by customers being provided with an individual menu and being served their food and drink by a restaurant employee at the same table or counter at which said items are consumed.

**RESTORATION BOND** -- Any written and executed guaranty, obligation or promise, made by an owner or developer of property who has received site plan, special use or subdivision approval from the Planning Board as part of said approval, to restore a site to a safe, secure and stable condition, in the event that public improvements have not been properly or timely completed as required by said approval. [Added 12-4-2000 by L.L. No. 4-2000]

**SANITARY PLANT** -- A sewerage system, including sewers and a disposal plant, of design approved by the New York State Department of Health, arranged and intended to serve an integrally planned development of a group of dwelling units in single-family or multifamily dwellings.

**SELF-SERVICE STORAGE FACILITY** -- A facility containing a structure or structures containing separate, individually leasable or rentable storage spaces of varying sizes. [Added 3-16-1998 by L.L. No. 3-1998] (See § 57-13.P)

**SEMI-DETACHED HOUSES** – Not more than two single family dwellings that are connected to one another by all or a portion of a common wall.

**SERVICE STATION** -- A building or lot or part thereof devoted primarily to repairs, servicing, washing or reconditioning of motor vehicles.

**SHOP FOR CUSTOM WORK** – A business premises used for fabrication of items, including but not limited to, clothing and personal articles, jewelry, furniture and other items made to individual order for sale at retail on the premises and not including the mass manufacture of standardized products.

**SHOPPING CENTER, NEIGHBORHOOD** -- A tract of land with buildings or structures planned as a whole and intended for one or more establishments for retail, office or allied purposes on a site.

**SIGN, ADVERTISING** -- A sign which directs attention to a business, commodity, service or entertainment conducted, sold or offered elsewhere than upon the property, and only incidentally upon the property if at all.

**SIGN, BUSINESS** -- A sign which directs attention to a business or profession conducted upon the property.

**SPECIAL EXCEPTION USE** -- A use in one or more districts for which the Planning Board may authorize a permit pursuant to the provisions of Article V.

**SPECIFIED ANATOMICAL AREAS**

- A. Less than completely and opaquely covered human genitals, pubic region or female breast below a point immediately above the top of the areola.
- B. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

**SPECIFIED SEXUAL ACTIVITIES**

- A. Human genitals in a state of sexual stimulation or arousal.
- B. Acts of human masturbation, sexual intercourse or sodomy.
- C. Fondling or other erotic touching of human genitals, pubic region, buttock or female breast.

**STORY** -- That portion of a building included between the upper surface of any floor other than a cellar floor and the upper surface of the floor next above, except that the topmost "story" shall be that portion of a building included between the upper surface of the topmost floor and the roof above.

**STORY, HALF** -- A space under a sloping roof, which has the line of intersection of the interior faces of the roof structure and main building wall not more than three feet above the top floor level, and in which space the floor area with a head room of five feet or more occupies at least 60% of the total area of the story directly beneath.

**STREET** -- Any road, highway, avenue, street, parkway, lane or other way, public or private, commonly used by the public for street purposes.

**STREET LINE** -- The dividing line between a lot and an exterior street line.

**STRUCTURE** -- Anything constructed or erected on or under the ground or upon another structure or building.

**SUMMER COTTAGE** -- A single-family detached dwelling which is arranged, designed and intended to be used or occupied only during the period or part of the period from April 1 to December 1 in any year.

**SUMMER COTTAGE DEVELOPMENT** -- Two or more summer cottages, as defined in "summer cottage" above, arranged and designed with or without accessory structures, such as a machine building, casino, lodge, community center, swimming pool and other recreation facilities.

**SWIMMING POOL, COMMERCIAL** -- Any constructed body of water or structure to contain water and any accessory buildings or equipment pertaining thereto which are operated for profit or gain and are used or intended to be used for swimming or bathing by persons who pay admission on a daily, weekly or other basis, including seasonal tickets.

**SWIMMING POOL, NONCOMMERCIAL** -- Any body of water or structure constructed to contain water and any accessory equipment pertaining thereto, used or intended to be used for swimming or bathing by any family or persons residing on the premises and their guests. Such "noncommercial swimming pool" shall not be operated for gain and shall be located on a lot only as an accessory use to the dwellings thereon, to a membership club or to a motel or hotel.

**TIMBER HARVESTING** – the cutting down and removal of trees for use as firewood, wood milling, or any other construction or artistic endeavor.

**TREE TOPPING**--Severe cutting back of limbs, to stubs larger than three inches (3") in diameter, within the tree's crown to such a degree as to remove the normal canopy and disfigure the tree.

**TRAILER** – A vehicle without motive power designed for carrying property to be drawn by a vehicle with motive power. The term “trailer” shall include but not be limited to storage trailers, truck bodies, dropoff/pickup storage containers or other vehicle parts without wheels or axles otherwise originally intended to be used for commercial purposes.

**TREE** – For the purposes of this chapter a “tree” shall be defined to include the trunk, bark, branches, canopy and critical root zone of any species of plant ordinarily defined as a tree.

**TREE PLAN:** A tree plan is a required plan designed to protect and preserve trees. Please see § 57-83 for the requirements of a Tree Plan

**TREE REMOVAL**--The removal of any tree or trees except the removal of **DEAD TREES** or **HAZARDOUS TREES** as defined herein, and the removal of fifty (50) percent or more of the crown, trunk or root system, and other actions causing the death through damaging, severe

pruning, poisoning or close trenching.

**TRUCK TERMINAL** – A facility where goods owned by others are being transported or transferred by truck and where trucks, owned by the terminal or affiliate, are leased, repaired, serviced, maintained and/or temporarily stored.

**TOWN BOARD** – the elected legislative body of the Town of Monroe.

**SPECIMEN. TREE:** A particular living, perennial, woody plant (rather than all such perennial, woody plants otherwise meeting the criteria provided for herein) with a trunk twenty-four inches (24") or more at DBH, or any living tree species designated as a specimen tree by the Town of Monroe Town Board upon recommendation of the Commission. A Specimen Tree of less than twenty-four inches (24") at DBH shall have particularized characteristics that benefit the public's health and/or welfare and/or safety.

**STREET TREE:** Any tree, shrub, bush or woody vegetation on land lying between property lines on either side of any streets, highways or right of-ways within the Town of Monroe.

**UTILITY TOWER** -- Any aboveground structure which is designed to transmit, relay or receive electronic, light, telephone, telegraph, television or radio signals, or any combination thereof or similar electromagnetic or light signals, no matter by whom constructed or by whom owned or operated and regardless of the intended recipient of such signals. This definition shall not apply to antennas erected upon or appurtenant to residential structures, designed primarily to serve such residential structures. [Added 9-8-1986 by L.L. No. 1, 1986]

**VENDING MACHINE, AUTOMATED RETAIL MACHINE/ KIOSK** – A vending machine is one that provides snacks, beverages (non-alcoholic), lottery tickets, and other products to consumers without a cashier. Items sold via these machines are paid for by using cash or coin. Automated retail is the category of self-service, standalone machines or kiosks. Automated retail kiosks are usually a turn-key solution with the necessary hardware, technology and services required to maintain an automated, small-footprint retail store. Consumers select products using a touchscreen interface, pay for their purchase using a credit or debit card, and receive their product immediately via mechanized device.

**VARIANCE** -- A modification of the regulations of this chapter, granted on grounds of practical difficulties or unnecessary hardship, not self-imposed, pursuant to the provisions of ~~§ 57-65-~~ Article XV.

**VOCATIONAL SCHOOL** – A specialized instructional establishment that provides on-site training of but not limited to business, industrial, commercial and/or trade skills such as accounting, data processing and computer repair.

**WAREHOUSE** – A building, a part of a building or a group of buildings used for the storage or storage and distribution of goods, wares and merchandise by one or more commercial or business interests and not open to the public. A warehouse shall not be construed to mean a self-storage facility and shall not provide truck maintenance or repair facilities. Warehouse sales open

to the general public may be authorized during the site plan approval process under terms the Planning Board may require.

**WATERCOURSE** – Any stream, pond, lake, reservoir, drainage channel or other area of land (as designated by the NYS DEC\_Protection of Waters Regulatory Program, or the USGS topographic quadrangle maps, or the USDA County Soil Survey Maps) that is normally, seasonally, or intermittently filled with water. Roadside ditches and shallow land depressions generally referred to as “grassed waterways” or “swales” and that carry water for only a few to several hours after a runoff-producing rain event shall not be considered watercourses. Man-made stormwater management basins and conveyances designed as part of a man-made stormwater management plan pursuant to State regulations in compliance with provisions of the Federal Clean Water Act shall not be considered watercourses. Where a question of whether a particular channel or area of water-filled land exists, the matter shall be determined by the Town Engineer based on an evaluation of the area in question.

**WILDLIFE HABITAT:** The arrangement of food, water, shelter, cover, and space necessary for Wildlife existence.

**WORKSHOP** (See also "custom work, shop for.") -- A business or commercial premises used for the making of clothing, millinery, shoes or other personal articles or for performance of a trade or repair work, which is not detrimental to adjoining properties by reason of the emission of smoke, noise, odor, dust, vibration or excessive light beyond the limits of its lot.

**YARD** -- An unoccupied space open to the sky on the same lot with a building or structure (either existing or proposed).

**YARD, FRONT** -- An open unoccupied space on the same lot with a principal building, extending the full width of the lot and situated between the street line and the front line of the nearest roofed portion of a building projected to the side lines of the lot. The depth of the "front yard" shall be measured between the front line of the building and the street line. Covered porches, whether enclosed or unenclosed, shall be considered as part of the main building and shall not project into the required "front yard."

**YARD, REAR** -- An open unoccupied space on the same lot with a principal building, extending the full width of the lot and situated between the rear line of the lot and the rear line of the nearest roofed portion of a building projected to the side lines of the lot. The depth of the "rear yard" shall be measured between the rear line of the lot and the rear line of the building.

**YARD, REQUIRED** -- That portion of a lot which is the minimum required depth in from the side, rear or front lot line for the full length of such yard, which dimension is listed in the Schedule of District Regulations.<sup>iiEN</sup>

**YARD, SIDE** -- An open unoccupied space on the same lot with a main building, situated between the side line of the nearest roofed portion of a building and the adjacent side line of the lot and extending from the rear line of the front yard to the front line of the rear yard.

ZONING BOARD OF APPEALS OR ZBA – The Zoning Board of Appeals of the Town of Monroe.

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**ARTICLE III, Compliance Required**

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**§ 57-4. Compliance with use regulations required; nonconforming uses.**

Except as hereinafter provided, no building or structure or part thereof and no lot or land or part thereof shall hereafter be used, except in conformity with the use regulations herein prescribed. Any lawful use that does not conform to the use regulations of this chapter shall be deemed a nonconforming use, except that uses granted as special exception uses by the Planning Board pursuant to Article V shall be deemed conforming uses. Use variances granted by the Board of Appeals pursuant to § 57-65 shall be deemed nonconforming uses.

**§ 57-5. Compliance with bulk regulations required; nonconforming structures.**

Except as hereinafter provided, no building or structure or part thereof shall hereafter be erected, structurally altered, enlarged or rebuilt except in conformity with the Schedule of District Regulations as to height, lot dimension, coverage, yard, court and density regulations herein prescribed. Any building or structure that does not conform to such regulations, herein referred to as the "building regulations" of this chapter, shall be deemed a nonconforming structure, irrespective of the use to which it is put. Building variances granted by the Board of Appeals pursuant to § 57-65 on grounds of practical difficulties or unnecessary hardship, not self-imposed, shall be deemed nonconforming structures.

**§ 57-6. Continuation of legal existing uses.**

Any legally established existing use of a building or structure, lot or land or part thereof, which use constitutes a conforming use under the provisions of this chapter, may be continued. However, in such case that a non-conforming use is abandoned for a period of more than one year, such non-conforming use shall not be permitted and uses of such property shall be required to conform to the current provisions of this code.

**§ 57-7. Use of structures and land.**

Within any district, no building, structure, lot or land shall be used for other than one or more of the permitted uses, special exception uses and accessory uses listed in the Schedule of District Regulations,<sup>iii</sup>EN subject to all applicable provisions of this chapter.

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**ARTICLE IV, Districts; Zoning Map; Schedule**

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**§ 57-8. Classes of districts.**

For the purposes of this chapter, the Town of Monroe is hereby divided into 11 classes of districts as follows:

A. Residence districts:

- (1) RR- 3.0 ac. District (mountain residence: two-hundred-foot lot width).
- (2) RR-1.0 ac. District (single-family dwellings: one-hundred-fifty-foot lot width).
- (3) SR-20 District (single-family dwellings: one-hundred-foot lot width).
- (4) SR-15 District (single-family dwellings: eighty-five-foot lot width).
- (5) SR-10 District (single-family dwellings: seventy-five-foot lot width).
- (6) UR-M (multiple residence district).

B. Nonresidential districts:

- (1) NB District (neighborhood shopping).
- (2) WR District (waterfront recreational business).
- (3) GB District (commercial, wholesale, storage and automotive sales and service).
- (4) LI District (light industrial).
- (5) HI District (heavy industrial).

**§ 57-9. Boundaries of districts; Zoning Map.**

- A. The boundaries of each of the zoning districts are hereby established as shown on the Zoning Map of the Town of Monroe as most recently adopted by the Town Board pursuant to local law, which map is attached to this chapter. Said map and all changes contained therein are hereby incorporated and declared to be part of Chapter 57 of the Code of the Town of Monroe.<sup>ivEN</sup>
- B. The district boundary lines, unless shown otherwise, are intended generally to follow street corner lines, railroad right-of-way lines, reservoirs, lakes or other bodies of water, watercourses, lot lines or boundaries of subdivisions or Town boundary lines or the straight-line projections of such lines, all as shown on the Zoning Map. Where a district boundary line does not follow such a line, its position is shown on the Zoning Map by a specific dimension expressing its distance in feet from such a street center line or other boundary line as indicated.
- C. In case of uncertainty as to the true location of a district boundary line in a particular instance, the determination thereof shall be made by the Building Inspector. An appeal may be taken to the Board of Appeals as provided in § 57-64.
- D. The Zoning Map of the Town of Monroe as most recently adopted by the Town Board pursuant to local law is hereby incorporated and made a part of Chapter 57 of the Code of the Town of Monroe.<sup>vEN</sup>

**§ 57-10. Schedule of District Regulations.**

The Schedule of District Regulations attached to this chapter is hereby made a part of this chapter.<sup>viEN</sup>

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**ARTICLE V, Special Exception Uses**

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**§ 57-11. General procedural requirements.**

- A. Delegation of power. The Planning Board is hereby authorized to act on proposed special exception uses which are specifically provided for in this chapter. Such action may include approval, conditional approval or disapproval based on the standards set forth in this section.
- B. Rules of procedure. The Planning Board shall adopt and file in the Town Clerk's office such rules and procedures as it may deem necessary to the proper exercise of its responsibilities with respect to special exception uses.
- C. Public hearing. Prior to taking action on any special exception use, the Planning Board shall hold a public hearing after public notice has been published, posted and mailed in accordance with the provisions of § 57-19 of this chapter. [Amended 6-16-2003 by L.L. No. 1-2003]
- D. Referrals to other agencies. All matters which are the subject of a mandatory referral or notice to other agencies, as set forth in § 264 of the Town Law and §§ 239-l and 239-m of the General Municipal Law, shall be transmitted to the appropriate agencies by the Secretary of the Planning Board in accordance with the provisions of those sections.
- E. Minutes and records. The Secretary of the Planning Board shall keep minutes of the Board's proceedings showing the vote of each member upon every question or, if absent or failing to vote, indicating such fact. The Secretary shall also keep records of examinations and official actions, all of which shall be immediately filed in the office of the Planning Board and shall be a public record. Each decision of the Planning Board with respect to the approval of a special exception use shall be stated and documented as to provide a definitive authorization to the Building Inspector for the issuance of a building permit or certificate of occupancy.
- F. A site plan for any proposed special exception use in any district where authorized shall be submitted to the Planning Board for approval, either along with or subsequent to the authorization of the special exception use, in accordance with Article VI, prior to authorization by the Planning Board for the issuance of a building permit. In the event that the applicant elects to submit such site plan following authorization of the special exception use, the applicant must be prepared to submit such reasonable site information as part of the special exception use application so that the Planning Board will be able to make the determinations necessary under this article.
- G. Site plans for accessory apartments in detached dwellings under § 57-13.B. or accessory livestock use in § 57-13.M. shall not be required if the applicant has a survey that shows the existing conditions of the property and no changes are made to the property with the exception of changes made to existing buildings to accommodate such use.
- H. A special exception use authorization by the Planning Board for the issuance of a building permit shall expire within 180 days of the approval of the site plan in the event that such

permit has not been applied for within such one-hundred-eighty-day period. Extension of such authorization may be granted by the Planning Board for not more than four additional ninety-day periods upon a written request by the applicant fully setting forth the reasons for such request or upon the Board's own motion.

**§ 57-12. Guiding principles and standards.**

- A. Such use shall be one which is specifically authorized as a special exception use in the district within which such particular site is located.
- B. For every such special exception use, the Planning Board shall make a specific finding that such use will not be prejudicial to the character of the neighborhood.
- C. For every such special exception use, the Planning Board shall determine that, when taken in conjunction with other existing land uses, it will not generate traffic that would result in an undue burden upon the available access streets.
- D. For every such special exception use where the installation of outdoor floodlighting or spotlighting is intended, the Planning Board shall determine that such lighting will not shine directly upon any abutting property. No unshielded lights shall be permitted.
- E. Such special exception uses shall be further subject to the applicable conditions and safeguards which are stipulated in § 57-13 and Article IX and are listed below:
  - (1) Detached Accessory Apartment Units (See § 57-13.A)
  - (2) Accessory Apartment Use in One Family Structures (See § 57-13.B)
  - (3) Cemetery (See § 57-13 C)
  - (4) Multiple Dwelling Group (See § 57-13.D)
  - (5) Hunting and Fishing Lodges(See § 57-13.E)
  - (6) Neighborhood Shopping Center(See § 57-13.F)
  - (7) Bus Passenger Shelter(See § 57-13.G)
  - (8) Private or Commercial Marina(See § 57-13.H)
  - (9) Public Utility Buildings and Structures(See § 57-13.I)
  - (10) Hotels and Motels(See § 57-13.J)
  - (11) Gas Stations, Service Stations and Car Washing Stations(See § 57-13.K)
  - (12) Manufactured Home Park(See § 57-13.L)
  - (13) Livestock(See § 57-13.M)
  - (14) Dog Kennels(See § 57-13.N)
  - (15) Integrated Residential Use in Business Parks(See § 57-13.O)
  - (16) Self-service storage facilities(See § 57-13.P).
  - (17) Golf Courses (See § 57-13.Q).
  - (18) Bed and Breakfast Residence (See § 57-13.R).
  - (19) Bed and Breakfast Inn (See § 57-13.S).
  - (20) Day Camps (See § 57-13.T).
  - (21) Home Occupations and Home Professional Offices. (See § 57-13.U).
  - (22) Day Care Centers (See § 57-13.V).
  - (23) Indoor and Outdoor Sports Facilities (See § 57-13.W).
  - (24) Artist Live Work Spaces (See § 57-13. X)
  - (25) Medical Marijuana Facilities (See § 57-13.Y.)
  - (26) Adult Uses (See Article IX).

**§ 57-13. Special conditions required for certain uses.**

- A. Detached Accessory Dwelling Unit: No authorization for a building permit shall be granted by the Planning Board for a detached accessory dwelling in any district where authorized unless the Planning Board shall first determine that such use:
- (1) Can meet all current lot area, setback and other applicable zoning, sanitary code, building code and fire code requirements so that it would meet all of the Town of Monroe's requirements for subdivision, should it be proposed for subdivision.
  - (2) In any of the following residential zones: RR-3.0, RR-1.0, SR-20, SR-15 and SR-10 within the Town of Monroe, on any lot used for a single-family detached residence, which lot is at least two times the minimum lot area, a single accessory detached residence use shall be permitted as a special exception use, following site plan approval by the Planning Board. The minimum lot area applicable to any zone shall be calculated according to whether or not it is supplied with central water and/or sewer services.
  - (3) The accessory detached residential unit shall be less than the floor area of the residential dwelling to which it is accessory.
  - (4) Site plan approval shall be required for any alterations to the site which would require buildings permits, including construction or improvements to either the accessory or principal dwelling, in order to ensure compliance with the requirements of § 57-13A. Home professional offices shall be permitted in both or either the accessory or principal dwelling, but shall be also subject to site plan approval by the Planning Board.
  - (5) The provisions of Article VII of Chapter 57 of the Town of Monroe, entitled "Accessory Apartments," shall not apply to either any principal or accessory detached dwelling unit approved pursuant to this section.
  - (6) Such accessory apartment can be constructed and utilized compatibly with the health, safety and welfare of adjoining properties.
  - (7) The owner shall reside on the premises for a period of more than six consecutive months in any calendar year or the special exception permit shall become null and void and the premises shall revert to its original permitted use which existed immediately prior to the issuance of the permit, pending the completion for any subdivision.

B. Accessory Apartment Use in One Family Structures

It is the specific purpose and intent of this section to allow an accessory apartment within one-family detached residential structures in all one-family residence districts in order to provide the opportunity and encouragement for the development of small rental housing units designed, in particular, to meet the special housing needs of single persons and couples. It is the further purpose and intent of this provision to allow the more efficient use of the Town's housing stock, to provide economic support for existing resident families of limited income and to preserve and protect property values. In order to achieve these purposes and to promote the general purposes of the Town Zoning Law, the following standards are set forth for such accessory use:

- (1) Accessory apartments shall be permitted, subject to the review and approval of the Planning Board in accordance with the standards set forth in this article.

- (2) The owner of the one-family detached residence in which the accessory apartment is to be located shall occupy at least one of the units on the premises. The owner must reside on the premises more than six consecutive months out of any calendar year or the special exception permit shall become null and void and the premises shall revert to its original permitted use which existed immediately prior to the issuance of the permit.
  - (3) There shall be not more than one accessory apartment in each one-family detached residence structure on a lot.
  - (4) The certificate of occupancy for such single-family residence structure with accessory apartment shall include a statement that the owner must reside in such dwelling unit for a period of more than six consecutive months out of the year and must maintain such separate accessory apartment pursuant to the requirements of this section or such certificate of occupancy shall become void.
  - (5) The accessory apartment shall comply with all applicable requirements of the New York State Uniform Fire Prevention and Building Code and shall be maintained in a neat and orderly manner.
  - (6) Off-street parking shall be provided on the following basis: two parking spaces per unit. The parking spaces shall be provided with a backup or turnaround area so that cars which park in the parking spaces are not required to back out into the street. The backup or turnaround area shall not be construed as nor used as a legal parking space.
  - (7) No office, retail, service, commercial or home occupation use shall be permitted on the premises of the accessory apartment.
  - (8) Each dwelling unit in the structure shall contain its own separate and private bathroom and kitchen wholly within each dwelling unit. The accessory apartment shall not contain more than two bedrooms.
  - (9) The structure in which the accessory apartment is located shall have only one front entrance and only one entrance from any other facade of the structure. An exterior entrance leading to a foyer with interior entrances leading from the foyer to the two dwelling units will be acceptable pursuant to this requirement.
  - (10) The accessory apartment may be in a zone that is serviced by either an on-site septic system or central sewage facility, by a well or central water facility. The applicant shall demonstrate that adequate water and/or septic capacity exists on the site to meet current applicable Health Department standards pertinent to the use.
  - (11) In the case of a single home application that is not part of a subdivision approval, the owner shall be permitted to submit an "Accessory Apartment Use" application to the Planning Board with photos of the existing home. Such application form shall be adopted with the schedule of fees by the Town Board. Such application may be required to include additional information if the property is located within a drainage district. An application for a permit must be granted or denied within 60 days. In absence of formal approval or denial, the use shall be automatically approved within 60 days.
- C. Cemetery: No authorization for a building permit shall be granted by the Planning Board for a cemetery in any district where authorized, unless the Board shall first determine that such cemetery is appropriate to the character of its neighborhood and will serve the interests of the residents of the Town without any damaging effect upon adjacent properties.

D. Multiple Dwelling Group: No authorization for a building permit shall be granted by the Planning Board for a multiple dwelling group in any district where authorized except the UR-M District, unless the Board shall first determine that the location of the building and the general character of the development are compatible with their surroundings and, in addition to such other requirements of this chapter as may apply, that the proposed use also meets the following requirements: [Amended 3-11-1985 by L.L. No. 1-1985; 4-17-2000 by L.L. No. 1-2000]

- (1) The maximum building height shall not exceed 35 feet or 2 1/2 stories.
- (2) The minimum lot area shall be 160,000 square feet.
- (3) The minimum lot area per unit shall be 4,350 square feet.
- (4) The minimum lot width of the principal street frontage shall be 300 feet.
- (5) The maximum lot coverage shall be 40%.
- (6) No building within a multiple dwelling group project, shall be erected nearer than 60 feet to any property line that abuts properties that are not part of the multiple dwelling group project. Said 60 foot setback area shall not be used to erect accessory buildings or structures including, but not limited to, sheds, play equipment, pet houses, garden structures and/or decorative objects, patios and the like or for the parking of vehicles or for the open storage of personal belongings. The vegetation and maintenance of said 60 foot area shall be either in natural existing vegetation so as to provide a buffer as well as provide shelter and food for native wildlife, or as specified on the site plan and special exception use permit as approved by the Planning Board. Use restrictions and maintenance requirements shall be enforceable by individual residents, the Homeowners' Association or equivalent self-governing body and/or the Town of Monroe. The Town shall have the right but not the obligation to enforce said use restrictions and maintenance requirements.
- (7) Notwithstanding the provisions of Subparagraph (6) above, the 60 foot property line setback requirement shall not apply to property lines separating townhouses or patio homes within the multiple dwelling group project itself. Townhouses or patio homes on individual lots shall be located at least 40 feet from the interior front and rear lot line and 20 feet from side lot lines. This requirement shall not prevent the common walls of attached dwellings from being located on a property line nor from preventing one side wall of a patio home from being located on a lot line.
- (8) The minimum straight-line distance between the boundary line of a proposed multiple dwelling group site and the boundary line of any other proposed or existing multiple dwelling group site shall be 1,500 feet. This restriction shall not apply to multiple dwelling groups in the UR-M District.
- (9) The maximum number of multiple-dwelling units to be located on any one site shall be 50.
- (10) No multiple dwelling group shall be located so as to have access only to a minor street or cul-de-sac.
- (11) Multiple dwelling groups shall be served by a public sewer and public water system.
- (12) There shall be adequate provision of space between buildings on the lot and of setbacks from driveways, if any, so as to assure ample light, air and privacy, in the interests of public health, safety and general welfare. The distance between any two buildings shall not be less than the height of the higher of such two buildings.

- (13) Any parking or garage area, clothes line(s), or recreation area shall be screened so as to protect neighboring properties adequately, as well as to assure an attractive environment within the multiple dwelling group site.
  - (14) Maintenance or repair of motor vehicles within a multiple dwelling group is prohibited. This is not intended to prohibit the filling of fluids or the repair/replacement of windshield wiper blades.
  - (15) All other applicable provisions of this chapter, including Parking (Article XII) and Landscaping (Article XX)
- E. Hunting and Fishing Lodges: No authorization for a building permit shall be granted by the Planning Board for a membership club or a hunting or fishing lodge in any district where authorized, unless the Board shall first determine that
- (1) That the nature of such lodge shall not cause or create a nuisance to adjoining properties or to its general neighborhood;
  - (2) If the discharge of firearms is permitted in such membership club, the property boundaries of such club shall be no closer than 1000 feet from the nearest dwelling. Outdoor firing ranges shall be prohibited.
  - (3) For every membership club, there shall be a lot area of not less than 10,000 square feet per guest room in all districts where authorized; except that in a WR District, such lot area shall be not less than 2,000 square feet per guest room.
- F. Neighborhood Shopping Center: No authorization for a building permit shall be granted by the Planning Board for a neighborhood shopping center in any district where authorized as a special exception use, unless the Board shall first determine that the proposed use meets the following standards:
- (1) No additional exterior building illumination, other than that specified for signs in Article XIII, shall be permitted, and to ensure adequate safety in parking lots All lighting shall be shielded and directed in such a way that it does not illuminate adjoining properties, or cause harm to nearby residential properties.
  - (2) All proposed uses for the Neighborhood shopping center shall be approved by the Planning Board to ensure that adequate parking is available for all proposed uses within the shopping center. The applicant may be permitted reduction in required spaces if uses can share parking because of varying peak times of use in Accordance with provisions outlined in Article VII Parking
  - (3) A landscaping plan shall be required in accordance with Article XX.
  - (4) All garbage containers shall be screened by permanent enclosures and screening.
- G. Bus Passenger Shelter: No authorization for a building permit shall be granted by the Planning Board for a bus passenger waiting shelter in any district where authorized, unless the Board shall first determine that such use would not be in effect a bus depot or station and further that the proposed location will serve the interests of the residents of the Town without any damaging effect upon adjacent properties.

- H. Private or Commercial Marina: No authorization for a building permit shall be granted by the Planning Board for a private or commercial marina in any district where authorized, unless the Board shall first determine that such use is appropriate to the character of its neighborhood and will serve the interests of the Town without any damaging effect upon adjacent properties.
- I. Public Utility Buildings and Structures: No authorization for a building permit shall be granted by the Planning Board for a public utility building, structure, or utility tower in any district where authorized as a special exception use, unless the Board shall first make the following determinations: [Amended 9-8-1986 by L.L. No. 1-1986<sup>viiEN</sup>]
- (1) Such use will not include any storage yard, garage or repair shop.
  - (2) Any request for installation of high tension electric transmission lines shall be studied with respect to their impact on the community and the possibility of damaging effects on surrounding properties or of detriment to the public safety.
  - (3) No installation of a natural gas regulator or transformer station shall be made in any residential district if adequate service can be provided by locating said transformer station in a business or industrial district.
  - (4) All such installations shall have suitable screening as required by the Planning Board. Such screening may include, but not be limited to stealth structures, fencing, and landscaping. All screening proposals shall be illustrated sufficiently to be able to understand the mitigating features of such screening.
- J. Hotels and Motels. No authorization for a building permit shall be granted by the Planning Board for a hotel or a motel in any district where authorized, unless the Board shall first determine that:
- (1) the location of such use is appropriate to the character of its surroundings and that such hotel or motel will not be detrimental to the public health, public safety, morals and general welfare of the public.
  - (2) That such hotel or motel is reasonable and necessary for the convenience of the community;
  - (3) That the proposed use meets the following standard: For every hotel or motel, there shall be a lot area of not less than 2000-square feet per guest room in all districts where authorized, except that in a WR District, such lot area shall not be less than 2,000 square feet per guest room, and in the HI District, in a business park, such lot area shall be not less than 1,100 square feet per guest room. [Amended 5-4-1992 by L.L. No. 2-1992]
  - (4) Landscaping: A landscaping plan shall be required to be submitted in accordance with Article XX of this chapter.
- K. Gas Station, Service Stations, and Car Washing Stations: No authorization for a building permit shall be granted by the Planning Board for a service or gas station or car washing station in any district where authorized, unless the Board shall first determine that all applicable provisions of §§ 57-48, 57-51, 57-52 and 57-53 will be complied with and unless the Board shall further determine that the proposed location of such facility will serve the interests of the residents of the Town without any damaging effect upon adjacent properties.

- L. Manufactured Home Park. No authorization for a building permit shall be granted by the Planning Board for a manufactured home park in any district where authorized unless the Board shall first determine that the location of the park is compatible with the surrounding neighborhood and, in addition to such other requirements of this chapter as may apply, that the proposed use also meets the following standards: [Added 3-5-1984 by L.L. No. 1-1984]
- (1) Site standards.
    - (a) Minimum size of manufactured home park: 15 acres.
    - (b) Minimum straight line distance between boundary lines of manufactured home parks: 1,500 feet.
    - (c) Maximum number of units per acre: 8
    - (d) Maximum number of units permitted in any one manufactured home park: 100.
    - (e) Minimum size and dimensions of mobile home lots: the applicant shall demonstrate that for each lot intended for the use of a single manufactured home the following minimum dimensions shall be:
      - [1] Lot size: 5,000 square feet.
      - [2] Width of lot: 50 feet.
      - [3] Width of lot at front lot line: 35 feet.
      - [4] Lot depth: 100 feet.
    - (f) Minimum setbacks and yard distances: the applicant shall demonstrate that for each lot intended for the use of a single manufactured home the following minimum dimensions shall be :
      - [1] Front line setback: 20 feet.
      - [2] Rear yard depth: 10 feet.
      - [3] One side yard width: at least 25 feet.
      - [4] No unit shall abut a lot line upon which a neighboring unit abuts.
    - (g) Minimum distances of units from public streets or highways and property lines.
      - [1] From a street owned or maintained or dedicated to the Town of Monroe, State of New York or County of Orange: 30 feet.
      - [2] From any other street line: 20 feet.
      - [3] From all properties not included in the manufactured home park: 25 feet.
    - (h) Maximum lot coverage: 60%. [Amended 4-17-2000 by L.L. No. 1-2000]
  - (2) Parking. Each manufactured home unit shall have two parking spaces assigned to it.
  - (3) Streets and roads.
    - (a) All streets and roads within the manufactured home park shall be built in accordance with the minimum construction standards for such established by the Town Board and as required for safety by the Planning Board during the course of approval. All streets in a manufactured home park shall be paved to a width of at least 30 feet, all dead end streets shall have a forty-foot paved radial turnaround at their terminus and shall not be over 500 feet in overall length.
    - (b) All streets and roads in the Manufactured Home Park shall be required to demonstrate how the proper maintenance of all such streets and roads in the park shall occur.

- (c) Vehicular access facilities shall be adequate for the estimated traffic to and from the site, so as to assure the public safety and to avoid traffic congestion. Vehicular entrances and exits shall be clearly visible from the street and at least 75 feet from any street intersection.
  - (d) Curbs. All streets shall be constructed with curbs at both sides thereof.
  - (e) Right-of-way width. The right-of-way for any street not dedicated to the Town of Monroe shall be at least 30 feet. Any street dedicated to the Town of Monroe shall have a right-of-way width of at least 50 feet.
  - (f) Adequate street lighting shall be provided by means of conventional street lights placed at least every 500 feet along any street, or as determined by the Planning Board.
- (4) Utilities, sewer and water facilities.
- (a) All utilities servicing any unit within the manufactured home park shall be installed underground in the manner prescribed by the applicable regulations of the utility company and/or governmental agencies having such jurisdiction.
  - (b) Sewer and water facilities. All units within a manufactured home park unit shall be serviced by facilities of Orange County Sewer District No. 1 or other public sewerage and water system. No individual septic systems or wells, or private sewerage and water systems shall be permitted.
- (5) Stormwater drainage.
- (a) A manufactured home park shall have adequate facilities for drainage of surface and subsurface water. A Stormwater management plan shall be reviewed and approved by the Planning Board.
  - (b) Grading of the entire property shall be such as to facilitate the safe and efficient drainage of surface water.
  - (c) Gutters, culverts, catch basins, drain inlets, stormwater sewers, approved combined storm sewers or other satisfactory drainage systems shall be utilized where deemed necessary by the Planning Board.
- (6) Garbage and refuse.
- (a) Adequate sanitary facilities and methods shall be used for the collection, storage, handling and disposal of garbage and refuse.
  - (b) Garbage and refuse collection points shall be so located that no manufactured home is more than 150 feet from such collection point.
- (7) Supplementary building regulations. Each manufactured home lot shall have:
- (a) A driveway from the street 12 feet wide and a sidewalk 30 inches wide and shall be provided from the mobile home unit to the street.
  - (b) A foundation capable of retaining the manufactured home in a fixed position. Such stand shall be adequately compacted and at such elevation, distance and angle, in relation to the accessway, as to facilitate the safe and efficient placement and removal of the manufactured home.
  - (c) A four-inch concrete patio, with minimum dimensions of 10 feet by 18 feet, located so as to provide safe and easy access from the manufactured home.
  - (d) Concealment of a manufactured home chasses with the use of a skirt or other permanent structure around the base of the manufactured home.

- (e) Storage sheds for miscellaneous maintenance equipment, toys, lawn furniture, bicycles and the like. Such shed may encroach into any required yard area.
- (f) If fuel oil is used for heating, an inconspicuous fuel oil shelter shall be required. In addition, individual fuel storage tanks shall be provided for each manufactured home in an area on each lot where it is safe from passing vehicular traffic, and shall not create a fire hazard.
- (g) Utility connections, including gas connection where provided, shall be readily accessible at the manufactured home foundation and shall have means for safe and efficient hookup to the manufactured home.
- (h) A water supply connection shall be located a safe distance from a sanitary drainage connection and shall not be subject to surface drainage. Means shall be provided for a suitable watertight connection and danger of freezing.
- (i) A sanitary drainage connection shall be at proper location relative to the mobile home, and piping shall have a continuous grade to the point of disposal. A drainage connection shall be provided with suitable fittings to permit a watertight junction to be made with the manufactured home outlet.
- (j) A gas connection, if provided, shall have a suitable gastight connection to the manufactured home.
- (k) The electrical system connection shall provide adequate amperage and connection customary for single family usage of such manufactured homes. The receptacle or terminal box shall be of an approved weatherproof type. Such receptacle shall have provision for an equipment ground.
- (8) Recreational and public facilities. The following facilities shall be provided in a manufactured home park:
  - (a) An equipped recreation facility with an area of not less than 1/2 acre, with such equipment as may be deemed adequate by the Planning Board under the circumstances of each application.
  - (b) An adequate fire protection system, including fire lanes which shall take into consideration the standards of the National Fire Protection Association and the recommendation of the Town of Monroe Fire Prevention Fire Bureau. Fire lanes shall be established along each street or road within the manufactured home park by prohibiting parking along one side thereof for the entire length of each street. The manufactured home park shall adopt rules and regulations to ensure that no such parking will be allowed.
  - (c) Landscaping: A landscaping plan shall be developed as part of the submission of the plan for such manufactured park. Landscaping shall be required along streets, and around community buildings and areas within the Manufactured Home Park in accordance with provisions set forth in Article XX Tree protection and, Landscaping requirements

M. Livestock shall be permitted subject to the following requirements:

- (1) All keeping and breeding of livestock shall be limited to the following numbers for each animal:

- (a) Pigs, sheep and goats. Not more than five pigs, sheep and/or goats in total shall be permitted to be kept in an accessory barn or shed and confined to the owner's property by means of structural fencing on a lot of not less than three acres in size.
  - (b) Horses, donkeys and cows. Not more than one horse or one donkey or one cow shall be allowed for each acre. Colts or calves under eight months of age shall not be included in this count. Horses and/or donkeys and/or cows shall be confined to the owner's property by means of structural fencing.
  - (c) Chickens, turkeys, pigeons, rabbits, weasels, hawks, falcons. Not more than twenty of the above animals in total shall be permitted to be kept in an accessory coop, hutch, barn or shed on a lot of not less than three acres in size. The above animals shall be confined to the owner's property with the exception of trained pigeons, hawks and/or falcons used for aerial display or exercise.
- (2) All Livestock animal wastes shall be handled so as not to pose a nuisance runoff, odor or insect problem.
  - (3) All Livestock food storage shall be managed so as to avoid creating a nuisance, insect or animal vector problem.
  - (4) Use of livestock shall specifically include the keeping, breeding, raising and boarding of such animals, including the training and rental of horses, riding instruction and horse shows and competitions.
  - (5) Barns, silos and related farm buildings shall be permitted, provided that such buildings conform to the yard requirements for principal buildings.
  - (6) No stable or similar animal housing, storage of manure or other odor- or dust-producing substance or use or parking of vehicles shall be permitted within 150 feet of any lot line.

N. Dog Kennels. As defined by this chapter in §§57-3 Definitions, a Kennel shall be subject to review and approval of a special permit issued by the Planning Board, and shall be subject to the following provisions:

- (1) Such Kennel shall not be located on a property of less than 3 acres in size in any residential district.
- (2) All dog runs and shelters used to keep dogs shall be located not less than one hundred and fifty feet from any lot line.
- (3) All wastes from such animals shall be handled so as to not to pose a nuisance, runoff or insect problem.
- (4) Such applicant for a Kennel permit shall expire one month after the sale or transfer of such property and any new owner shall be required to re-apply for such special permit for use as a Kennel.
- (5) The Planning Board may review, upon time to time, this use, and if sufficient justification for removal of such special permit is warranted, may rescind such special permit by majority vote.
- (6) The requirement of these provisions shall not be construed to include the private ownership and sale of puppies of a single family pet of a household.
- (7) The Planning Board shall be permitted to review the proposed breed for such kennel and provide appropriate restrictions regarding keeping of such breed.

O. Integrated Residential Uses in Business Parks. [Added 3-21-1994 by L.L. No. 1, 1994]

- (1) Review and approval of a site plan for residential uses in accordance with Article 6 of the Zoning Law shall be required prior to approval of any Building Permit for residential uses in a Business Park.
- (2) The Planning Board may permit the site plan to be developed in such phases as may be appropriate to the overall plan of development for the Business Park.
  - (a) Until such time after the construction of at least 300,000 square feet of non-residential ratable development occurs within the aggregate area described in the overall development plan for the Business Park, building permits for more than 100 dwelling units shall not be issued pursuant to this section.
  - (b) Upon completion of construction of at least 300,000 square feet of non-residential ratable development within the aggregate area described in the overall development plan for the Business Park, building permits for dwelling units in any remaining phase(s) may be issued provided such phase(s) otherwise comply with the site plan requirements set forth in Subsection D3 below.
- (3) The Planning Board shall review the site plan and determine that the proposed use conforms to the following standards:
  - (a) The maximum building height shall not exceed 35 feet or 2 1/2 stories.
  - (b) The minimum lot area shall be 160,000 square feet.
  - (c) The density of the residential component of a business park shall be 1.5 dwelling units per acre of land in the Town of Monroe, which shall be the total residential density within the overall development plan. The minimum lot area per dwelling shall be 4,350 square feet in any designated residential site.
  - (d) The maximum lot coverage of buildings within the area of a site plan for an integrated residential use shall be 50%. [Amended 4-17-2000 by L.L. No. 1-2000]
  - (e) No building shall be erected nearer than 30 feet to any property line of the site, with the exception of Townhouses or patio homes on individual lots which shall be located at least 25 feet from interior front and rear lot lines and 30 feet from side lot lines. This requirement shall not prevent the common walls of attached dwellings from being located on a property line nor prevent one side wall of a patio home from being located on a lot line.
  - (f) That prior to occupancy, sufficient central water and sewer service will be available to meet the needs of each phase of the development for which final approval is sought.
  - (g) There shall be adequate provisions of space between buildings on the lot and of setbacks from driveways, if any, so as to assure ample light, air and privacy in the interest of public health, safety and welfare. The distance between any two buildings shall not be less than the height of the higher of such two buildings.
  - (h) Any garage area, service or drying yard or recreation area shall be screened so as to adequately protect neighboring properties, as well as to assure an attractive environment within the integrated residential use site.
  - (i) That sufficient recreational resources are available to serve the needs of the proposed development.
  - (j) That the proposed development conforms to the applicable minimum habitable floor area and width standards of § 57-45.

- (k) The Planning Board may modify the requirements of § 57-51K to reduce the required size of parking spaces to nine feet by 18 feet.
- (l) In any integrated residential use, when 100 or more dwelling units are proposed for development, at the discretion of the Town Board, suitable provision shall be made for affordable housing with respect to the units of such use. The requirements of this subsection shall be deemed to have been met if the developer adopts a plan making affordable housing units available for sale or purchase and meeting the following standards:
  - [1] The Town Board may require that up to 20% of the units to be developed in the complex will be available for a period of 10 years from the date of initial offering for purchase or rental as affordable housing units to meet demonstrated local needs for convenient and affordable housing for young families, senior citizens, municipal employees and others.
  - [2] Affordable housing dwelling units for sale shall be those available to households whose gross income is equal to or less than 100% of the Orange County median income, and if for rent shall be those available to households whose gross income is equal to or less than 80% of the Orange County median income, based on income statistics published by the U.S. Department of Housing and Urban Development or the New York State Division of Housing and Community Renewal.
  - [3] Units shall be considered available to such households if the unit rental will not exceed 30% of the gross household income, and, in the event affordable housing units are made available for purchase, the purchase price of such units would be limited to 80% of the actual price of a comparable unrestricted unit in the complex sold within the year prior to the date of sale or 80% of the price at which a comparable unrestricted unit is offered in an offering plan accepted by the office of the New York State Attorney General.
  - [4] Affordable housing units will be integrated with other units.
  - [5] The plan may extend an initial opportunity to purchase or rent such affordable units to qualified households which shall be selected on the basis of the following categories of preference. After 60 days from the date on which such units are initially offered for purchase or rental, the opportunity to purchase or rent may be made available to other income qualified households.
    - [a] Residents of the Town of Monroe over the age of 65.
    - [b] Town of Monroe municipal employees.
    - [c] Volunteer firemen and ambulance workers for the Town of Monroe.
    - [d] Town of Monroe residents who are Monroe-Woodbury school district employees in non-teaching or non-administrative positions.
    - [e] Residents of the Town of Monroe who are combat veterans of the armed services.
    - [f] Residents of the Town of Monroe.
    - [g] Other persons employed in the Town of Monroe.
    - [h] Other residents of the Towns of Woodbury, Tuxedo, Chester and Blooming Grove.
    - [i] Other residents of Orange County.

[j] Residents of Rockland, Dutchess, Putnam, Ulster and Sullivan counties.

[6] Affordable housing developed in an integrated residential use shall address the needs of the community for such housing without any need for the commitment of local funds.

P. Self-service storage facilities. [Added 3-16-1998 by L.L. No. 3-1998]

(1) Site and design requirements:

- (a) Circulation and access. If the site is fenced, the site access drive shall have the fence and its gate set back a minimum of 40 feet from the access road. Internal site circulation lanes shall be adequate in dimensional cross-section, width and turning radii where applicable to provide for the maneuverability of fire trucks. Aisle width shall be a minimum of 23 feet for either one- or two-way traffic flows.
- (b) Security. Provision shall be made for adequate site security and access control. If the facility is gated, adequate provision shall be made for access by emergency service providers when the facility is closed. If fencing is provided for access control, in no case shall barbed wire or razor wire fence components be incorporated into the same. Such fence shall not exceed eight feet in height. Notwithstanding the foregoing, the solid rear and/or side wall(s) of a storage building or buildings may be incorporated into a fence line for purposes of access control subject to Planning Board approval of the exterior finish of the same and other elements in Subsection P(1)(c). Solid or decorative brick, stone, architectural tile, masonry or wood walls may be used for fencing and screening purposes. If provided, fences or their equivalent shall meet the minimum setback requirement for the district. The placement of or incorporation of signs or other advertising media on such fences or walls is not permitted unless expressly so approved by the Planning Board pursuant to Subsection P(1)(h).
- (c) Aesthetic, screening, landscaping and lighting. Care shall be taken to provide an aesthetically pleasing, well-landscaped and maintained facility and to avoid a monotonous or fortress-like appearance to the extent that the facility may be visible off site. Required yards shall be landscaped with a mix of native trees, shrubs of varying sizes and vegetative ground cover so as to provide a buffer as well as provide shelter and food for the native wildlife as appropriate to the site and as approved by the Planning Board. The color, material and design of structures, including their roof pitch, shall be reviewed by the Planning Board as to their conformity with surrounding structures and community character to the degree said structures are visible to other properties. Particular attention shall be paid to the visibility and appearance of loading and access areas to multi-story buildings. For multi-story structures, where windows are incorporated into the elevation, the design shall avoid creating nighttime visual impacts from such windows where internally lighted. Where windows are not incorporated in multi-story structures, exterior design elements shall be incorporated to break up the visual bulk of the structure and to add interest. Security lighting shall be provided on the site but in no case shall lighting be directed so as to cause a nuisance or hazard to other properties.

(d) Limits on building length and height.

(1) Limits on building length

- [1] Limit on building length: 220 feet for one story structures.
- [2] Limits on building length: 175 for multi-story structures
- (2) Limits on building height
  - [1] For one story storage structures, 15 feet for buildings with flat roofs or up to 23 feet for buildings with pitched roofs
  - [2] For multi-story storage structures, the height shall be limited to 35 feet or to the maximum building height established in the applicable zoning district, whatever is greater.
- (e) Limits on storage and use. In no case shall self-service storage facilities permit the storage or maintenance of radioactive, toxic, explosive or controlled substances. The servicing or repair of automotive equipment, tools or machinery and the construction or fabrication of goods or materials shall not take place on the site, either inside or outside the bounds of an individual storage unit. The operation of power tools, spray equipment, compressors and other equipment shall not be permitted as an adjunct to the use or lease of any storage unit. Auctions, garage or tag sales or any other commercial or private sales shall not take place on the site either by lessees of storage units or by the owners or operators of the site. Parking spaces required pursuant to Subsection P(3) may not be rented as nor used for vehicular storage spaces. No additional parking spaces other than those required pursuant to Subsection P(3) of this section may be provided for the unenclosed storage of vehicles or items, including but not limited to automobiles, motorcycles, trucks, trailers, vans, recreational vehicles, campers, boats or watercraft except that, in the event that the applicant can demonstrate that under no circumstances would the above-listed vehicles or items be visible to any other off-site location either by virtue of existing conditions such as topography or other permanent screening or by virtue of proposed permanent screening, such open storage shall be permitted subject to Planning Board approval. Notwithstanding the foregoing, nothing in this paragraph shall be construed as permitting the unenclosed storage of wrecked, inoperable or dismantled vehicles at a self-service storage facility.
- (f) Limits on unit size. The maximum size of a storage unit permitted in a self-service storage facility is 600 square feet. In no case shall a single tenant be permitted to rent or lease more than 1,800 square feet in a single, self-service storage facility.
- (g) Drainage. Adequate drainage control measures shall be provided on the site so as to avoid increasing the existing rates of flow off the site. Provision shall be made for protecting the quality of the surface water runoff from the site both during the operation of the site as well as during its construction.
- (h) Signs. The provisions of § 57-55 shall not apply to this use, but signs shall be permitted as follows:
  - (1) A ground-mounted or pole-mounted sign shall be permitted at the entry of the site. If ground-mounted, such sign shall not be located so as to interfere with the visibility of traffic entering or exiting the site. Such sign shall not be higher than 10 feet, as measured from the top of said sign, and shall not exceed 36 square feet in area. In no case shall any signage or other attention-getting devices be

mounted to the roofs, doors or sides of any structures on the site nor to the site fence.

- (2) On-site road circulation signs shall be provided as needed with the review and approval of the Planning Board.
  - (2) Accessory uses. A leasing office of not more than 1,200 square feet in size for the purpose of leasing the units within the self-service storage facility may be provided on the site. A manager's apartment may be provided for the use of a resident, on-site manager in addition to an accessory leasing office. The combined total size of the manager's apartment and the leasing office shall not be less than 1,500 square feet or more than 1,750 square feet.
  - (3) Parking requirements. Self-service storage facilities shall provide a minimum of one parking space per 100 storage units, in addition to one parking space per 200 square feet of gross office space for the leasing office. Such parking spaces shall be located adjacent to the leasing office. If an on-site manager's apartment is provided, two parking spaces adjacent to said apartment shall be provided for such use in addition to that required for the remainder of the facility.
  - (4) Separation requirements. In order to avoid an excessive concentration of such facilities in the Town of Monroe, self-service storage facilities must be separated from the bounds of a lot containing any other existing such facility or approved site for such a facility within the Town of Monroe by 1,500 feet.
- Q. Golf Courses: No authorization for a golf course shall be granted by the Planning Board in any district where authorized unless the Board shall first determine that the location of such use will not cause or create a nuisance to adjoining properties or to the surrounding neighborhood and that such proposed golf course shall be located on a lot at least 175 acres in size. [Added 2-23-1998 by L.L. No. 2-1998<sup>viii</sup>EN]
- R. Bed-and-breakfast residence. [Added 12-7-1998 by L.L. No. 7-1998]
- (1) The operator of the bed-and-breakfast residence establishment shall be an owner of the property and an occupant of the single-family residential dwelling to which the guest rooms are accessory.
  - (2) Bed-and-breakfast residences shall be permitted accessory only to single-family detached dwellings. However, in no case shall bed-and-breakfast residences be permitted as an accessory to a single-family detached dwelling having physical access only to a private road. The driveway serving the bed-and-breakfast residence shall have direct physical access to a public road.
  - (3) Full vehicular turnaround for the single-family detached dwelling and the bed-and-breakfast residence shall be provided unless the Planning Board waives such turnaround requirement for lots having frontage on an access to a minor street.
  - (4) The establishment and operation of the bed-and-breakfast residence shall not alter the appearance of the residence structure as a single-family detached dwelling.
  - (5) Not more than three bedrooms of the single-family detached dwelling shall be permitted to be used for rental purposes. Upon conversion of any portion of floor area in the single-family residential dwelling to a bed-and-breakfast residence establishment, the

- dwelling shall retain at least one bedroom for the exclusive use for the owner of the dwelling to which the bed-and-breakfast residence is accessory.
- (6) Room rental shall be for transient usage only. There shall be a limit of not more than 14 consecutive days for the length of stay by any guest.
  - (7) The sanitary and water supply systems serving the dwelling shall be found to be adequate to meet the needs of the dwelling, together with the bed-and-breakfast residence use, and adequate waste enclosures shall be provided to contain the solid waste generated by the use.
  - (8) Parking shall be provided to meet the residence requirement, together with one additional space for each bed-and-breakfast bedroom.
  - (9) Hard-surfaced walkways equipped with low-level lighting shall be provided from the parking spaces to the bed-and-breakfast residence entrance.
  - (10) If any outside recreation or any other exterior improvements exist or are planned to be constructed for use of the guest of the bed-and-breakfast residence, those improvements shall be part of the approved site plan.
  - (11) Food service shall be limited to those renting rooms.
  - (12) Said guests shall not be provided with separate entryways(s) into the house, nor shall separate kitchen facilities be provided for the use of such guests.
  - (13) A bed and breakfast residence shall retain at least one bedroom for the exclusive use of the owner of the dwelling who is operating and resides in the bed and breakfast residence establishment.
- S. Bed-and-breakfast inns. [Added 12-7-1998 by L.L. No. 7-1998]
- (1) The bed-and-breakfast inn is not required to be the principal residence of the operator of the same, although the principal residence of the operator may be permitted to be included within the bed-and-breakfast inn. In the event that the bed-and-breakfast inn does not serve as the principal residence of the operator, the Planning Board shall require that adequate supervision be provided for such use. The bed-and-breakfast inn shall provide a reception/office area, which area is not required to be a room that is dedicated solely to that purpose, provided that such area is not within the confines of a rental guest room.
  - (2) The number of guest rooms permitted for rental in a bed-and-breakfast inn shall be limited to 14 rooms.
  - (3) The appearance of the bed-and-breakfast inn shall be compatible and consistent with the appearance of the residences in its immediate neighborhood.
  - (4) Bed-and-breakfast inns shall be permitted accessory uses only to single-family detached dwellings. In no case shall bed-and-breakfast inns be permitted where physical access is only to a private road. The driveway serving the bed-and-breakfast inn shall have direct physical access to a public road.
  - (5) Full vehicular turnaround for the bed-and-breakfast inn shall be provided.
  - (6) Room rental shall be for transient usage only. There shall be a limit of not more than 14 consecutive days for the length of stay by any guest.
  - (7) The sanitary and water supply systems serving the structure shall be found to be adequate to meet the needs of the bed-and-breakfast inn use, and adequate waste enclosures shall be provided to contain the solid waste generated by the use.

- (8) Parking shall be provided to meet the residence requirement, if applicable. In addition, one space for each full-time employee, together with 1.25 additional spaces for each bed-and-breakfast bedroom or suite, shall be provided.
- (9) Hard-surfaced walkways equipped with low-level lighting shall be provided from the parking spaces to the bed-and-breakfast inn entrance.
- (10) If any outside recreation or any other exterior improvements exist or are planned to be constructed for use of the guest of the bed-and-breakfast inn, those improvements shall be part of the approved site plan.
- (11) Food service shall be limited to those guests renting rooms at the bed-and-breakfast inn, unless otherwise specifically approved by the Planning Board.
- (12) Said guests shall not be provided with separate entryway(s) into the house, nor shall separate kitchen facilities be provided for the use of such guests.

T. Day Camps: The Planning Board may permit day camps for use in the spring and summer seasons subject to the following conditions.

- (1) Access to such facility shall be limited to improved state, county or Town Roads, and shall be deemed as a major access road in the Town of Monroe, and shall not be permitted from roads that are used primarily by residential housing, unless such road is deemed to be a major access road.
- (2) No heating and plumbing systems shall be installed to permit year-round residential occupancy for any of the buildings used as part of the day camp facility. Bathroom facilities for campers shall be separated from kitchen facilities used to prepare meals for campers. Covenants precluding such occupancy shall be required and recorded in the County Clerk's offices and such copy shall be filed with the Town of Monroe.
- (3) No use of recreational vehicles shall be permitted as part of a Day Camp.
- (4) Access for pick up and drop off of campers shall be reviewed for its ability to safely transport children to and from the Day Camp.
- (5) All recreational facilities shall comply with the minimum required setbacks of the Bulk table. Play facilities with impervious surface shall count toward the maximum permitted Floor Area Ratio.
- (6) All uses shall be adequately screened from adjoining properties
- (7) Lighting, if used, shall be reviewed by the planning board and shall be located so it is not intrusive to any neighboring properties.
- (8) Amplified noises, such as public address systems shall be reviewed as part of the site plan review, and appropriate mitigation shall be provided to ensure that noise shall not exceed a decibel rating of 60 at any lot lines.
- (9) All swimming pools shall be adequately fenced in accordance with § 57-42 of this Chapter.
- (10) Day Camps shall not be permitted to operate after dark. Day Camps shall not be permitted to accommodate overnight or transient guests.

U. Home occupations and home professional offices are permitted in any residential zone without special permit provided that no exterior modification of such home is required to conduct such home occupation or professional business. In the event that exterior plan

modifications, such as the creation of new parking area, an addition to such residence, are required to accommodate visitors, a special permit and site plan shall be required. Such site plan shall be reviewed by the Planning Board for consistency with the surrounding neighborhood, and to ensure that such business is not injurious to adjoining properties or the surrounding neighborhood. When a site plan is required, the following conditions shall apply:

- (1) Noise levels from such use shall not be in excess of ambient neighborhood levels.
- (2) Home occupation uses that involve the repair of small engines shall be permitted by special permit only, provided that engines do not include the repair of recreational vehicles of any kind, motorcycles or cars. If such business includes small engine repair, then such property used for the business and residential use shall be at least three acres in size, and such business shall provide secure storage for fluids used during the repair process. In addition, such business shall not be permitted to sell new products with small engines or other parts and maintenance items not used during the repair of such engine.
- (3) Only four additional off-street parking spaces may be provided for such use, and shall be landscaped to provide buffering from adjoining residences and to maintain the character of the neighborhood.
- (4) No additional exterior lighting, other than what is customarily provided for safety for a residence shall be provided for such use.
- (5) No display of items for sale shall be permitted in such a way that it is visible to the public.
- (6) A single sign, no larger than 1 square foot shall be permitted in conjunction with such home occupation or home professional office use.
- (7) All home occupation uses shall comply with all relevant state and federal laws governing their use.
- (8) Uses not permitted as a home occupation use: Funeral Homes, taxidermy, auto repair, off-road vehicle or snow mobile repair, motorcycle repair, beauty salons with more than one person conducting such occupation, nail salon services with more than one person conducting such occupation.

V. Day Care Centers : Home Day Care Centers as defined in this Chapter in § 57-3 are permitted without special permit or site plan approval, unless building modification are required, in accordance with § 57- 14 (Site Plan Approval). However such day care shall provide a copy of license as required by the State of New York for such facility to the Code Enforcement Officer of the Town of Monroe. Day Care Centers as defined by § 57-3 require a Special Permit and are subject to the following conditions.

- (1) Day Care Centers shall be required to be licensed by the State of New York and shall be required to provide a current copy of such permit to the Code Enforcement Officer.
- (2) Driveways shall be located at points of sight distance sufficient to afford safe ingress and egress for the posted speed limit and classification of road on which they are located.
- (3) Where practicable, day-care centers shall be provided with a one-way traffic flow. Pedestrian circulation areas should, where practicable, avoid crossing traffic circulation ways. Drop-off areas are encouraged and may be provided for temporary vehicular standing near the building entry, but, if such areas are provided, they shall be situated so

as to avoid creating conflicts with entering and exiting traffic and with internal vehicular and pedestrian circulation.

- (4) Outdoor play areas shall be provided and shall be located in side or rear yard areas. Such outdoor play areas shall be enclosed by secure fencing at least four feet high unless it can be demonstrated to the satisfaction of the Planning Board that such fencing is not necessary for the protection of health and safety. Outdoor play areas shall include areas for play equipment and/or shall include open yard areas for unstructured play. Such outdoor play areas shall not exceed a ten-percent slope. Access to such play areas shall not require the need to cross a street or vehicular circulation area.
- (5) Buffer landscaping and/or fencing may be required where deemed necessary to screen and protect outdoor play areas from dust, dirt or noise or to screen and protect adjacent properties from any site-generated noise. If buffer landscaping is provided, it shall be densely planted so as to create a virtually opaque screen within two years after installation. If buffer fencing is provided, it shall provide opaque coverage and shall be situated with the finished side facing outward from the site. If provided, buffer fencing shall not exceed eight feet in height and shall be set back a distance equal to at least 1 1/2 times its height from any property line. However, in no case shall fencing or buffer landscaping be located so as to interfere with sight distance into or out of the site driveway(s). Buffer landscaping and/or fencing shall be maintained to preserve its intended function and to preserve a well-kept, attractive appearance.
- (6) Adequate off-street parking shall be provided to meet the reasonable needs of the facility. At a minimum, one space per staff member shall be provided, with one additional parking space per six children enrolled for the same time period.
- (7) Applicants shall demonstrate that noise from playing children shall not be a nuisance to other surrounding uses.
- (8) If such day care is located adjacent to residential uses, such day care shall be deemed to be detrimental to the character of the adjacent residential uses and shall be limited to 100 children in attendance at such day care.
- (9) Bus and car traffic shall be arranged to achieve safe traffic patterns for pedestrians, drop offs, and bussed children.

#### W. Indoor and Outdoor Sports Facilities

Site plan approval pursuant to Article VI of this chapter shall be required for indoor and outdoor sports facility uses within a business park. Indoor and outdoor sports facilities shall satisfy the following requirements:

- (1) Suitable outdoor trash receptacles shall be provided in sufficient number to service all outdoor sports facilities. Outdoor trash receptacles shall be emptied frequently enough to avoid overflow and litter and to avoid creating insect nuisances and other unsightly or malodorous conditions.
- (2). All outdoor playing fields shall be set back by at least 50 feet from buildings, business park property lines, drives, vehicular accessways and public and private roads so as to avoid creating a hazard to public health and safety. Chain link fences of appropriate heights may be used to help prevent balls from leaving the playing fields, but such fences shall be adequately constructed and maintained so as to fulfill their intended function.

- (3). Outdoor fields may be equipped with lights to permit evening play, provided that lights shall be directed so as to avoid creating a traffic hazard, excessive glare or nuisance to adjoining residential land uses.
- (4). Toilet and lavatory facilities shall be provided accessible to indoor and outdoor sports facilities. Sanitary facilities, sewage disposal and water supply shall be adequate and in compliance with applicable state and local regulations.
- (5). Parking for outdoor sports facility: Parking for outdoor sports facilities shall be improved with a dustless surface such as Item 4 and/or oil and chip and shall be properly drained but need not be paved due to the seasonal nature of its use. A minimum number of parking spaces equal to 2.5 times the number of players required for the sports field in question shall be provided. Parking areas for outdoor sports facilities shall be convenient to the playing fields to which they are accessory but may be centrally located so that several fields have access to the same parking area.
- (6). Parking for indoor sports facility: five paved parking spaces per 1,000 square feet of gross leasable area.

#### X. Artists Live Work Spaces

- (1) Each work space shall have the characteristics of a dwelling unit, including a kitchen and a bathroom exclusively for use by the household members. Additional sink areas for artist use shall be provided separate from household use.
- (2) Living quarters not used for individual studio shall be a minimum of 1000 square feet, not including studio space.
- (3) The owner of such work space facility shall maintain records of adequate safety measures for each studio depending on the work to be undertaken at each work space, including but not limited to fire safety and ventilation, and shall provide such records on demand to the building code enforcement officer.
- (4) A gallery or similar display area may be included as part of the Artist Live work space, however, all art sold in the gallery shall be produced on the premises.

#### Y. Medical Marijuana facility

- (1) The applicant shall demonstrate how access to marijuana plants and all products will be secure from burglary.
- (2) There shall be no sales to the general public at such facility.
- (3) The applicant shall file a copy of his/her license for growing or manufacturing products with the Town of Monroe building inspector.

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### **ARTICLE VI, Site Plan Approval**

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#### **§ 57-14. Uses requiring approval.**

No person shall be required to submit a site plan to occupy a previously constructed building on a previously approved site plan if the use is permitted by right in such district where building is located unless otherwise specified in this section. Mere replacements or renovations to a site not increasing the footprint of buildings, structures, or impervious surface shall not require site plan approval, with exception of additional stories on buildings in non-residential districts. Site plan approval is generally not required for construction on single family homes on a single lot unless it meets conditions established in F or G in this section.

In all districts, site plan approval by the Planning Board shall be required for:

- A. The erection or enlargement of all buildings and structures except as provided in Subsection F and G below;
- B. All uses of vacant land not authorized by the Building Inspector under § 23-11(B), § 46-3 or § 46-4 of the Town Code.
- C. Any change in use which is protected as a non-conforming use as defined in Article VIII of this chapter.
- D. Any application for special exception use approval as defined in Article V of this Chapter.
- E. In all cases where an amendment to any such plan is proposed, the applicant must also secure approval for the amendment from the Planning Board.
- F. Notwithstanding the forgoing, no site plan approval shall be required for the construction of, alteration to, or use of a single-family dwelling in any residential zoning district as long as such lot had received approval as part of an earlier subdivision approval from the Planning Board, with the following exception: a proposal to increase the amount of the impervious surface coverage on said lot by more than 200 square feet or 20%, whichever is smaller, over what is shown on the filed subdivision map for that lot, if stated. This provision shall not include those cases where there is no specific restriction on the subdivision map or approval by the planning board. However, this provision shall not be interpreted to relieve applicants from the responsibility of applying for other permits necessary for the construction of such addition, such as building permits, or relief from the ZBA for lot coverage or setback requirements.
- G. No site plan approval shall be required for any change of non-residential permitted use that increases off-street parking requirements by less than 5 spaces, as determined by the code enforcement officer at time of application for the Certificate of Occupancy provided that no changes to the building or previously approved site plan is proposed. In such cases where site plan is not required, a waiver of parking requirements is automatically granted and filed with the code enforcement officer.
- H. No site plan review shall be required for an addition to the site plan of less than 200 square feet of the approved site plan unless specifically noted on the site plan in a non-residential zone

**§ 57-15. Submissions to Planning Board for review.**

The applicant shall first obtain a site plan application and environmental assessment forms from the Town Clerk. The completed application and environmental forms and a site plan shall be submitted to and approved by the Planning Board prior to construction or modification of any property in accordance with § 57-14 above before a building

permit and/or certificate of occupancy can be issued for such use. The purpose of this section is to ensure that those uses which are permitted by right or special permit, but which are most intensive and have the greatest potential impact on the community, may first be analyzed by the Planning Board and qualified professionals engaged by the Town Board or Planning Board, if necessary in the opinion of the Planning Board.

**§ 57-16. Application procedure.**

- A. The applicant shall discuss the proposed use with the Building Inspector prior to making an application to the Planning Board.
- B. At least five and not more than 11 copies of a site plan and three copies of the application and environmental assessment form (EAF) shall be submitted to the Town Clerk Planning Board at least 21 days prior to a Planning Board meeting. The Code Enforcement Officer shall review the application and plan for completeness, retain one copy for his records and submit all other copies to the Secretary to the Planning Board, who shall submit one copy to each of the following individuals or agencies and shall retain two copies for the Planning Board records. Copies shall be submitted to: [Amended 9-12-2005 by L.L. No. 2-2005]
  - (1) The Town Engineer.
  - (2) The State Department of Transportation (DOT) and/or the County Department of Public Works (DPW) and/or the Town Highway Department.
  - (3) The Orange County Department of Planning and Economic Development when required for a special exception use within its area of jurisdiction.
  - (4) The Orange County Sewer District No. 1 for any use proposed to be located in the sewer district.
  - (5) The Superintendent of the Monroe-Woodbury School District for all residential uses.
  - (6) Any consultant designated by the Planning Board for the purposes of review of said site plan applications.
- C. The Town Engineer shall review the application and plans to determine if any additional information is necessary. The Secretary to the Planning Board shall notify the applicant within 10 days of receipt of the site plan and application of the applicant's place on the Planning Board's agenda. If the site plan and/or application is incomplete and requested additional information is not supplied by the meeting date, the application shall not be considered by the Planning Board until such time that the information is available and the time limits placed upon the Board by this regulation shall not begin until the date of the Planning Board meeting following the time when all requested material has been submitted. All subsequent submissions to the Planning Board shall be accompanied by a written request to be placed upon the agenda of the next available meeting of the Planning Board; each such submission and request shall be submitted to the Town Clerk at least 21 days prior to a regularly scheduled meeting of the Planning Board. [Amended 9-12-2005 by L.L. No. 2-2005]
- D. Within 62 days of the completion of the public hearing as set forth in § 57-19 herein, the Planning Board shall make a decision on the application, unless the time to render such decision is extended by mutual consent of the applicant and the Board. The Planning Board shall have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the site plan. In the event that a site plan is approved with

conditions, the applicant shall have 180 days from the date of approval to satisfy such conditions. Failure of the applicant to satisfy such conditions within such one-hundred-eighty-day period shall render the site plan approval void. The Planning Board, upon good cause shown, may extend the one-hundred-eighty-day period for one additional one-hundred-eighty-day period. [Amended 11-16-1998 by L.L. No. 6-1998<sup>ixEN</sup>]

**§ 57-17. Information required on plan.**

The site plan shall contain the following information and shall be drawn to scale by a qualified engineer, surveyor, architect, landscape architect, planner or by the applicant, provided that the plan is accurate and adequate in the opinion of the Planning Board.

- A. General location: A location map at a minimum scale of one inch equals 2,000 feet 1:24,000 to indicate the relationship of the proposed development to significant existing community facilities which will serve or influence the layout, such as shopping areas, schools, parks, employment centers, churches, firehouses, etc.; and the relationship of the development to the nearest public roads, streams, drainageways or watercourses. This may be a United States Geological Survey quad, zoning map or tax map and shall accompany the site plan.
- B. Information required on the Site plan. The site plan shall be prepared at a scale of one inch equals 100 feet to 1,200 feet or larger showing the following:
  - (1) Distance to the nearest existing or proposed street intersection.
  - (2) Acreage of each distinct land use and the proposed density of each (if residential uses are proposed).
  - (3) The names of all owners of record of adjacent property.
  - (4) Existing zoning and special district boundaries within 100 feet of the property.
  - (5) Boundaries of the property with surveyed dimensions.
  - (6) Location of all existing structures on the site as well as structures on adjacent property within 100 feet of any portion of the property which is to be developed or modified in any way, as determined by the Planning Board.
  - (7) The proposed location, area, height, spacing, exterior design treatment and use of all proposed and existing buildings, structures and outdoor signs and storage, if any.
  - (8) The proposed location of any use not requiring a structure, including walkways, benches, fences and recreational facilities.
  - (9) Location of existing and proposed usable open spaces and recreational areas and their landscaping.
  - (10) All existing and proposed means of vehicular access to and egress from the site, and all streets which are either proposed, mapped or built.
  - (11) Location and design of all driveways, off-street open and enclosed (if any) parking and loading areas, with the number of stalls provided therewith, and curbing provided or to be provided.
  - (12) Location of all existing and proposed wells, waterlines, valves and hydrants, all sewer lines and septic tanks and septic fields and other utilities.
  - (13) Existing drainage features (e.g., culverts, marshes, ponds, and streams) of the property and within 100 feet of any portion of the property which is to be developed or modified in any way, as determined by the Planning Board, and the complete proposed

- stormwater management system designed consistent with the requirements of Chapter 44 of the Town Code. [Amended 9-27-2004 by L.L. No. 3-2004]
- (14) Existing and proposed fencing, landscaping, buffer strips and screening, where required.
  - (15) Proposed location, direction and type of outdoor lighting.
  - (16) If site grades exceed 4% or if portions of the site have moderate to severe potential for flooding or ponding or erosion hazard of moderate to severe as shown in the Soil Survey of Orange County, New York, prepared by the United States Department of Agriculture Soil Conservation Service and issued October 1981, then the site plan shall show existing and proposed contours with intervals of five feet or less extending 100 feet beyond any portion of the property which is to be developed or modified in any way, as determined by the Planning Board, and the first floor elevations of all buildings.
  - (17) Any proposed division of buildings into units of separate occupancy.
  - (18) Location of existing rock outcroppings, isolated trees over 18 inches in diameter measured at a point four feet above the ground, orchards, wooded areas, stone walls, roads or lanes, power lines, easements and other natural features and improvements thereto on the property within 100 feet of any portion of the property which is to be developed or modified in any way, as determined by the Planning Board, and all active or inactive mine shafts anywhere in the property.
  - (19) Where the applicant wishes to develop the project in stages, a site plan indicating ultimate development shall be shown.
  - (20) All proposed public improvements shall be shown and identified on the site plan (See §§ 57-24 and 57-25). A schedule of the completion of all such improvements shall be submitted with the site plan. (See § 57-26.) [Added 12-4-2000 by L.L. No. 4-2000]
  - (21) The Planning Board shall, in appropriate cases, have the authority to waive any, but not more than three, of the required elements in this section. Such waiver shall require a resolution of the Planning Board, and shall include reasons for waiving required elements.

**§ 57-18. Submission of supporting materials.**

The applicant shall indicate that he is either the owner of the property, is contract vendee for the property, has an option on the property or is an agent of the owner. Should approvals of other agencies be required, such approval shall be required prior to approval of the site plan or issuance of the building permit, whichever is appropriate. The application and site plan shall be accompanied by a short environmental assessment form (EAF) and, when appropriate, by a long environmental assessment form.

**§ 57-19. Optional Site plan public hearing. [Added 2-23-1998 by L.L. No. 1-1998]**

A public hearing shall not be required before site plan approval is granted. The Planning Board shall have the option when it deems appropriate, to conduct a public hearings on the proposed site plan and, in such cases shall provide for the giving of notice at least ten days prior to the date thereof as follows:

- A. By publishing the notice in the official newspaper.
- B. By posting a notice of the hearing at the Town Hall.
- C. By requiring the applicant to send a copy of the notice of public hearing by certified mail, return receipt requested, to the owners of all property within 300 feet of the property which is the subject of the site plan application as the names and addresses appear on the latest assessment roll of the Town. However, in areas serviced by groundwater wells, the Planning Board may increase the notification area up to a total of 1,500 feet. Such notice shall be mailed at least ten days prior to the hearing. Proof of such mailings and receipts for same shall be filed with the Planning Board prior to, or at the time of, said hearing. In the event that the notification area extends to properties beyond the Town boundary, the applicant shall acquire the names and addresses of said property owners from the latest assessment roll of the municipality in which said property is located and shall comply with the mailing requirements as set forth herein. [Added 6-16-2003 by L.L. No. 1-2003<sup>xEN</sup>]
- D. By providing such other notice as may be required by Article 12-B of the General Municipal Law or other applicable law. No action shall be taken on applications referred to the Orange County Planning Department until the Department's recommendation has been received or until the statutory period for such recommendation has elapsed, whichever is earlier.

**§ 57-20. Considerations to be made prior to approval.**

- A. In making a decision concerning any site plan, the Planning Board shall consider the site layout and overall appearance of all buildings in the proposed development so that they will have a harmonious relationship with the existing or permitted development of contiguous land and of adjacent neighborhoods; so that any potential material adverse effect upon the desirability of such neighborhoods for the residential uses contemplated by this chapter shall be minimized; and so that the purpose and intent of the Zoning Chapter will be met, to the end that the value of buildings will be conserved and the most appropriate use of land will be encouraged.
- B. The Planning Board shall determine that the site plan conforms in all respects to the requirements of this chapter and that adequate provision has been made for the following:
  - (1) Adequate space between structures on the lot and of setbacks from private driveways, if any, so as to assure ample light and air and solar access in the interests of the public health, safety and general welfare. In no case shall the distance between any two principal buildings on a lot be less than the height of the taller of the two structures.
  - (2) Access facilities adequate for the estimated traffic to and from the site so as to assure the public safety and to avoid traffic congestion. Vehicular entrances and exits shall be clearly visible from the street and not within 75 feet of a street intersection and shall have a minimum sight distance of 500 feet for a state or county road and 300 feet for all other roads. The Planning Board shall be empowered to waive the five-hundred and three-hundred-foot requirements, provided that it is physically impossible to attain such sight distances, that the sight distances attained are the greatest possible under the given conditions and subject to such reasonable conditions that the Planning Board may impose after consultation with appropriate agencies or professionals for all access points.
  - (3) Safe and convenient pedestrian and vehicular traffic circulation within the site.

- (4) Safe and adequate off-street parking facilities and, where necessary, provisions shall be made for school bus loading and unloading.
- (5) Truck loading and unloading berths, where required, will not interfere with traffic circulation nor be detrimental in appearance to the site or its surrounding area and will be conducive and convenient to safe operation.
- (6) Adequate collection and disposal of stormwater runoff from the site.
- (7) Adequate collection, treatment or disposal of sanitary wastes and sewage by sanitary plant or otherwise.
- C. The adequate protection of trees and required landscaping plan in accordance with Article XX

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## **ARTICLE VII, Solar Panels and Collectors.**

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**§ 57-21. Solar Panels; purpose and intent.** The Town Board recognizes the value of allowing the installation of solar panels in terms of reducing carbon emissions and helping citizens and business in the Town of Monroe to offset energy costs by installing solar panels and receptors. The intention of this section is to provide for reasonable regulation to meet goals regarding public safety and aesthetics and the potential of improperly placed solar panels and collectors to depreciate property values. Nothing in this chapter shall be construed to replace or eliminate the need for falling existing regulations enacted by the Federal Government, State of New York, or applicable building codes concerning Solar Collectors or Solar Panels. (See State of New York Public Service Law Section 66-J.)

### **§ 57-22 Roof Mounted Solar Panels**

Roof Mounted Solar Panels shall be permitted as an accessory use in all districts provided that the following conditions are met:

- A. The solar panels do not exceed 50 percent of the total roof area of the building or structure on which it is placed.
- B. Solar panels shall be installed in such a way that it does not reflect onto other properties or cause injury with the reflective surfaces and be minimized from public view to the greatest extent possible without the loss of functional integrity and viability.
- C. The Solar panels shall not extend beyond the highest point of a pitched roof or extend above roof cornices of flat roofs.
- D. If deemed necessary by the Code Enforcement Officer in the course of review for a building permit, a report attesting to the structural integrity of the roof and its ability to support the solar panel structure shall be required.
- E. The removal of up to three trees to allow for a more efficient roof solar panel system shall be permitted in conjunction with building an efficient solar panel array on the roof of a building.

- F. Solar panels installed on rooftops shall only be permitted for use by the owners, lessees, tenants, residents, or other occupants of the premises on which they are erected, but nothing contained in this provision shall be construed to prohibit the sale of excess power through a “net billing” or similar program in accordance with New York Public Service Law Section 66-j or similar state or federal statute.

### § 57-23 Ground Mounted Solar Panels

Ground mounted solar panels shall be required to undergo site plan review. In addition, ground mounted solar panels may be considered the primary use or accessory use of a property and shall:

- A. Be surrounded by a fence of at least 5 feet.
- B. If a ground mounted solar panel array is located on a property with another use, such use shall not be located in the front yard of such property.
- C. Ground mounted panels shall not be located any closer than 100 feet from any body of water or wetland.
- D. Shall not be permitted to exceed 30 percent of the lot, if it is the primary use of the lot.
- E. The impacts of the solar array on neighboring buildings and uses shall be considered, and shall include a discussion of the impacts of reflective light, safety, and heat generation from such solar panels.
- F. When possible, views of the solar panel array shall be screened from the public right of way and neighboring properties with the use of vegetation or fencing.

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## ARTICLE VIII, Miscellaneous Provisions <sup>xi</sup>EN

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§ 57-22. Reserved for future use.

§ 57-23 Reserved for future use-

§ 57-24. List of mandatory public improvements. [Added 12-4-2000 by L.L. No. 4-2000<sup>xii</sup>EN]

- A. The following improvements will be required except when the Planning Board waives the requirement by specific resolution:
  - (1) Paved streets.
  - (2) Curbs or gutters.
  - (3) Sidewalks.
  - (4) Shared water distribution systems and fire hydrants.
  - (5) Central or shared sanitary waste disposal facilities or structures.

- (6) Storm drainage facilities, including retention or detention ponds of a permanent and/or temporary nature.
  - (7) Construction phase soil erosion and sedimentation control facilities and structures.
  - (8) Street signs.
  - (9) Street lighting.
  - (10) Street trees.
  - (11) Provision of at least two inches of suitable topsoil, seeding or sodding of planting strips with lawn grass and stabilization thereof.
- B. Each applicant and developer (including all assignees and successors in interest) shall become and remain responsible for the completion of all public improvements.

**§ 57-25. List of discretionary public improvements. [Added 12-4-2000 by L.L. No. 4-2000<sup>xiii</sup>EN]**

- A. The following improvements may, where incorporated on a plan and where circumstances dictate that same are necessary for the proper functioning of the site and/or the protection of the public health, safety and welfare, be required by the Planning Board as part of its approval and, when so required, shall be considered public improvements:
- (1) Retaining walls: as may be required with or without fencing in order to safely and properly implement all elements of the proposed site use and access.
  - (2) Paved parking lots: as may be required to prevent the degradation of air and water quality by airborne dust and waterborne siltation, to provide safe and reliable routine and emergency access in all seasons and to safely delineate parking lot circulation ways and individual parking spaces and/or as part of a plan to collect and manage stormwater drainage.
  - (3) Landscaped areas: as may be required to screen or buffer all or portions of the site from adjoining land uses so as to avoid creating noise and harmful visual effects to the public. (Also See Article XX)
  - (4) Site grading and clearing measures: as may be required to convert a given site for use and access as intended in a land use plan approved by the Planning Board in a manner that avoids creating stormwater quality impacts or harmful impacts to reserved vegetation.
  - (5) Site distance clearing and/or grading: as may be required to provide safe and adequate site distance and avoid creating a public safety hazard in both the short and long terms due to approved site use.
  - (6) Construction and grading easements: as may be needed to enter onto a site and either complete any necessary grading and stabilization work so that the site can be used as intended or, in the alternative, to stabilize the site to avoid creating a public health or safety hazard.
  - (7) Wetland restoration facilities: as may be needed to mitigate damage or disturbance to a wetland caused by activities related to site development.
  - (8) Landscaping improvements: as may be required to screen or buffer all or portions of the site from adjoining land uses so as to avoid creating noise and harmful visual effects to the public.

- (9) Any other public facility or requirement of the Planning Board pursuant to a pending plan and/or pursuant to any local law or ordinance of the Town identified or characterized as a public improvement where the same can be found to be necessary in order to provide for the needs of the proposed site while avoiding harmful public health, safety or welfare impacts.
- B. Each applicant and developer, including all assignees and successors in interest, shall become and remain responsible for the completion of all public improvements.

**§ 57-26. Scheduling of public improvements. [Added 12-4-2000 by L.L. No. 4-2000<sup>xiv</sup>EN]**

- A. Prior to its approval of any site plan, the Planning Board shall fix a schedule for the completion of all public improvements as defined in this chapter. The schedule shall be a condition of approval and shall be incorporated into a public improvement security agreement to be entered into with the Town Board as called for by the Planning Board.
- B. Unless no public improvements are required, no site plan shall be approved and no special permit shall be issued by the Board until the applicant has entered into a public improvement security agreement with the Town. The public improvement security agreement shall include, at a minimum, the following elements:
  - (1) A schedule for completion of all required public improvements.
  - (2) An itemization of the financial security required for each public improvement and a schedule for its posting or deposit with the Town.
  - (3) Provision for maintenance, repair or replacement in kind of any public improvements, including but not limited to landscaping, for an appropriate period of time not to exceed two years.
  - (4) The amount required to be deposited, in escrow, for use in paying the inspector(s) utilized by the Town to inspect all public improvements in order to determine compliance with the conditions of subdivision approval.
  - (5) Contractual authorization for the Town to utilize the financial security posted or deposited by the applicant for the purpose of either completing any public improvement or restoring the site to a safe, secure and stable condition in the event that the developer fails to complete all public improvements or delays unreasonably in his obligation to complete same.
  - (6) The agreement shall provide that no site plan shall be signed until those conditions mandated by the Planning Board or the Town Board to be completed before signing have been satisfied and approved by the appropriate Town official/agent.
  - (7) The agreement shall provide that no building permit shall be issued until those conditions mandated to be completed before such issuance have been satisfied and approved by the appropriate Town official/agent.
  - (8) The agreement shall provide that no certificate of occupancy shall be issued until those conditions mandated to be completed before such issuance have been satisfied and approved by the appropriate Town official/agent.

**§ 57-27. Performance and restoration bonds. [Added 12-4-2000 by L.L. No. 4-2000<sup>xv</sup>EN]**

- A. Performance bonds. In all cases where site improvements are not constructed prior to the signing of the approved site plan by the Planning Board Chairman, a performance bond shall be posted by the developer to guarantee to the Town that he will faithfully construct, or cause to be constructed, the required public improvements and utilities which were an integral part of his approved final plan.
- B. Restoration bonds. In appropriate cases where large areas of a site will be disturbed by earth-moving or other related activities for extended periods of time, a restoration bond shall be posted by the developer to guarantee to the Town that he will diligently restore and stabilize the site and will faithfully construct, or cause to be constructed, the required public improvements and utilities which were an integral part of his approved final plan within a reasonable period of time.
- C. Application, approval and release procedure.
  - (1) Performance and restoration bond estimates will be prepared by the Town Engineer or Superintendent of Highways On forms to be provided by the Town.
  - (2) The Planning Board will pass a resolution either approving or adjusting the performance and restoration bond estimates and will provide four copies signed by the Chairman for the use of the developer in obtaining and posting financial security as required by Chapter 36.
  - (3) The developer shall present his performance and restoration bonds executed on the standard forms, three copies, with signed copies of the performance and restoration bond estimates attached, to the Town Attorney at least one week prior to any Town Board meeting, for approval as to form and sufficiency by the Town Board at such meeting.
  - (4) The Town Attorney shall notify the Town Clerk prior to the Town Board meeting that the performance and restoration bond can be added to the agenda.
  - (5) The Town Board shall approve or disapprove the performance and/or restoration bond as presented by the Town Attorney. If those bonds are approved, one copy of each will be forwarded to the Town Clerk for his/her records. The Town Clerk shall send official notice to the Chairman of the Planning Board indicating the Town Board's approval. Simultaneously with approval of the bonds the Town Board shall, when so required by the Planning Board, enter into a public improvement security agreement with the developer.
  - (6) After completing the construction of the public improvements covered by the performance and restoration bonds and prior to the termination of the bond period, the developer shall prepare a set of the approved public improvement and utilities plan and profiles (litho prints on vellum), amended to indicate "as constructed" information, and shall apply to the Town Engineer, Town Inspector or Superintendent of Highways for a final inspection of the work. The Town Engineer, Town Inspector or Superintendent of Highways shall report to the Planning Board on the condition of the work and recommend that the performance bond be released, extended or declared in default. The Town Engineer, Town Inspector or Superintendent of Highways shall also report on the desirability of the Town's accepting the dedication of streets and offers of cession of other lands designated for public use.
  - (7) The Planning Board shall by resolution release or declare in default each performance and restoration bond. The Planning Board can act to extend the term of the bond in

appropriate cases where such action would not be contrary to the intent of this regulation.

D. Terms of bonds; extensions.

- (1) Performance bonds shall have a maximum term of two years.
- (2) The term of a performance bond may be extended by petition to the Planning Board. A performance bond, or any portion thereof, may be transferred for use as a maintenance bond when deemed appropriate by the Town Board.

**§ 57-28. Required inspections. [Added 12-4-2000 by L.L. No. 4-2000<sup>xvi</sup>EN]**

- A. All public improvements and utilities shall be inspected by the Town Engineer, the Town Inspector retained for such purpose or the Superintendent of Highways to ensure satisfactory completion.
- B. In no case shall any public improvement be constructed without permission from the Town Engineer, Town Inspector or Superintendent of Highways. At least three days' notice shall be given to the Town Engineer, Town Inspector or Superintendent of Highways prior to any such construction, so that a representative of the Town may be present at the time the work is to be done.
- C. The Town Engineer, Town Inspector or Superintendent of Highways shall be notified after each public improvement identified in the resolution of approval and/or public improvement security agreement has been completed, so that he or his representative may inspect the work.
- D. Whenever work on any public improvement appears, in the opinion of the Town Engineer, Town Inspector or Superintendent of Highways, to be in need of alteration in order to properly protect the public safety, health or welfare, then the Town Engineer, Town Inspector or Superintendent of Highways shall have the authority to modify the approved plans, by way of authorizing a field change, so as to properly protect the public safety, health or welfare.
- E. Whenever the Town Engineer, Town Inspector or Superintendent of Highways determines that any change any of them deems necessary to properly protect the public safety, health or welfare is of such magnitude or so different from the approved plan in terms of concept or design, he or she may seek the advice and guidance of the Planning Board as to how to implement such a change.
- F. A final inspection of all public improvements and utilities will be made to determine whether the work is satisfactory and in substantial agreement with the approved final plat drawings and the Town specifications. If any field changes have been authorized and/or deemed necessary by the Town Engineer, a certified as-built plan must be submitted for review and approval as well, The general condition of the site shall also be considered. Upon a satisfactory final inspection report, action will be taken to release the performance bond covering such improvements and utilities.

**§ 57-29. Public improvement inspection fee. [Added 12-4-2000 by L.L. No. 4-2000<sup>xvii</sup>EN]**

Any applicant who has received site plan approval shall, prior to signing of the plans (unless another time shall be fixed pursuant to a Public Improvement Security Agreement entered into with the Town), deliver to the Town a certified or cashier's check to the order of the Town in an

amount estimated by the Town Engineer in order to cover the expense of the Town inspecting the various public improvements proposed on the site plan. Said amount shall be deposited in an escrow account from which the expenses of the aforesaid inspections shall be deducted. If, after the developer has satisfied all of the terms of the Public Improvement Security Agreement, there is money remaining in the escrow account, the same shall be remitted to the developer. The amount so deposited may, from time to time, be increased or reduced as circumstances dictate.

**§ 57-30. Dwelling units over first-floor nonresidential uses. [Added 4-26-2004 by L.L. No. 1-2004]**

The following shall apply to dwelling units over first-floor nonresidential uses:

- A. No more than two dwelling units per lot shall be permitted, regardless of the number of buildings per lot. No dwelling unit shall contain more than three bedrooms.
- B. Minimum floor area for the dwelling units shall not be less than:
  - (1) For a studio or efficiency unit: 500 square feet.
  - (2) For a one-bedroom unit: 750 square feet.
  - (3) For a two-bedroom unit: 900 square feet.
  - (4) For a three-bedroom unit: 1,100 square feet.
- C. For purposes of Subsection B, "floor area" shall mean the horizontal area of the following living spaces: kitchen, living rooms, bedrooms, studies, dens and family rooms, together with adjoining closets and hallways.

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**ARTICLE IX, Adult Bookstores, Theaters and Similar Uses**

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**§ 57-31. Purpose.**

This article is intended to regulate uses which, because of their very nature, are recognized as having serious objectionable operations characteristics, particularly when several of them are concentrated under certain circumstances thereby having a deleterious effect upon the adjacent areas. Special regulation of these uses is necessary to ensure that these adverse effects will not contribute to the blighting or downgrading of the surrounding neighborhood. The primary control or regulation is for the purpose of preventing a concentration of these uses in any one area.

**§ 57-32. Regulated uses; restrictions.**

- A. Regulated uses include all adult uses which include, but are not limited to, the following:
  - (1) Adult bookstore.
  - (2) Adult motion picture theater.
  - (3) Adult mini motion-picture theater.
  - (4) Adult entertainment cabaret.
- B. Adult uses shall be permitted subject to the following restrictions:

- (1) No such adult uses shall be allowed within 1,500 feet of another existing adult use or approved site for such use. [Amended 2-23-1998 by L.L. No. 1-1998]
- (2) No such adult use shall be located within 500 feet of any zoning district which is zoned for residential use.
- (3) No such adult use shall be located within 500 feet of a preexisting school or place of worship.
- (4) No such adult use shall be located in any zoning district except an HI zoned area.

**§ 57-33. Registration with Town Clerk required.**

- A. The owner of a building or premises, his agent for the purpose of managing, controlling or collecting rents or any other person managing or controlling a building or premises, any part of which contains an adult use, shall register with the Town Clerk of the Town of Monroe the following information:
  - (1) The address of the premises.
  - (2) The name of the owner of the premises and the names of the beneficial owners if the property is in a land trust.
  - (3) The address of the owner and the beneficial owners.
  - (4) The name of the business or the establishment subject to the provisions of this section.
  - (5) The name(s) of the owner, beneficial owner or the major stockholders of the business or the establishment subject to the provisions of this section.
  - (6) The address of those persons named in Subsection A(5).
  - (7) The date of initiation of the adult use.
  - (8) The nature of the adult use.
  - (9) If the premises or building is leased, a copy of the said lease must be attached.
- B. It is unlawful for the owner or person in control of any property to establish or operate thereon or to permit any person to establish or operate an adult use without first having properly registered and received certification of approved registration.
- C. The owner, manager or agent of a registered adult use shall display in a conspicuous place on the premises a copy of the registration form approved by the Town Board of the Town of Monroe.

**§ 57-34. Exterior display prohibited.**

No adult use shall be conducted in any manner that permits the observation of any material depicting, describing or relating to specified sexual activities or specified anatomical areas from any public way or from any property not registered as an adult use. This provision shall apply to any display, decoration, sign, show window or other opening.

**§ 57-35. Severability; penalties for offenses.**

- A. If any provision of this chapter or the application of any provision to any item in this article is held invalid, the invalidity of that provision or application shall not affect any of the other provisions or the application of those provisions to other items in this chapter.

- B. Any person violating any of the provisions of this article shall be fined not less than \$50 nor more than \$250 for each offense and may, in addition to any such fine, be imprisoned for a term of not to exceed six months, and each day such violation shall continue shall be regarded as a separate offense.

**§ 57-36. Special exception use permit required.**

Any use permitted by this article shall be deemed a special exception use and shall be treated as all other special exception uses in the manner set forth in Article V of this chapter, including the holding of a public hearing. All such uses shall qualify for a special exception use permit from the Planning Board after complying with the guiding principles and standards set forth in §57-12 of this chapter.

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**ARTICLE X, Prohibited Uses**

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**§ 57-37. Uses prohibited in all districts.**

In any district the following uses shall be prohibited:

- A. Any trade, industry or use which is noxious or offensive by reason of the emission of smoke, noise, gas, odor, dust, vibration or excessive light beyond the limits of its lot, so as to be dangerous or prejudicial to the public health, safety or general welfare.
- B. Camp. This section shall not be construed to prohibit the set up and/or use of residential sleeping tents in residential backyards for a period not exceeding four weeks in a year.
- C. Dump or junkyard.
- D. Manufacture or commercial storage of explosive fireworks.
- E. Open-air retail sales establishments, other than those for permitted automotive fuels and accessories, building materials, coal or other heating fuels, farm, garden and nursery produce, equipment, tools and supplies.
- F. Open-front store arranged and designed for the purpose of making sales to persons on the public street or sidewalk.
- G. Rear dwelling.
- H. Rendering plant for animal products.
- I. Shooting galleries and sky rides, Ferris wheels, roller coasters and similar outdoor recreational devices.
- J. Summer cottage development, except as provided in § 57-62.
- K. Temporary seasonal residence on the same lot as the main use or building.

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**ARTICLE XI, Supplemental Use and Bulk Requirements**

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**§ 57-38. Accessory buildings and uses.**

In any district, the placement of private garages and other accessory buildings shall be subject to the following requirements:

- A. No accessory building shall be constructed within five feet of any rear and/or side lot line. [Amended 8-16-1993 by L.L. No. 2, 1993]
- B. Nothing contained herein shall prevent the construction of a private garage as a structural part of a main dwelling, provided that when so constructed, the garage walls shall be regarded as the walls of the main dwelling in applying the front, rear and side yard regulations of this chapter.
- C. In any district, no private garage or other accessory building or parking area shall be within a required front yard, except as provided for in §§ 57-38H and 57-51P. [Amended 5-4-1992 by L.L. No. 2, 1992; 8-16-1993 by L.L. No. 2, 1993]
- D. No private garage or other accessory building in any district, if detached, shall be placed within 10 feet of the main building.
- E. In any residential district, no private garage or other accessory building shall exceed 15 feet in height with a flat roof or 20 feet in height with a pitched/ gabled roof.
- F. In all residential districts, the aggregate area of all private garages and other accessory buildings shall not occupy more than 40% of the rear yard area.
- G. The quartering of domestic animals as pets shall be limited to the customary house pets, and shall be limited to the following:
  - (1) Each household shall be limited to no more four dogs.
  - (2) Each household shall be limited to a total of six full grown pets at an age where they can ordinarily reproduce, including dogs, cats, rodents, birds, and reptiles ordinarily and legally obtainable as household pets.
  - (3) All wastes from such animals shall be handled so as to not to pose a nuisance, runoff or insect problem.
  - (4) Other animals may be permitted subject to special permit. (See § 57-13 M. Livestock and N. Kennels)

**§ 57-39. Non-conforming lots; flag lots**

- A. A non-conforming lot, separately owned and not adjoining any lot or land in the same ownership at the effective date of this local law, may be used or a building or structure may be erected on such lot for use, in accordance with all other applicable provisions of this chapter, provided that proof of such separate ownership is offered in the form of a title search, or any other evidence deemed satisfactory to the Planning Board. Non-conforming lots, not separately owned and adjoining any lot or lands in the same ownership at the effective date of this local law, shall be deemed to be merged with such adjoining lot or lands so as to lessen or eliminate the non-conformity.
- B. Within all residential districts, no more than three flag-shaped lots may ever be created out of a parcel that existed as of the date of this chapter. Such lots may have their minimum building setback line established by the Planning Board at a point further back than the minimum required front yard setback set forth for the applicable zoning district in the Schedule of District Regulations. Such a setback line on flag or pork chop lots shall be noted on a map filed of record and such a lot shall not be further subdivided to create an additional building parcel without construction of a street to Town specifications and located within

sixty feet of the established setback line. Notwithstanding the foregoing, no flag lot shall have a width less than fifty feet at any point between the front lot line and the building setback line. On a flag lot, the front yard setback established for said lot shall be measured from the rear lot line of the front lot, facing the road.

**§ 57-40. Height exceptions; restrictions.**

- A. Nothing contained shall restrict the height of a church spire, cupola, dome, mast, belfry, clock tower, radio or television antenna, radio or transmission tower, flagpole, chimney, water tank, elevator or stair bulkhead, stage tower, scenery loft or similar structure.
- B. No structure erected pursuant to § 57-40A to a height in excess of the height limit for the district in which it is situated shall:
  - (1) Have a lot of coverage in excess of 10% of the lot area.
  - (2) Be used for residence or tenancy purposes.
  - (3) Have any sign, nameplate display or advertising device of any kind whatsoever inscribed upon or attached to such structure.

**§ 57-41. Yards, courts and density requirements.**

- A. Whenever the provisions of a building line ordinance impose a greater setback than the minimum front yard depth or than the minimum side yard width on the side street frontage of a corner lot, each as required by this chapter, the provisions of such building line ordinance shall govern.
- B. The space in a required front yard shall be open and unobstructed, except for:
  - (1) An unroofed balcony or terrace, projecting not more than eight feet.
  - (2) Steps giving access to a porch or first-floor entry door.
  - (3) Other projections as specifically authorized in § 57-41C and D.
- C. Every part of a required yard shall be open to the sky, unobstructed, except for retaining walls and for accessory buildings in a rear yard and except for the ordinary projection of sills and belt courses and for ornamental features projecting not to exceed six inches. Cornices and eaves shall not project more than 30 inches.
- D. Open or lattice-enclosed fireproof fire escapes or stairways, required by law, projecting into a yard not more than four feet and the ordinary projections of chimneys and pilasters, shall be permitted by the Building Inspector when placed so as not to obstruct light and ventilation.
- E. In any NB, GB, LI or HI District, every nonresidential building or structure on a lot with a side lot line abutting any residence district shall have a side yard with a minimum width of 50 feet along such abutting side lot line.
- F. In any NB, GB, LI or HI District, every nonresidential building or structure on a lot with a rear lot line abutting any residence district shall have a rear yard with a minimum depth of 50 feet along such abutting rear lot line.
- G. In any NB, GB, LI or HI District, every nonresidential building or structure shall have a planting strip adjacent to every side and rear lot line abutting any residence district. Such planting strip shall be not less than six feet wide or more as determined by the Planning Board, situated within the required side and rear yards, and shall be designed and laid out with suitable evergreen plant material, which will attain and shall be maintained at a height

of not less than eight feet so as to provide an effective natural screen between the NB, GB, LI or HI District and the abutting residence district along side and rear lot lines.

- H. In SR-20, SR-15, SR-10 and UR-M Districts, a public or private school approved by the New York State Board of Regents shall have one side yard with a minimum width of 30 feet, and the sum of the widths of the two side yards shall not be less than 65 feet.
- I. In all districts where a public or private school approved by the State Board of Regents is a permitted use, there shall be a planting strip adjacent to every side and rear lot line. Such planting strip shall be not less than six feet wide or more as determined by the Planning Board, situated within the required side and rear yards, and shall be designed and laid out with suitable evergreen plant material, which will attain and shall be maintained at a height of not less than eight feet so as to provide an effective natural screen between the school and the abutting properties along side and rear lot lines.
- J. Corner clearance. On a corner lot, within the triangular area determined as provided in this subsection, no wall or fence or other structure shall be erected to a height in excess of two feet; and no vehicle, object or any other obstruction of a height in excess of two feet shall be parked or placed; and no hedge, shrub or other growth shall be maintained at a height in excess of two feet, except that trees whose branches are trimmed away to a height of at least 10 feet shall be permitted. All such heights shall be measured from the level of the nearest curb. Such triangular area shall be determined by the intersecting street lines and a diagonal connecting two points, one on each street line, each of which points is 15 feet from the intersection of such street lines.
- K. Where a lot extends through from street to street, the applicable front yard regulations shall apply on both frontages.
- L. Courts.
  - (1) In all districts the least horizontal dimension of an inner court at its lowest level shall not be less than the larger of the following two dimensions:
    - (a) One-third of the maximum height above such lowest level of the building walls erected on the same lot and bounding such court.
    - (b) Fifteen feet.
  - (2) In all districts, the least width of an outer court at its lowest level shall not be less than the largest of the following three dimensions:
    - (a) One-third of the maximum height above such lowest level of the building walls erected on the same lot and bounding such court.
    - (b) Two-thirds of the horizontal extent of such court.
    - (c) Fifteen feet.
  - (3) In all districts, the horizontal depth of an outer court shall not exceed 1 1/2 times its least width.<sup>xviiiEN</sup>

**§ 57-42. Commercial and noncommercial swimming pools.**

- A. Neither a commercial nor a noncommercial swimming pool shall be located, constructed or maintained on any lot or land area, except in conformity with the following requirements:
  - (1) A pool barrier meeting the requirements of the New York State Property Maintenance and Residential Codes shall be provided and maintained.

- (2) Such pool shall be not less than 15 feet from side and rear lot lines and 15 feet from the main building.
  - (3) If the water for such pool is supplied from a private well, there shall be no cross-connection with the public water supply system.
  - (4) If the water for such pool is supplied from the public water supply system, the inlet shall be above the overflow level of said pool.
  - (5) Such pool shall be chemically treated in a manner sufficient to maintain the bacterial standards established by the provisions of the New York State Sanitary Code relating to public swimming pools.
  - (6) No permit shall be granted for the installation or construction of said swimming pool unless the plans of said pool shall meet minimum construction requirements of the Building Department of the Town, and unless the Town Engineer or a licensed professional engineer of New York State has certified that the drainage of such pool is adequate and will not interfere with the public water supply system, with existing sanitary facilities or with public streets.
  - (7) No loudspeaker or amplifying device shall be permitted which can be heard beyond the bounds of the property or lot where said pool is located.
  - (8) No lighting or spotlighting shall be permitted which will project light rays beyond the bounds of the property or lot where said pool is located.
- B. A commercial swimming pool or a noncommercial swimming pool accessory to a membership club shall also be subject to the following requirements:
- (1) Adjacent to every side and rear lot line, there shall be a protective planting strip not less than six feet wide, situated within the required side and rear yards, which shall be designed and laid out with suitable plant material, which will attain and shall be maintained at a height of not less than eight feet so as to provide an effective natural screen along side and rear lot lines.
- C. A noncommercial swimming pool not accessory to a membership club shall also be subject to the following requirements:
- (1) Such pool shall be located in a rear yard or side yard only, but not within a minimum required side yard.
  - (2) Such pool shall not occupy more than 25% of the rear yard area, excluding all private garages or other accessory buildings or structures.
  - (3) Adjacent to every side and rear lot line within the rear yard area, there shall be a protective strip not less than six feet wide, situated within the required side and rear yards, which shall be designed and laid out with suitable plant material, which will attain and shall be maintained at a height of not less than eight feet so as to provide an effective natural screen along side and rear lot lines.

**§ 57-43. Lots abutting a lake or stream.**

A. A building setback line is hereby established in all districts, parallel to and 100 feet distant from the present normal shoreline or bank of every lake in the Town. No main building or accessory building shall be constructed between said setback line and the said shoreline or bank, nor clear-cutting of natural vegetation be permitted in said area. The location of said shoreline or bank shall be determined by the Town Engineer on the basis of a period of normal water level.

B. All waters of the state of NY are provided a class and standard designation by the NYS DEC based on existing or expected best usage of each water or waterway segment:

- G. The classification AA or A is assigned to waters used as a source of drinking water.
- H. Classification B indicates a best usage for swimming and other contact recreation, but not for drinking water.
- I. Classification C is for waters supporting fisheries and suitable for non - contact activities.
- J. The lowest classification and standard is D.

For classifications AA, A, B, and C a building setback line is hereby established in all districts parallel to and one hundred fifty feet (150 feet) from the present normal shoreline or top of bank (whichever is farther from the normal waterline), and a building setback line is hereby established in all districts parallel to and fifty (50) feet from the present normal shoreline or top of bank (whichever is farther from the normal waterline) for all streams with a classification of D as designated by the NYS DEC Protection of Waters Regulatory Program , and of every other watercourse in the town not otherwise covered. No main building or accessory building shall be constructed between said setback line and the said shoreline or top of bank, nor any clear-cutting of natural vegetation be permitted in said area. The location of the said shoreline or top of bank shall be determined by the Town Engineer after a physical investigation of the site and the topographic, soils and hydrologic characteristics of the area in question.

C. No septic tank, sanitary plant, leaching field or other sewage disposal facility shall be constructed or located in any district within 200 feet of the present normal shoreline or bank of any lake or reservoir or other body of water, and 100 feet from any other body of water, or watercourse or stream in the Town. The location of said shoreline or bank shall be determined by the Town Engineer on the basis of a period of normal water level.

**§ 57-44. Required dissimilarity of single-family dwellings.**

- A. No building permit shall be issued in any district for the erection of any building for occupancy as a single-family dwelling if it is like or substantially like any neighboring building, as hereinafter defined, then in existence or for which a building permit has been issued in more than three of the following six respects:
- (1) As to height above natural grade surrounding the building of the main roof ridge or, in the case of a building with a flat roof, the highest point of the roof beams above the elevation of the first floor.
  - (2) As to height of the main roof ridge above the top of the plate. (All flat roofs shall be deemed identical in this dimension.)
  - (3) Both:
    - (a) As to length of the main roof ridge or, in the case of a building with a flat roof, length of the main roof; and
    - (b) as to the type of construction of the roof; gable, hip mansard, etc.
  - (4) As to width between outside walls at the ends of the building, measured under the main roof at right angles to the length thereof.

- (5) Both:
  - (a) As to relative location of windows in the front elevation or in each of both side elevations with respect to each other, and with respect to any door, chimney, porch or attached garage in the same elevation.
  - (b) As to the different type of windows, such casement, double-hung.
- (6) In the front elevation, as to both:
  - (a) Relative location with respect to each other of garage, if attached, porch, if any, and the remainder of the building; and
  - (b) Either:
    - [1] Height of any portion of the building located outside the limits of the main roof, measured from the elevation of the first floor to the roof ridge or, in the case of a flat roof, the highest point of the roof beams; or
    - [2] Width of said portion of the building, if it has a gable in the front elevation, otherwise length of said roof ridge or said flat roof in the front elevation.
- B. Buildings shall be deemed to be like each other in any dimension with respect to which the difference between them is not more than two feet.
- C. Buildings between which the only difference in relative location of elements is end-to-end or side-to-side reversal of elements shall be deemed to be like each other in relative location of such elements.
- D. Notwithstanding the provisions of § 57-10, two neighboring buildings erected by the same owner or developer in an RR-3.0 ac. or RR-1.0 ac District shall have front yard depths that differ in least dimension by a minimum of 10 feet.
- E. In relation to the premises with respect to which the permit is sought, a building shall be deemed to be a neighboring building if the lot upon which it or any part of it has been or will be erected is a lot in any one of the following locations:
  - (1) Abutting a lot occupied by an existing building.
  - (2) Across a street from an existing building, with overlapping of the respective lot lines as projected to the street center line.

**§ 57-45. Minimum habitable floor area and width.**

- A. Dwelling units in single- and two-family detached dwellings shall have a minimum habitable floor area of not less than 900 square feet, except for conversions approved by the Planning Board according to § 57-13.A and B.
- B. A single-family or two-family detached dwelling shall have a minimum width of 20 feet.
- C. Minimum habitable floor area requirements for individual dwelling units within multiple dwelling groups shall be 600 square feet for efficiency units, 750 square feet for one-bedroom units, 900 square feet for two-bedroom units and 1,000 square feet for two-bedroom-and-den or three-or-more-bedroom units.
- D. Minimum habitable floor area requirements for individual dwelling units within multiple dwelling groups devoted to and constructed specifically for senior citizens shall be 450 square feet for efficiency units, 600 square feet for one-bedroom units and 750 square feet for two-bedroom units. All other units shall exceed 1,000 square feet in area.

- E. The provisions of this section shall not apply to mobile home parks. [Added 3-5-1984 by L.L. No. 1, 1984]

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## **ARTICLE XII, Parking and Loading Space Requirements; Garages and Service Stations**

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### **§ 57-46. Provision for off-street parking required.**

Off-street parking spaces for the storage or parking of passenger vehicles of occupants, employees and patrons of main buildings and structures hereafter erected or enlarged shall be provided and kept available in accessory private garages or in accessory private parking areas in amounts not less than specified in this article

### **§ 57-47. Method of determining off-street parking requirements.**

- A. The requirements for a simple use (e.g., a single-family residence or a retail store) shall be determined directly from the related provision of this section.
- B. The requirements for a use made up of several component uses (e.g., a bowling alley with auditorium seating and a restaurant and bar or a retail store and office building) shall be determined by establishing the requirements for each component use and adding them together.
- C. When the required number of spaces is determined to be a fraction, it shall be increased to the next highest whole number.
- D. If a use is not specifically listed in this article, the requirements shall be the same as for the most similarly listed use.
- E. At the time of individual site plan approval for uses located within a business park, the adequacy of accessory parking areas and truckloading spaces for that use shall be subject to review and determination by the Planning Board. After consideration of an appropriate parking needs study for the proposed use and the overall business park, the Board may reduce the actual parking area and/or loading spaces that would otherwise be required by this article in accordance with provisions outlined in § 57-49 C. of this chapter.
- H. Landscaping required in Parking lots. To ensure that pavement is broken up sufficiently to increase the safety of pedestrians and help to mitigate the heat island effect of parking lots and stormwater runoff, landscaping shall be required in accordance with Article XX of this chapter.

### **§ 57-48. (Reserved)** <sup>xixEN</sup>

### **§ 57-49. Parking area requirements for nonresidential uses; off-street parking requirements for residential uses.**

- A. In all districts, the minimum required number of parking spaces to be provided in private garages, parking structures, or private parking areas accessory to main buildings or structures or uses of land permitted in any given district shall be in accordance with the following regulations:
- (1) Auditorium, convention hall, stadium, theater, dance instruction studio or other place of public assembly not otherwise classified: one parking space for each three fixed seats of capacity, or one parking space for each 45 square feet of floor area available to patrons in cases where the capacity is not determined by the number of fixed seats. Benches shall be deemed to have a capacity of one person for each 24 inches of length.
  - (2) Bank or savings and loan association: one parking space for each 200 square feet of gross floor area of all stories of the building.
  - (3) Billiard parlor: two parking spaces for each table.
  - (4) Bowling alley (a group of 2 lanes): four parking spaces for each alley.
  - (5) Building construction, involving 10 or more employees at one time: one parking space for each person customarily employed at any one period of time. Such parking spaces will not be required to be paved.
  - (6) Charitable institution: one parking space for each 200 square feet of floor area devoted to office or administrative use.
  - (7) Club or lodge for social or civic purposes or community center building: one parking space for each 200 square feet of floor area available to patrons.
  - (8) Commercial swimming pool: one parking space for each 100 square feet of water surface area.
  - (9) Day Care Centers: At least one parking space for every employee, and at least one space for each 6 children enrolled at such school at full capacity of such Day Care Center.
  - (10) Ice Cream Stand/Refreshment Stand: five parking spaces for each service window with a minimum of ten spaces.
  - (11) Gas Station, public garage or service station: sufficient parking spaces for all vehicles being serviced at one time and a minimum of five parking spaces.
  - (12) Funeral home: one parking space for each 40 square feet of floor area devoted to assembly rooms for services.
  - (13) Home occupation or home professional office: one parking space for each 200 square feet of floor area devoted to such use, but not less than two parking spaces, in addition to the requirements for the dwelling to which such use is accessory.
  - (14) Hospital: for in-patient uses, one parking space for each bed plus two parking spaces for each three persons customarily employed at any one period of time; for out-patient uses, including but not limited to emergency room, immediate care and any other outpatient clinical, testing or therapeutic uses, one parking space for each 150 square feet of floor area used for such purposes. [Added 4-17-2000 by L.L. No. 1-2000]
  - (15) Manufacturing or industrial establishment, wholesale establishment or distribution station: two parking spaces for each three employees customarily employed at one time.
  - (16) Membership club: one parking space for each 200 square feet of floor area available to patrons.
  - (17) Offices and office buildings: one parking space for each 200 square feet of floor area.

- (18) Neighborhood shopping center: one parking space for each ~~150~~ 200 square feet of floor area available to patrons. [Amended 5-4-1992 by L.L. No. 2-1992]
  - (19) Public library, art gallery or museum: one parking space for each 200 square feet of floor area available to patrons.
  - (20) Research institute or laboratory, including Medical Marijuana Facilities: two parking spaces for each three employees customarily employed at one time.
  - (21) Restaurant or tavern: one parking space for each four seats where fixed seating is provided or one parking space for each 45 square feet of floor area.
  - (22) Retail store, personal service store or studio or shop for custom work: one parking space for each 200 square feet of floor area available to patrons.
  - (23) School: one parking space for each employee, or such number of parking spaces as are required for an auditorium, computed pursuant to Subsection A(1), whichever is the greater.
  - (24) Wholesale warehouse and storage: one parking space for each 2,000 square feet of gross floor area or two spaces for each three persons customarily employed at any one time period of time. [Amended 5-4-1992 by L.L. No. 2-1992; 4-17-2000 by L.L. No. 1-2000]
  - (25) Veterinarian's establishment or animal hospital: one parking space for each 200 square feet of the facility area devoted to such use.
  - (26) Medical arts building: one parking space for each 100 square feet of floor area or five parking spaces per licensed medical professional or per examination room, whichever is greater. [Amended 6-16-2003 by L.L. No. 1-2003]
  - (27) Hotel/motel: one parking space for each guest unit plus one parking space for each employee customarily employed at one time. [Added 4-17-2000 by L.L. No. 1-2000]
  - (28) Dwelling units over first-floor nonresidential uses: two parking spaces per dwelling unit. [Added 4-26-2004 by L.L. No. 1-2004]
  - (29) Drive through/fast food restaurant: One parking space for each three seats plus two parking spaces for pickup located near the drive through lane. Drive through lanes shall provide a minimum of 100 linear feet between the street line and the first service window or order board. Drive through lanes shall have separate additional exit lane for emergency use or for other exiting traffic.
  - (30) Indoor/Outdoor sports facilities five paved parking spaces per 1,000 square feet of gross leasable area.
  - (31) Artist Live Work Spaces: 2 spaces per artist work space, and 1 per 200 square feet of public display space.
- B. Off-street parking requirements for residential uses shall be as follows:
- (1) One-family dwelling: two per unit.
  - (2) Dwelling unit in a two-family structure: two per unit.
  - (3) Efficiency dwelling in a multiple dwelling group structure: 1.5 per unit and 1.0 per unit for senior citizens residences.
  - (4) One-bedroom dwellings in a multiple dwelling group structure: 2.0 per unit and 1.5 per unit for senior citizen residences.
  - (5) Two-bedroom dwellings in a multiple dwelling group structure: 2.5 per unit and 2.0 per unit for senior citizen residences.
  - (6) Three-bedroom dwellings in a multiple dwelling group structure: 2.75 per unit.

### C. Shared Parking Permit

With respect to parking for entities described in § 57-49(A), the Planning Board may issue a shared parking permit. Such permit shall authorize adjoining property owners or tenants of adjoining property owners to share parking subject to the following conditions.

(1) Business Parks: The planning board may decrease total parking requirements by up to 25% in instances where it is demonstrated to the satisfaction of the Board that the combination of uses within the business park will generate parking needs that do not overlap or will not occur simultaneously or that the actual parking requirements of the proposed use are less than would otherwise be required by this article. [Added 5-4-1992 by L.L. No. 2-1992]

(2) In appropriate cases, the Planning Board may reduce the number of parking spaces to be constructed prior to issuance of a certificate of occupancy of an existing commercial building. As a condition of such reduction the applicant shall demonstrate that an appropriate area is available to meet the parking area requirements of this article, and such area shall be identified and reserved for parking purposes on the site plan for three years following approval of the site plan. The Planning Board may require the applicant to provide a sufficient bond to allow construction of the improvements in such parking area as a condition of site plan approval, and may require construction of the improvements at any time during that three-year period on its finding that the additional parking area is necessary to accommodate the actual parking requirements of the occupied site. In the event that the reserved parking area is not required to be constructed during that three-year period, such reserved parking area shall not be used for building or other non-structural purposes but shall be maintained as vegetated open space as a permanent part of the use.

(3) Uses in the GB, NB, and URM district. At the time of individual site plan approval for uses located in the GB District, the adequacy of accessory parking and truck loading spaces shall be subject to review and determination by the Planning Board. After consideration of an appropriate parking needs analysis for the proposed site use, the Board may reduce the actual number of parking spaces and, if applicable, loading spaces that would otherwise be required by this article by up to 75% in instances where it is demonstrated to the satisfaction of the Planning Board that the specific use or combination of uses on the site will be less than otherwise required by this article. Reference to this finding shall be included on the plan as well as in the Planning Board's approval resolution and filed with the Building Inspector. The Planning Board may require, at its option, that the site be capable of accommodating any portion of this reduced number of parking spaces and be bonded pursuant to § 57-47F. [Added 9-9-2002 by L.L. No. 5-2002]

(4) The Planning Board in issuing such a permit, if it issues such a permit, shall consider, at a minimum:

- (i) the hours of operation of the entities which propose to share parking;
- (ii) the nature of the written agreement between the entities who propose to share parking (such written agreement shall be enforceable by the owner of the real property where the sharing entities are located on as well as by tenants who are beneficiaries of

such shared parking permit). Enforcement of the parking agreement shall be deemed to be an equitable right in the written agreement enforceable by a Court of competent jurisdiction. The agreement shall, at a minimum, cover maintenance, and ice and snow removal of the parking area and may also cover hours of specific use of the parking area or a portion thereof by each entity which is a signatory to the parking agreement.

(5)The shared parking permit may be ordered to be reviewed by the Planning Board at intervals determined by the Planning Board.

**§ 57-50. Required off-street truck-loading spaces.**

Every building or structure, lot or land hereafter put into use for business or industrial purposes or for a hospital, which has an aggregate floor area of 4,800 square feet or more in an LI or HI District or of 15,000 square feet or more in any other district where such uses are permitted shall be provided with off-street truck-loading spaces in accordance with the following schedule:

<b>Square Feet of Aggregate Floor Area Devoted to Such Use</b>	<b>Required Number of Off-Street Truck- Loading Spaces</b>
4,800 to 25,000 in any LI or HI District	1
15,000 to 25,000 in other districts	1
25,001 to 40,000 in all districts	2
40,001 to 100,000 in all districts	3
Each additional 60,000 in all districts	1 additional

**§ 57-51. Supplemental regulations.**

- A. In all districts, an accessory garage or accessory parking area shall be subject to the applicable regulations for accessory buildings and uses prescribed in § 57-38.
- B. In all districts, an access drive to an accessory garage, parking area or truck-loading space may be located within a required side yard.
- C. In any residence district, a private garage or private parking area may be utilized only as an accessory to the main building, except that one parking space in a private garage accessory to

a one-family or two-family dwelling may be rented to a person who is not a resident of the main building.

- D. In any residence district, not more than one commercial vehicle, with a gross vehicle weight rating (according to the U.S. DOT FHWA Vehicle Inventory and Use Survey Standards) not exceeding Class 6, may be housed on any single-family residential lot. Notwithstanding the foregoing, the parking of on-call emergency vehicles or public utility vehicles exceeding Class 6 shall be permitted on a temporary basis not exceeding two continuous weeks per month.
- E. In any residence district, not more than 25% of the area of a minimum required rear yard shall be used as a parking area except that there shall be a minimum setback of five feet from any property line.
- F. In all districts, required garages or parking areas accessory to any permitted residence use shall be on the same lot with the main building or buildings or on an immediately adjacent lot in the same ownership.
- G. In all districts, required garages or parking areas accessory to any permitted nonresidential use shall be on the same lot or parcel of land with the main building, buildings or use, except that where there are practical difficulties or unnecessary hardships, the Board of Appeals may grant a permit for a required parking area to be located on other property, subject to appropriate safeguards, within 500 feet of the property to which it is accessory, measured in a straight line between the nearest point of the property to be served. Such permit shall be subject to safeguards and conditions designed to assure the continuing availability of such parking area to serve the use to which it is accessory for a minimum term of 20 years; provided, however, that a different parking area may be substituted therefor at any time within such twenty-year period, on approval of the Board of Appeals and subject to similar safeguards and conditions.
- H. In all districts, required accessory parking areas and truck-loading spaces shall have safe and adequate access to a public street, either by a driveway on the same lot or by means of a permanent easement across an adjoining lot.
- I. In any nonresidential district, (WR, NB, GB, LI or HI), an accessory parking area may be situated in whole or in part on the roof of the main building to which it is accessory. However, where site plans proposed accessory parking on roof, said plan shall incorporate structural screening measures to avoid visual impacts associated with such feature.
- J. The adequacy of accessory parking areas and truck-loading spaces for special exception uses shall be subject to review and determination as an integral part of the review of the site plan by the Planning Board, as provided in the applicable provisions of this chapter.
- K. Accessory parking areas shall be marked off into parking spaces, each with a minimum width of nine feet and a minimum length of 18 feet, exclusive of access driveways and turning areas. The left and right sides of parking spaces shall be delineated by two four-inch-wide painted lines running the length of the parking space and separated by eight inches.  
[Amended 6-16-2003 by L.L. No. 1-2003]
- L. An off-street truck-loading space shall have a minimum width of 10 feet, a minimum length of 25 feet and minimum clear height of 14 feet, including its access from the street.
- M. Accessory nonresidential parking areas and off-street truck-loading spaces shall be suitably paved, drained and lighted and appropriately planted and fenced for the protection of adjacent residential properties, in accordance with specifications of the Town. Driveways and

turning areas shall be of adequate width and radii to assure ease of mobility, ample clearance and convenient access, egress and safety of vehicles and pedestrians. Such facilities shall be maintained in good condition by the owner.

- N. No required accessory parking area nor off-street truck-loading space shall be encroached upon by buildings, open storage or any other use.
- O. Accessory private garages and parking areas may be constructed within or under any portion of a main building.
- P. In all residence districts, wherever the average level of the ground within 10 feet of the street line at the front of the lot is eight feet or more above the curb level, an accessory private garage for not more than two cars may be located not less than 10 feet from such street line.
- Q. In private garages accessory to garden apartments, no repairing of cars shall be done, but washing of tenants' cars shall be permitted, if done without the aid of washing machinery.
- R. Private garages accessory to garden apartments shall conform in exterior architectural style and treatment to the architecture of the main building or buildings and shall be of similar materials.
- S. No manufacturing or industrial building or use of land and no wholesale business shall have any truck-loading space or spaces or access driveway for trucks within 30 feet of any residence district.
- T. Parking lots shall be landscaped in accordance with Article XX of this Chapter.
- U. All driveways and /or access drives shall in all districts not have a grade in excess of 10% at any point. Measures to ensure safe and proper drainage, including but not limited to rain gardens and vegetative swales, shall be incorporated as necessary to decrease runoff.
- V. In a business park or neighborhood business development, parking areas may be located within 10 feet of any property line. In such event, the Planning Board shall ensure that the protective planting required pursuant to § 57-20B(6) will be sufficient to screen the parking area from adjacent uses.

**§ 57-52. Access driveways.**

All access driveways for a public garage, public parking area, filling station or service station may have separate or combined entrances and exits. Every separate-entrance or exit-access driveway shall have a minimum unobstructed width of 10 feet. Every combined entrance and exit-access driveway shall have a minimum total unobstructed width of 20 feet.

**§ 57-53. Additional requirements for garages and gasoline stations.**

- A. No public or private garage accommodating more than five vehicles and no service or filling station shall be located or shall have an entrance or exit within 150 feet of the entrance to a public or a parochial school, private school, public library, theater, assembly hall, church, hospital, semipublic institution, public park, playground or fire station.
- B. All public garages and service and gas stations shall be so arranged and all gasoline pumps shall be so placed as to permit all services to be rendered entirely within the lot lines. No gasoline or oil pump shall be placed within 10 feet of any street line or side lot line nor within 20 feet of any residence district boundary line.

**§ 57-54. Exceptions and waivers.**

- A. Non-applicability to existing buildings and uses. The provisions of §§ 57-47 to 57-50, inclusive, shall not apply to any building, structure or use lawfully in existence at the effective date of this chapter, whether continued as a permitted or a nonconforming use or thereafter converted or changed without enlargement to a different lawful use.
- B. General waiver of requirements for nonresidential uses. The Zoning Board of Appeals, subject to the applicable provisions of § 57-65, may waive the requirements, in whole or in part, for accessory parking areas stipulated in §§ 57-48 and 57-51.
- C. Temporary Use of Mobile Homes: A temporary permit must be obtained from the Code Enforcement Officer for the placement of a Mobile Home on a lot for applicant to live in while there is the renovation or major repair of a damaged structure in which applicant was residing. No one can occupy the structure during the same period of time that a Mobile Home is being utilized pursuant to this subsection. Such permit may be issued after the issuance of a building permit. The property owner shall apply for the permit, and such permit shall be for a period not greater than six months but may be renewed at the discretion of the Code Enforcement Officer if work on said construction is proceeding diligently. The fee for such permit and any subsequent renewal shall be as set forth from time to time by resolution of the Town Board.

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**ARTICLE XIII, Signs**

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**§ 57-55. Maximum permitted sizes.**

In all districts, maximum permitted sizes of signs of each listed type shall be in accordance with the regulations contained in the following schedule:

<b>District</b>	<b>Professional or Announcement Sign on Residence Building (square feet)</b>	<b>Business Signs Identification of Business or Industrial Building or Use (square feet)</b>	<b>Real Estate "For Sale" or "For Rent" sign or Construction Sign (square feet)</b>	<b>Advertising Signs (square feet)</b>
RR-1.5 ac. RR-1.0 ac. SR-20 SR-15 SR-10 UR-M	2	Prohibited, except where specifically permitted under special exception provision	12	Prohibited
NB WR	3	2 for each one- foot width of building	12	Prohibited

District	Professional or Announcement Sign on Residence Building (square feet)	Business Signs Identification of Business or Industrial Building or Use (square feet)	Real Estate "For Sale" or "For Rent" sign or Construction Sign (square feet)	Advertising Signs (square feet)
		facade		
GB	3	2 for each one- foot width of building facade	12	300
LI	Prohibited	2 for each one- foot width of building facade	12	Prohibited
HI	3	2 for each one- foot width of building facade	12	300

**§ 57-56. Supplementary regulations.**

- A. A professional or announcement sign of a home professional office or home occupation on a residence building shall be fixed flat on the main wall of such building and shall not project more than six inches. Such sign may be interiorly lighted in the cases of the office of a physician or dentist only.
- B. A name or announcement sign, not over six square feet in area, fixed to the main wall of a church, parish house, club, school or public or semipublic building shall be permitted in any district. Such sign may be interiorly lighted. Not more than three such signs shall be permitted on a lot.
- C. No business or advertising sign shall project more than 12 inches from the building facade to which it is attached.
- D. No business or advertising sign that is part of or is supported by a building shall be erected upon the roof of such building, nor shall such sign extend above the height of the building.
- E. No business or advertising sign structure that is not a part of or supported by a building shall be more than 18 feet in height above the average ground level at the base of such sign.
- F. No business or advertising sign structure erected directly upon the ground shall have less than three feet of clear space between such sign and the ground, provided that necessary supports may extend through such open spaces.
- G. No business or advertising sign structure erected directly upon the ground shall have an unbroken length of more than 25 feet.
- H. No business or advertising sign structure erected directly upon the ground shall be within five feet of any other such sign structure.

- I. No advertising sign shall be erected, attached or displayed within 25 feet of the point of intersection of the street lines at a street corner.
- J. Business and advertising signs may be interiorly lighted with nonglaring lights or may be illuminated by shielded floodlights; provided, however, that no red or green lights shall be permitted within 75 feet of the point of intersection of the street lines at a street corner. No lights of the intermittent flashing type shall be permitted.
- K. No business or advertising sign shall be permitted upon any lot or building in any district, unless it is a structure or a part of a structure, or is attached to or displayed upon a structure, as defined in § 57-3 under "structure."
- L. A real estate "for sale" or "for rent" sign or a construction sign shall apply only to the property upon which the sign is placed. It shall not be erected within a minimum required front yard, nor nearer to the street line than the front wall of the main building on the property, if any, whichever dimension is the greater. Not more than three such signs shall be permitted on any one property or premises.
- M. No business sign other than a professional or announcement sign, and no advertising sign, as such terms are defined in § 57-3 under "sign, business" and under "sign, advertising," respectively, shall be erected, hung, attached or displayed until written application has been made to the Building Inspector and a permit therefor has been duly issued by him or her, upon payment of the established fee.

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## **ARTICLE XIV, Nonconforming Uses, Buildings or Structures**

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### **§ 57-57. Unlawful uses; establishment of nonconforming uses.**

- A. No unlawful building or structure or unlawful use of a building or structure, lot or land, existing at the effective date of this chapter, shall be deemed to be a nonconforming building, structure or use.
- B. All buildings or structures or uses of a building or structure, lot or land, lawfully existing prior to the effective date of this chapter, or of subsequent amendments of it, which do not conform to the provisions of this chapter, shall be the subject of an application filed within six months in the office of the Building Inspector so that their status as legal nonconforming uses may be established.

### **§ 57-58. Continuance of nonconforming uses.**

- A. Any lawful use occupying any building, structure, lot or land at the time of the effective date of this chapter or any amendment thereto, which does not comply, after the effective date of this chapter or any amendment thereto, with the use regulations of the district in which it is situated, may be continued in the building or structure or upon the lot or land so occupied.
- B. A building or structure used as a nonconforming use at the effective date of this chapter may not be reconstructed, structurally altered, restored or repaired to an extent exceeding in aggregate cost 75% of the fair market value of such building or structure, unless the use of such building or structure is changed to a conforming use. The Board of Appeals may grant a

variance, in accordance with the provisions of § 57-65.D(2)(b) for a reconstruction, structural alteration, restoration or repair exceeding such 75% of the fair market value of such building or structure.

- C. A nonconforming building or structure that is not devoted to a nonconforming use may be reconstructed, structurally altered, restored or repaired in whole or part, and the provisions of Subsection B above shall not apply.

**§ 57-59. Extension of nonconforming uses.**

A nonconforming use shall not be enlarged or extended, except as provided in § 57-65D(2) (a).

**§ 57-60. Changes of nonconforming uses.**

A nonconforming use shall be changed only to a conforming use, except as provided in § 57-65.D(2)(c).

**§ 57-61. Abandonment of nonconforming uses.**

- A. A nonconforming use shall be deemed to have been abandoned:
  - (1) When it is changed to a conforming use.
  - (2) In cases where such nonconforming use is of a building or structure designed for such use, or when it has been voluntarily discontinued for a period of 12 consecutive months.
  - (3) In cases where such nonconforming use is of a building or structure not designed for such use or is of a lot or land whereon there is no consequential building or structure devoted to such use, when it has been voluntarily discontinued for a period of 12 consecutive months.
- B. A nonconforming use that has been abandoned shall not thereafter be reinstated.

**§ 57-62. Nonconforming summer cottage developments.**

- A. Any property lawfully used on or before the third day of September 1954 for the purpose of a rental summer cottage development or bungalow colony shall be considered a lawful nonconforming use and may be continued.
- B. Such a summer cottage development may contain additional summer cottages, including two-family cottages, but only within the boundaries of such property as they existed on the third day of September 1954 and only on the following conditions:
  - (1) A map showing the location of all existing and proposed buildings and installations shall be filed with and approved by the Planning Board.
  - (2) Sanitary and safety standards comparable to those required by the State of New York, where state regulations apply, and all Planning Board regulations shall be complied with.
  - (3) The minimum distance between buildings shall be 50 feet.
  - (4) There shall be not more than two two-family cottages per acre, or one two-family cottage and two single-family cottages per acre, or four single-family cottages per acre.

- (5) Two-family cottages shall have completely separate bath and cooking facilities for each dwelling unit and shall be designed in all respects to provide separate, private and distinct facilities for each of the families.
- C. Where existing buildings and installations do not comply with the foregoing standards for such summer cottage developments, the Planning Board may require that such existing buildings and installations be altered so as to comply with such standards, as a condition of approval for the erection of additional summer cottages.

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## **ARTICLE XV, Zoning Board of Appeals (ZBA)**

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### **§ 57-63. Establishment, organization, procedures and records.**

- A. Establishment. Pursuant to the Town Law of the State of New York, Article 16, § 267, Chapter 62 of the Consolidated Laws, there shall be a Board of Appeals.
- B. The Zoning Board of Appeals (ZBA) heretofore established shall continue to function under the provisions of this chapter, and the members thereof may continue in office until their respective terms expire.
- C. Secretary. The ZBA is authorized to employ a Secretary or Clerk, who is not a member of the ZBA, at a salary to be fixed by the Town Board. The final selection of the ZBA secretary shall be the final responsibility of the Town Board of the Town of Monroe after consideration of recommendations of the ZBA.
- D. General grant of power. The ZBA shall perform all the duties and have all the powers as prescribed by the Town Law and as herein more particularly provided.
- E. Rules of procedure. The ZBA shall prescribe rules for the conduct of its affairs, including but not limited to, the form and content of applications made to it, and the procedures for conducting its meetings and the rendering and filing of decisions provided the same are consistent with the Town Law.
- F. Meetings. Meetings of the ZBA shall be held at the call of the Chairman and at such other times as the Board may determine. All meetings shall be open to the public. A quorum shall consist of three members.
- G. Public hearings The ZBA shall fix the time, date and place for a public hearing on applications to be considered by it and shall provide for the giving of notice not less than ten(10) days prior but not greater than 30 days to the date thereof as follows: Such notice shall be mailed at least ten days prior to the hearing.
  - (1) By publishing a notice in a newspaper of general circulation-in the Town.
  - (2) By requiring the applicant to send a copy of the notice of public hearing by certified mail, return receipt requested, to the owners of all property within 300 feet of the property which is the subject of the variance application or zoning interpretation as the names and addresses of said owners appear on the latest assessment roll of the Town. However, in areas serviced by groundwater wells, the Board may increase the notification area up to 1500 feet. Proof of such mailings and receipts for same shall be filed with the ZBA prior to, or at the time of, said hearing. The cost of sending or publishing any notices relating to such appeal shall be borne by the appealing party.

- (3) If the land involved in any appeal is within 500 feet of the boundary of any other municipality, notice of the public hearing shall also be mailed to the Municipal Clerk of such other municipality.
  - (4) If the land involved in any appeal is within 500 feet of the boundary of any existing or proposed county or state park or any other recreation area; the right-of-way of any existing or proposed county or state parkway, thruway, expressway, road or highway; the existing or proposed right-of-way of any stream or drainage channel owned by the county or for which the county has established channel lines; or the existing or proposed boundary of any county or state-owned land on which a public building or institution is situated; or the boundary of a farm operation located in an agricultural district, except where the appeal is for an area variance, notice of the public hearing and a description of the applicant's proposal shall be mailed to the Orange County Planning Department in accordance with § 239-m of the General Municipal Law.
  - (5) The ZBA shall decide upon the appeal within 62 days after the conduct of such hearing. The time within which the ZBA must render its decision may be extended by mutual consent of the applicant and the ZBA. The decision of the ZBA shall be filed in the office of the Town Clerk within 5 business days after the day such decision is rendered and a copy thereof mailed to the applicant.
  - (6) A motion for the ZBA to hold a re-hearing to review any order, decision or determination of the ZBA not previously reviewed may be made by any member of the ZBA. A unanimous vote of all members of the ZBA then present is required for such re-hearing to occur. Upon such re-hearing, the ZBA may reverse, modify or annul its original order, decision or determination upon the unanimous vote of all members then present, provided that the ZBA finds that the rights vested in persons acting on good faith and reliance upon the reviewed order, decision or determination will not be prejudiced thereby.
- H. County Review. No action shall be taken on applications referred to the Orange County Planning Department until the Department's recommendation has been received or 30 days have elapsed after the Department received the full statement on the applicant's proposal.
- I. Minutes and records. The ZBA Secretary shall keep minutes of the ZBA's proceedings showing the vote of each member upon every question or, if absent or failing to vote, indicating such fact. The ZBA Secretary shall keep records of the ZBA's examinations and official actions, all of which shall be immediately filed in the Town Clerk's Office and shall be a public record. A record of all variances pursuant to action of the ZBA under this chapter shall be maintained according to date and property address. Said file shall be available for public inspection.

**§ 57-63.1. Alternate members of the ZBA [Added 3-15-2010 by L.L. No. 4-2010]**

- A. Short title and applicability. This section shall be known and may be cited as the "Alternate Zoning Board of Appeals Members Act." This section shall apply to the appointment, term, functions, and powers of alternate members to serve on the Zoning Board of Appeals in and of the Town of Monroe.

- B. Policy. It is sometimes difficult to maintain a quorum of the Zoning Board of Appeals because members are ill, on vacation, or find they have a conflict of interest on a specific matter before such Board. In such instances, official business cannot be conducted, which may delay or impede adherence to required timelines. The use of alternate members in such instances is hereby authorized pursuant to the provisions of this section.
- C. Definitions. As used in this section, the following terms shall have the following meanings indicated:

ALTERNATE ZBA MEMBER -- An individual appointed by the Town Board to serve on the Town of Monroe Zoning Board of Appeals when a regular member is absent or otherwise unable to participate on an application matter before the Zoning Board of Appeals as provided for in the policy herein.

ZBA MEMBER -- An individual appointed by the Town Board to serve on the Town of Monroe Zoning Board of Appeals pursuant to the provisions of the Town of Monroe Town Code.

ZONING BOARD OF APPEALS or ZBA-- The Zoning Board of Appeals of the Town of Monroe as established by the Town Board of the Town of Monroe by local law, pursuant to the provisions of § 267 of the Town Law.

- D. Authorization/effect. The Town Board of the Town of Monroe hereby enacts this section to provide a process for appointing two alternate members (Alternate A and Alternate B).
- E. Alternate members of the Zoning Board of Appeals shall be appointed by the Town Board of the Town of Monroe for a term of five years. The first such persons appointed as the alternate ZBA members under this code shall have terms that shall expire 3 years and 5 years on the 31<sup>st</sup> of December, starting at the year of their appointment. Any vacancy created by the resignation, death, or disqualification of an alternate member shall be for the remainder of the term of which the prior alternate member that the new member is replacing.
- F. The Chairperson of the Zoning Board of Appeals shall designate an alternate to substitute for a member when such member is unable to participate on an application or matter before the ZBA or otherwise absent pursuant to the policy set forth in this section. The Chairperson shall, provided both alternates are present, alternate the assignment of the alternate members so each serves in such capacity, with Alternate A serving on the first occasion that an alternate member for the Zoning Board of Appeals is required. When so designated, the alternate member shall possess all the powers and responsibilities of such member of the Board. Such designation of the alternate member shall be entered into the minutes of the initial Zoning Board of Appeals meeting at which the substitute is made.
- G. All provisions of state law relating to the Zoning Board of Appeals member eligibility, vacancy in office, removal, compatibility of office and service on other boards, as well as any provision of any state and local law/ordinance relating to training, continuing education, compensation and attendance, shall also apply to alternate members; provided at a prorated yearly basis if necessary.
- H. Supersession of Town Law. This section is hereby adopted pursuant to the provisions of § 10 of the Municipal Home Rule Law and § 10 of the Statute of Local Governments. It is the intent of the Town Board of the Town of Monroe, pursuant to § 10 of the Municipal Home Rule Law, to supersede the provisions of § 267 of the Town Law relating to appointment of members of the Town of Monroe Zoning Board of Appeals.

**§ 57-64. Appeals.**

The Zoning Board of Appeals is hereby authorized, upon an appeal, to hear and decide:

- A. Any matter where an appellant alleges that the Building Inspector was in error in refusing to issue a building permit or certificate of occupancy as a result of misinterpreting the meaning, intent or application of any section or part of this chapter.
- B. Any matter where an appellant alleges that the Building Inspector was in error in his determination as to the exact location of a district boundary line on the Zoning Map that forms a part of this chapter.
- C. Any other matter relating to this chapter, where an appellant seeks a review of any decision, order or ruling made by the Building Inspector.
- D. Any matter which the Building Inspector appeals on grounds of doubt as to the meaning or intent of any provision of this chapter or as to the location of a district boundary line on the Zoning Map.

**§ 57-65. Variances.**

- A. Except as otherwise provided in this chapter or the Town Law, the jurisdiction of the Zoning Board of Appeals is appellate only and is limited to hearing and deciding appeals from and reviewing any order, requirement, decision, interpretation or determination made by the Building Inspector. On appeal from the decision or determination of the Building Inspector, the ZBA shall have the power to grant use variances and area variances as specified in Subsection C. of this Section.
- B. Guiding principles.
  - (1) Every variance granted by the Zoning Board of Appeals shall clearly set forth the nature and extent of such variance.
  - (2) Every variance granted by the Zoning Board of Appeals may be subject to conditions and safeguards as the ZBA shall deem to be applicable to the particular case. Violations of such conditions or safeguards are part of the ZBA's decision and shall be deemed a violation of this chapter, punishable under the provisions of Section 57-75.
  - (3) Any use variance granted by the ZBA pursuant to the provisions of this Section shall be construed to be a non-conforming use.
- C. General standards.
  - (1) Use variances. No use variance shall be granted by the ZBA without a showing by the applicant that applicable zoning regulations and restrictions have caused unnecessary hardship. In order to prove such unnecessary hardship, the applicant shall demonstrate to the ZBA that for each and every permitted use under the zoning regulations for the particular district where the property is located:
    - (a) The applicant cannot realize a reasonable return, provided that lack of return is substantial, as demonstrated by competent financial evidence.
    - (b) That the alleged hardship relating to the property in question is unique and does not apply to a substantial portion of the district or neighborhood.

- (c) That the requested use variance, if granted, will not alter the essential character of the neighborhood.
      - (d) That the alleged hardship has not been self-created.
    - (2) Area variances. In making its determination on an application for an area variance, the ZBA shall take into consideration the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. In making such determination, the ZBA shall also consider whether:
      - (a) An undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance.
      - (b) The benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance.
      - (c) The requested area variance is substantial.
      - (d) The proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.
      - (e) The alleged difficulty was self-created, which consideration shall be relevant to the decision of the ZBA but shall not necessarily preclude the granting of the area variance.
    - (3) In granting use or area variances, the ZBA shall grant the minimum variance that it shall deem necessary and adequate and, at the same time, preserve and protect the character of the neighborhood and the health, safety and welfare of the community.
- D. Specific types of variances. In the instances of the following types of variances, the ZBA is hereby specifically empowered to grant the variance pursuant to the guiding principles and general standards stated in Subsections B and C above and the following provisions:
  - (1) Grant a permit in the case when ownership of a parcel lies across zoning district boundaries for the extension of a use that prohibited by this local law into the more restricted district as a lawful, conforming use. Such use shall be permitted into the less restricted district, only a distance not exceeding 50 feet measured at right angles to such district boundary line.
  - (2) With respect to non-conforming uses, building and lots:
    - (a) The ZBA shall be permitted to grant a variance pursuant to Subsection C(1) of this Section for the enlargement or extension of a non-conforming use or building on the effective date of this chapter, provided that:
      - [1] Such enlargement or extension shall not exceed in all 50% of the replacement cost of the existing building where such non-conforming use exists on the effective date of this chapter or any amendment thereto.
      - [2] Such enlargement or extension shall also be subject to Planning Board approval pursuant to §57-14 of this chapter.

[3] Compliance with all parking and truck loading requirements of Article XII is achieved.

- (b) Grant a variance pursuant to Subsection C(1) of this section for the reconstruction, structural alteration, restoration or repair of a building or structure used for a non-conforming use, to an extent exceeding in aggregate cost 75% of the fair market value of each such building or structure, provided that if such reconstruction, structural alteration, restoration or repair will not change, alter, modify or otherwise extend the building or structural footprint or location on the lot, or any accessory building or structure thereon. If changes are requested, then site plan approval shall be required by the Planning Board approval pursuant to §57-14 of this chapter.
- (c) Grant a variance pursuant to Subsection C(1) of this Section-for a change in a nonconforming use to another non-conforming use, provided that such change in use shall also be subject to Planning Board approval pursuant to § 57-14 of this chapter, except where the such change in use is to a single or two-family residence.

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## **ARTICLE XVI, Administration and Enforcement**

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### **§ 57-66. Interpretation of provisions; minimum requirements.**

In applying and interpreting the provisions of this chapter, said provisions shall be held to be minimum requirements adopted for the promotion of the public health, safety, morals, comfort, convenience and general welfare. The following specific regulations shall apply:

- A. A minimum required lot or yard size for one building or structure shall not be used as any part of a required lot or yard for a second structure.
- B. The required lot or yard for an existing building or structure shall not be diminished below the minimum requirements of this chapter.
- C. The parking spaces required for one building or structure or use shall not be included in the computation of required parking spaces for a second building or structure or use.

### **§ 57-67. Effect on other regulations and agreements.**

- A. Nothing contained in this chapter shall be taken to repeal, abrogate, annul or in any way impair or interfere with any provisions of law or ordinance or regulations existing or as may be adopted in the future, nor is it intended by this chapter to interfere with or abrogate or annul any easements, covenants or other agreements between parties; provided, however, that where this chapter imposes a greater restriction upon the use of buildings or structures or requires larger lots, yards, courts or other open spaces than imposed or required by such other provisions of law, ordinance or regulation or by such easements, covenants or agreements, the provisions of this chapter shall control.

- B. Wherever the provisions of any other law or ordinance or regulations impose a restriction greater than this chapter, the provisions of such other law or ordinance or regulations shall control.
- C. No provision contained in this chapter shall be construed as justifying the encroachment of any building or structure within any street lines now or hereafter laid down.

**§ 57-68. Enforcement.**

- A. It shall be the duty of the Building Inspector to administer and enforce the provisions of Article 16 of the Town Law and the provisions of this chapter. Should the said Building Inspector be in doubt as to the meaning or intent of any provision of this chapter, or as to the location of any district boundary line on the Zoning Map, or as to the propriety of issuing a building permit or a certificate of occupancy in a particular case related to the provisions of this chapter, he shall appeal the matter to the Board of Appeals for interpretation and decision. The Building Inspector shall adopt rules of procedure consistent with this chapter for the purpose of assuring efficient and uniform administration of its provisions.
- B. The Building Inspector shall submit a written report each month to the Town Board, enumerating the building permit applications received and stating the actions taken. Such report shall also enumerate violations of this chapter and actions taken with respect thereto.

**§ 57-69. Right of entry for inspections.**

The Building Inspector or Assistant Building Inspector of the Town, as well as the Town Engineer, is hereby authorized, subsequent to written notification, to enter onto any of the premises in the Town (excluding within a Village unless acting pursuant to an inter-municipal agreement), whether public or private, for the purpose of inspection whenever said Building Inspector or Assistant Building Inspector or Town Engineer is reasonably sure that any building on the premises is dangerous, unsafe, a public nuisance or a fire hazard to the public or in the proper discharge of his duties, including but not limited to ensuring compliance with Town ordinances and laws. Nothing herein shall preclude the rights of any Town officer, agent, or employee from acting in an emergency or pursuant to emergency powers whenever an actual emergency or declared state of emergency exists. Where entry is refused to the Building Inspector, Assistant Building Inspector, or Town Engineer, said individual shall consult with the Town Attorney to secure entrance in an otherwise lawful manner including but not limited to securing a warrant. Nothing herein shall abridge any right of the Building Inspector, Assistant Building Inspector, or Town Engineer contained elsewhere in the Town Code of the Town of Monroe or in New York State Law, or New York State Rule or Regulation.

**§ 57-70. Building permits; formation of new lots.**

- A. All procedure with respect to applications for and issuance of building permits shall be in conformity with the provisions of the Building Code.<sup>xxEN</sup> All such applications shall be accompanied by such other information as may be necessary to determine and provide for the enforcement of this chapter.

- B. The plot plan shall show a separate lot for each main building; provided, however, that where a development consists of an integrated arrangement of dwellings, garden apartments or other buildings designed and intended to be maintained in a single ownership, the Building Inspector may waive the requirements of showing separate lots for each separate main building.
- C. No building permit shall be issued for erection, construction, reconstruction, structural alteration or moving of any building or structure or part thereof, unless the plans and intended use indicate that such building or structure is designed and intended to conform in all respects to the provisions of this chapter.
- D. Where a lot is formed from part of a lot already improved, the separation must be effective in such manner as not to impair any of the provisions of this chapter, whether related to the then existing improvements or to a proposed or future new improvement on the lot so formed and in such manner that both the remainder of the former lot and the new lot so formed shall comply with the lot area and lot width provisions of this chapter.

**§ 57-71. Completion of buildings for which permits have been issued.**

- A. Nothing in this chapter shall require any change in the plans, construction or designated use of a building or structure for which a lawful building permit has been issued prior to the effective date of this chapter or any amendment thereto affecting such building or structure or the use thereof, provided that:
  - (1) The construction of such building or structure shall have been begun and diligently prosecuted within three months from the date of such permit.
  - (2) The ground story framework, including the second tier of beams, shall have been completed within six months from the date of such permit.
  - (3) The entire building or structure shall be completed to such filed and approved plans upon which the issuance of such permit was based within one year from the effective date of this chapter or any such amendment thereto.
- B. In the event that any one of the conditions of § 57-71A is not complied with, such building permit shall be revoked by the Building Inspector.

**§ 57-72. Certificates of occupancy.**

- A. It shall be unlawful to use or to permit the use of any building, structure, premises, lot or land or part thereof hereafter erected or altered, enlarged or moved, in whole or part, after the effective date of this chapter or any building, structure, premises, lot or land or part thereof of which the use is changed, until the certificate of occupancy has been obtained by the owner.
- B. No certificate of occupancy shall be issued for any building, structure, premises, lot or land unless the erection, construction, reconstruction, structural alteration or moving of such building or structure or part thereof and the intended use thereof are in conformity in all respects with the provisions of this chapter.
- C. The Building Inspector shall obtain a written order from the Planning Board before issuing a certificate of occupancy in a case involving a special exception use, pursuant to Article V or from the Board of Appeals in the case of a variance from the provisions of this chapter pursuant to § 57-65.

- D. Upon written application by the owner or his authorized agent, the Building Inspector shall issue a certificate of occupancy for any building or structure, lot or land existing and in use at the effective date of this chapter, provided that said Building Inspector shall find that such building or structure, lot or land is in conformity with the applicable provisions of this chapter or is a nonconforming structure as defined in § 57-3 under "nonconforming structure" and under "nonconforming use."
- E. Any certificate of occupancy, if not available from existing Town records, shall be limited to a statement by the Building Inspector that the structure in question complies with the area and use regulations of this chapter or is legally nonconforming as to such regulations and, if constructed on or after November 7, 1962, that the same is in compliance with the applicable provisions of Chapter 23.

**§ 57-73. Filing of nonconformance statements by property owners.**

Owners of property which is occupied by nonconforming uses, buildings or structures may file a statement of such nonconformity with the Building Inspector so as to assure recognition of their status.

**§ 57-74. Fees.**

Fees for building permit applications and for issuance of building permits and certificates of occupancy shall be as provided in the Town Building Ordinance.<sup>xxi</sup>EN

**§ 57-75. Penalties for offenses.**

- A. Where a violation of this chapter is determined to exist, the Building Inspector shall serve notice either by certified mail or personally upon the owner, agent or contractor of a building, structure or lot where such violation has been committed or shall exist, and on the lessee or tenant of a part of or of an entire building, structure or lot where such violation has been committed or shall exist, and on the agent, architect, engineer, contractor or any other person who takes part or assists in such violation or who maintains any building, structure or lot in which such violation shall exist. Failure to serve any of the persons specified shall not invalidate the proceedings commenced against those served notice.
- B. Such notice shall require the removal of the violation within 10 days after service of the notice.
- C. In cases where the removal of the violation within 10 days would be manifestly impossible, the Building Inspector shall determine a reasonable period of time within which the violation shall be removed but in no event shall such period exceed 30 days.
- D. If those persons notified shall fail to remove such violation within the allotted time period, the Building Inspector shall charge them with such violation of this chapter before the appropriate court of law.
- E. Persons found guilty of such violation shall be subject to a fine not exceeding \$500 or to imprisonment for not more than 30 days, or both, for each violation. Each and every week such violation continues after the allotted period of time for its removal shall be deemed a separate and distinct offense.

- F. In addition to other remedies provided by law, any appropriate action or proceeding, whether by legal process or otherwise, may be instituted or taken to prevent the unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use, or to restrain, correct or abate such violation, or to prevent occupancy of such building, structure or lot, or to prevent any illegal act, conduct, business or use in or about the premises.
- G. Notwithstanding the provisions of Subsection B of this Section, nothing shall preclude the Building Inspector from requiring the removal of a violation immediately upon service of the notice, where the violation involves the use or occupancy of a building or structure in contravention of the site plan, special exception use permit, variance, building permit or certificate of occupancy provisions of this chapter.

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## **ARTICLE XVII, Public Records**

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### **§ 57-76. Copies of regulations and map to be open to public inspection.**

Duly certified copies of this chapter and of the Zoning Map and the Schedule of District Regulations which forms a part hereof, together with copies of all amendments hereto, shall be filed in the Building Inspector's office and shall be open to public inspection.

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## **ARTICLE XVIII, Amendments**

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### **§ 57-77. Procedure for Amendments**

- A. Any request for a change of Zoning District shall include a map, accurately drawn to an appropriate scale, showing the area of land included in the proposed change, the streets in the immediate vicinity and the land or lands and the name of the owner or owners thereof immediately adjacent to the extending within 100 feet of all boundaries of said property. The Town Board may from time to time on its own motion, or on petition, or on recommendation of the Planning Board, amend, supplement, or repeal the regulations and provisions of this chapter, including the Zoning Map, after public notice and hearing, in accordance with state law.
- B. Petitions for amendments shall be submitted in quadruplicate to the Town Clerk, one of which shall be the original.
- C. Any petition for a change in the Zoning Map shall include the following:
  - (1) The name of the property owner(s).
  - (2) A map accurately drawn to an appropriate scale, showing the proposed zone district boundary change, property lines, the calculated areas effected in acres or feet, the street rights-of-way in the immediate vicinity and the lands and names of owners immediately adjacent to an extending within one hundred feet of all boundaries of the property to be re-zoned.
  - (3) A metes and bounds description of the proposed amendment.

- D. The Town Board shall fix the date, time and place for a public hearing on the proposed amendment and cause notice to be published in the official newspaper. The Town Board may require a petitioner to give additional forms of public notice or notice to adjacent property owners.
- E. In addition to the procedural requirements set forth herein, the procedural requirements of the provisions of §§ 239-l and 239-m of the General Municipal Law relating to review by the County Planning Department and the provisions of the State Environmental Quality Review Act under Article 8 of the Environmental Conservation Law and its implementing regulations must be complied with before any action may be taken on any amendment.
- F. Upon adoption of a change to the Zoning Map, the Town, or if there be one the petitioner, shall file with the Town Clerk and the Building Inspector copies of an accurate survey description and drawing of the area effected by such amendment. If the change to the Zoning Map was initiated by a petition, such change if made shall not be effective until said filing is completed. Nothing shall preclude the Town from causing such filing to be made.

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## **ARTICLE XIX, Violations of Previous Ordinance**

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### **§ 57-78. Violations not affected.**

Nothing in this chapter shall be deemed to affect any violation, liability, penalty, course of action or special proceedings arising under the provisions of the Zoning Ordinance of 1942 as amended on or before the effective date of this chapter.

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## **ARTICLE XX, Trees and Subdivision Process and Landscaping Requirements**

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### **§57-79 Legislative Intent**

The Town Board declares the intent of this Article is to regulate the preservation, installation, removal, and long-term management of trees in the Town of Monroe in order to protect the environment for the use of present and future generations. Specifically, the Town Board further declares the intent of this Article is to:

- A. Ensure that the greatest-number of trees are preserved and protected before, during and after subdivision, site plan and/or residential or commercial construction process.
- B. Where it is not possible to preserve them, the Town Board intends to ensure, wherever possible, that trees removed be replaced with a like number of newly planted trees. If not on the site where the trees are removed, then such trees shall be replanted on another site in the Town of Monroe, or alternatively, pay a tree re-planting fee, as established in § 57-82.E of this Code.
- C. Encourage the proper protection and maintenance of existing trees as herein described in the Town of Monroe, and provides penalties for non-compliance therewith.

- D. Ensure that as long as the health, safety, or welfare of the public is not potentially negatively impacted, projects provide for trees along existing and new roads, screen parking areas in order to reduce noise from vehicular traffic, and screen accessory structures and ensure that the development blends with the existing environment. Additionally, the intent of this Article is to also enhance and improve sites through the establishment of increased green space and/or appropriate plantings.
- E. Generally prohibit, except as provided for herein, removal of, cutting down or causing injury to trees growing on slopes with a grade of fifteen percent (15%) or greater.
- F. Charge the Conservation Commission with developing a list, subject to amendment, as provided for herein, of Specimen, Landmark, and Protected Trees and procedures for the preservation thereof. To the extent identifying information is needed in relation to defining particular types of trees, including landmark and specimen trees, no penalty may be imposed until such trees are identified by resolution of the Town Board, and made an appendix to the Town Code after filing such resolution with the Town Clerk.
- G. Encourage the establishment and continuation of tree species that are compatible with the natural environment as defined by the New York State Department of Environmental Conservation.
- H. Establish penalties for violation of its provisions.

#### **§57-80 Legislative Findings**

The Town Board hereby finds that: The trees and forest lands in the Town of Monroe are important natural resources that benefit the Town and make it a desirable place for both residents and visitors. Trees and other landscape elements help to naturally control flooding and prevent soil erosion, protect watershed areas and water bodies, enhance air quality, provide a natural barrier to noise pollution and a habitat for wildlife, and yield advantageous micro-climates thereby reducing energy consumption. Removal of trees can cause deprivation of these benefits and changes the ecological and rural character of the community.

- A. Properly located and planted trees are an effective means of providing sight and noise barriers around accessory buildings, mechanical devices, parking lots and other structures.
- B. A responsible community recognizes it is necessary to preserve and manage trees and forestlands on both public and private property in order to protect the health, safety, and welfare of citizens in the Town of Monroe.
- C. Replacing trees removed during construction is necessary to assist in soil conservation and in the process of drainage, since development usually creates new drainage patterns, and the growth of trees and their roots are integral to these new drainage patterns.

#### **§ 57-81 General Regulations /Prohibited Acts**

- A. A tree plan shall be required and approved by the Town of Monroe Planning Board as part of a site plan, special exception permit, or subdivision approval pursuant to the provisions of § 57-83 of this Chapter prior to cutting down, killing, or otherwise destroying or committing any act which will lead to the eventual destruction of trees,

including, but not limited to poisoning, tree topping, and damage to the critical root zone of any protected tree with a diameter at breast height (dbh) of 10 inches or greater, or destruction of a cluster of 4 or more trees with a dbh of 8 inches each within a 500 square foot area, or treed areas of any dbh on slopes of greater than 15 percent (Also see Item G in this section). Said trees shall be located on the same Lot or Lots that are sharing one or more boundary lines and are owned or controlled by a common Person. The terms “Person” and “Lot” are defined herein by § 57-3 of this Code.

- B. When site plan, special exception permit, or subdivision approval is not required, a permit shall be required from the Town of Monroe Code Enforcement Officer as provided for in § 57-83A prior to the cutting down, killing, or otherwise destroying or committing of any act which will lead to the eventual destruction of any tree with a DBH of 10 inches or greater per calendar year, on the same Lot or Lots that are sharing one or more boundary lines and are owned or controlled by a common Person. The terms “Person” and “Lot” are defined herein by § 57-3 of this Code.
- C. Tree Clearing in advance of subdivision or site plan approval for the purposes of circumventing the regulations found in this chapter shall be subject to fines as defined in 57-98 and no applications for subdivision or site plan approval shall be accepted for a period of two (2) years as measured from the date of the clearing of the trees or the date of clearing as estimated by the Code Enforcement
- D. There shall under no circumstance be disturbance of or fill placed within critical root zones of Specimen, Landmark, or Protected Trees as defined in this Article without a permit approved by the Code Enforcement Officer. Such permit shall be granted after evaluation of a plan with sufficient detail as to reasonably demonstrate to the Code Enforcement Officer the number of trees expected to be cleared; and the necessity therefore.
- E. All development activities on a site, including installation of public and private utilities, shall be indicated on and conform to the provisions of the approved Tree Plan as described in § 57-83.
- F. No signs shall be placed, affixed, or attached to any tree, except for signs commonly known as "no trespassing" signs, or “no hunting” signs, or signs warning of a dangerous condition
- G. No Tree Clearing on public or private property except as permitted in Article XX-A.
- H. Trees shall not be removed from slopes with grades of 15% or greater except with a written certification by the Town Code Enforcement Officer, that such tree is dead or hazardous (See Article II, §57-2 for definition of Dead Tree and Hazardous Tree for the purpose of this code) or otherwise poses a health or safety hazard. The Code Enforcement Officer may accept an opinion letter from an arborist of the status of such tree in terms of the criteria provided for herein, and a pre and post tree removal

inspection by an arborist, shall be done with a written report from such arborist to the Code Enforcement Officer.

- I. If the applicant who wishes to cut down a tree disagrees with the finding of the Code Enforcement Officer of whether the tree is dead, the applicant may seek the opinion of an arborist and submit written evidence to the Code Enforcement Officer for consideration.

### **§57-82 Trees and the Subdivision/Site Plan Process**

- A. All applicants shall be required to submit a Tree Plan prior to preliminary subdivision application, special land use approval, or site plan application. Where a developer has been required to submit a Draft Environmental Impact Statement (D.E.I.S.) as part of the subdivision or special land use approval, a Tree Plan shall be part of said D.E.I.S. submission.
- B. The Planning Board shall approve the tree plan submitted by the applicant, or one modified by the Planning Board, as part of the subdivision or special land use approval process. Compliance with the Tree Plan shall be a condition of such approvals.
- C. A Tree Plan shall be included in the proposed development plans and shall include maps prepared with sufficient detail to illustrate the location and general characteristics of the existing vegetation before requested development and of re-vegetated areas after completion of the development as follows:
  - 1.) The tree plan shall be in a scale and number consistent with the rules governing the submission of plat plans.
  - 2.) Detail the location of orchards, tree stands, rock outcroppings, stone walls, streams, lakes, ponds, all specimen, landmark or protected trees as defined in this Article, and all other natural features throughout the entire parcel to be subdivided.
  - 3.) Delineate the "envelope" on each parcel or portion of property anticipated to become a separate tax map parcel where disturbance is planned, outside of which will be considered an area of non-disturbance by development and construction activities.
  - 4.) Within the proposed area of disturbance, the number and type of individual trees having 8 inches caliper at DBH shall be identified.
  - 5.) All trees proposed to be removed shall be clearly identified on such map.
  - 6.) Such plan shall demonstrate how required buffers, open space, and trees to be saved or be protected during construction, whether with safety fencing or other approved alternative, the sequence of which is approved by the Planning Board or its designee who shall be, the Town Engineer, an Arborist, or similarly qualified individual.
  - 7.) Such maps should be overlaid on the detailed subdivision plan and/or site plan so that the roads, main and accessory structures, rights-of-way, easements and utility lines are clearly shown in order to be able to clearly evaluate the impact of development on trees.

- 8.) The Tree Plan shall designate buffer zones of at least fifteen feet (15') along all perimeters of the tree stands to be protected, as well as critical root zones around existing trees, where trees will not be removed or disturbed except as permitted herein
- D. All trees to be preserved during construction shall be conspicuously marked on all sides. In cases where large areas of trees are to be preserved, conspicuous marking of the width of the tree canopy shall be required, prior to construction beginning in that area, and shall be approved in advance by the Town Engineer
- E. Detail the number and type of trees, on a one-to-one basis or on a basis acceptable to the Planning Board, added to the property (or added elsewhere in the Town as requested by the applicant and approved by the Planning Board) to replace all those taken down. In lieu of replacing all trees taken down, the Planning Board may, upon the request of the applicant, authorize the applicant whose tree plan is being considered, to pay to the Town Parkland account, a fine of \$750 per tree which is being removed and not replaced, and a fine of \$350 per tree of 10 DBH inches or more that is being replaced on another site.
- F. The applicant shall provide any and all additional information required by the Planning Board with respect to trees for the purpose of fulfilling the intent of this Article.
- G. Trees and their critical root zones shall be protected in areas of concentrated construction, storage of soil stockpiles or other equipment or material, parking, movement of construction equipment, or parking thereof, or similar activity.
- H. The Tree Plan shall be noted on all filed maps, and deeds must have a reference to restrictive covenants as per site plan.
- I. The Tree Plan shall designate penalties and shall require performance bonding (letters of credit and/or cash bond) to ensure compliance with the approved Tree Plan.
- J. As part of any application to the Planning Board, the applicant shall sign a statement as follows: "I HAVE READ OR AM OTHERWISE HEREBY BEING DIRECTED TO A COPY OF THE TOWN OF MONROE TREE PRESERVATION CODE – ARTICLE XX OF CHAPTER 57 OF THE TOWN CODE OF THE TOWN OF MONROE. I UNDERSTAND A COPY OF SUCH CODE IS AVAILABLE ON THE TOWN OF MONROE'S INTERNET WEBSITE WWW.MONROENY.ORG". I UNDERSTAND GENERALLY THAT THE TREE PRESERVATION CODE RELATES TO MY RESPONSIBILITIES WHEN IT COMES TO TREE REMOVAL AND TREE PLANTING AND AGREE TO FOLLOW SUCH CODE."

SIGNED: \_\_\_\_\_ DATED: \_\_\_\_\_

PRINT NAME: \_\_\_\_\_

PLANNING BOARD APPLICATION FOR : \_\_\_\_\_

**§57-83-a. Tree plans unrelated to the subdivision process.**

- A. Except as provided for in article XX-A of this chapter, where a property owner wishes to remove more than five trees from his or her property in any twelve month period, he or she shall submit a tree plan to the town of Monroe code enforcement officer. Such plan shall:
- (1) state specifically how many trees the property owner wishes to take or cause to be removed;
  - (2) State specifically where in the Town of Monroe the property owner proposes to plant replacement trees for those trees beyond five trees which are to be taken or removed in that twelve month period (the consent of the property owner where the trees are to be planted must be demonstrated to the satisfaction of the code enforcement officer if it is not on the same property);
  - (3) State the genus and specie of the tree to be planted (such genus and specie must be to the reasonable satisfaction of the code enforcement officer to address trees which are appropriate for the climate and soils of the town of Monroe). A list of such trees shall be provided to the code enforcement officer by the conservation commission.
  - (4) If the property owner is unable to have replacement trees planted, the property owner shall contribute to the Town of Monroe's parkland fund for the enhancement of the Town of Monroe's parklands, which generally enhances the health of the people of the town of Monroe by ensuring trees are planted and growing, thereby producing oxygen and better air quality, in the amount of seven hundred fifty dollars (\$750.00) per tree, in excess of five trees to be taken during the twelve month period.
- B. The code enforcement officer is authorized and directed to develop a tree plan application which shall contain information needed by the code enforcement officer (as he or she shall deem reasonably necessary) to put on file in relation to the trees removed and planted as provided for herein.
- C. The code enforcement officer shall maintain a "tree bank" which shall be a list of people in the town of Monroe who wish to have trees planted on their property. Such list shall state the minimum number and genus/specie of tree each property owner on the tree bank list desires. Merely being listed in the tree bank does not constitute consent under any circumstances for the trees to actually be planted. The trees shall be offered under the tree bank on a first come first serve basis or in a manner otherwise approved in a random process by the town board via resolution.
- D. All trees planted as replacement trees shall be no less than 2 and one half inches caliper at dbh and planted in accordance with § 57-95

- E. The fee for review of the tree plan unrelated to subdivisions shall be established by resolution of the town board. Such fee may be per application or may be set based on the number of trees to be removed.

**§ 57-84 Activities Permitted by Right**

- A. Removal of any tree not regulated by this Article is permitted. Nothing in this Article shall be construed herein to diminish the rights of the Superintendent of Highways of the Town of Monroe or appropriate highway management authorities from the County of Orange or the State of New York.
- B. Removal of any tree under an actual or ongoing emergency condition when such tree removal is necessary for the protection and preservation of life or property is permitted. Within one week of said removal, notice of such removal under emergency circumstances, shall be provided in writing (including regular mail or express mail or electronic mail or facsimile or hand delivered notice) to the Town of Monroe Code Enforcement Officer.
- C. Removal of any tree, other than those trees within a property's landscape buffer zone or regulated setback zone, by any cemetery.
- D. Removal of dead trees permitted. The removal of dead trees is permitted in any amount and shall not count against any tree removal limitation provided such trees are determined to be dead by an arborist prior to their being removed. Dead trees need not be replaced once removed except upon the direction of the Planning Board as part of any subdivision or site plan approval. Trees shall not be purposely killed in order to justify removal.

**§57-85 Removal of Trees on Public Land**

Any department, agency, commission of the Town of Monroe, employee of the Town of Monroe, or any firm or individual retained by the Town of Monroe to cut down, or cause to be cut down, any tree of 6" or more DBH, with the exception of the Town of Monroe Highway Department for right of way maintenance, must also be in compliance with all provisions of this Article.

**§57-86 Trees and Public Utilities**

- A. No street trees, other than those species listed as small trees suitable for planting near utility wires by any utility company may be planted under or within ten feet (10') of any overhead utility wires.
- B. Tree limbs that have grown near high voltage electrical conductors shall be maintained clear of such conductors by the electric utility company in compliance with any applicable franchise agreements.

- C. Any utility company having control over transmission or distribution lines along a public highway, street, or road within the Town of Monroe shall at all times protect the trees within its easement against any injury.
- D. The Town of Monroe Code Enforcement Officer must be notified by any utility company desiring to undertake trimming of trees within the Town. Trimming is to occur under the following guidelines:
  - (1) In general, trees will be permitted to grow naturally except where branches are growing ten feet (10') from wires.
  - (2) Overhead clearance of at least ten feet (10') will be permitted where tree limbs cross over wires.
  - (3) All debris from trimming operations must be cleaned up as work progresses by the Utility Company or its agent.
  - (4) Upon completion of trimming operations within the Town of Monroe, notice of completion must be given to the Town of Monroe Code Enforcement Officer within two weeks.

#### **§57-87 Enforcement**

The Code Enforcement Officer of the Town of Monroe shall enforce this Article. Any site for which a permit application has been submitted, pursuant to the provisions of the Town of Monroe Code, shall be subject to inspection by the Code Enforcement Officer or Town Engineer upon notice to the property owner and/or applicant at any reasonable time, including weekends and holidays, by the approving authority or its designated representative. The applicant, by making application, shall be deemed to have given consent to such inspection. If any tree(s) subject to the provisions of this Article, buffer zone and/or critical root zones are damaged, the Code Enforcement Officer has the authority to issue a "Stop Work Order" to be valid until such time as violations are deemed remedied by the Town Engineer or Code Enforcement Officer and all penalties levied pursuant to this article have been paid.

#### **§57-88 Penalties**

Any person, firm or corporation, or individual connected with such firm or corporation who violates any provision of this Article shall be guilty of a violation, the fine for which shall not exceed one thousand dollars (\$1,000.00) for a first offense. For a second and further offense within a one-year period, the violator shall be guilty of a violation punishable by a fine of not more than three thousand dollars (\$3,000.00) for each offense. Persons, firms or corporations, or individual connected with such firm or corporation, found in violation of the provisions of this Article shall be required to replant trees in the locations from which they were improperly removed or destroyed, or, if that is not practicable, in such locations as the Code Enforcement Officer shall authorize elsewhere in the Town of Monroe, or shall otherwise pay an additional fee to the Town of Monroe Parkland account of Seven Hundred Fifty Dollars (\$750.00) per tree

improperly removed or taken when such tree cannot be replanted at the location it was removed from or destroyed at..

**§57-89 Bonds**

At the time of public improvement bonding (which shall be via a Letter of Credit or Cash deposit), the cost of complying with the provisions of this Article, shall be estimated and included in the bond amount in a Public Improvement Security Agreement or Interim Developers Agreement (See Chapter 36) approved by the Town Engineer, Town Attorney, and Town Board..

**§57-90 Construal and Compliance**

No provision of this Article shall be construed to impair any common law or statutory cause of action, or legal remedy therefrom, of any person for injury or damage arising from a violation of this Article.

**§57-91 Severability and Effective Date**

If any clause, sentence, paragraph, section or part of this local law shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall be confined in its operation to the clause, paragraph, section or part thereof directly involved in the controversy in which such judgment shall have been rendered and shall not effect the remainder of this local law.

**§57-93 Specimen, Landmark and. Protected Tree List**

The Conservation Commission shall begin compiling the Town's Specimen, Landmark and Protected Tree List, as defined in Sec. 57-81, upon enactment of this Article and through nomination from tree owners, interested parties within the community, and the Town and Village Historians. Such list shall be, after approval or modification by the Town Board, appended to this Law and may be updated by Resolution of the Town Board as an Appendix to the Town Code of the Town of Monroe.

**§57-94 Landscaping Required**

- A. Landscaping Purpose and Intent: Landscaping standards herein are hereby established to create an aesthetically appealing environment and maintain the wooded nature and park-like appearance of the Town of Monroe enjoyed by all of the residents. In addition, this requirement shall also minimize the negative effects of parking lots, and other development, specifically related to the heat island effect and increase compatibility with neighboring uses of adjoining properties; especially where residential and commercial uses share boundary lines. In addition to the aforementioned goals, landscaping in and around parking lots is necessary to mitigate the adverse impact of dust, headlight glare, and noise from parking lots.
- B. Applicability: These landscaping provisions shall set standards that shall be applied to all site plan development in all zones, except for single family lots held in private ownership.

In addition, all subdivisions of lots (residential and commercial) shall adhere to minimum standards set forth in this section.

- C. **Required Landscaping Plan:** Pursuant to provisions in this section, all applicants shall be required to submit a landscaping plan to the Planning Board for review and approval. The landscaping plan shall be drawn to a scale that is the same as other submitted documents, and shall include details necessary for the understanding of such plan by the Planning Board. In addition, the plan shall include a north arrow, scale, location on map, original and revision dates, name and address of owner of the property, and the name of the landscape plan designer. Plans shall show all landscape areas and their uses, the number of plantings, proposed berming and fencing. Also included shall be all proposed/existing structures and other improvements, including but not limited to paved areas, berms, lighting, retention and detention areas and other planting material such as areas left in its natural state. The landscaping plan shall be sealed by a state registered landscape architect unless waived by the Planning Board.
- D. The following provisions shall be the minimum area requirement for landscaping plans submitted with the following development types:
- K. **Subdivisions:** For all new subdivision, whether residential or non-residential, applicants shall show a minimum of tree plantings along new planned right of ways, whether or not they are dedicated to the Town of Monroe. These trees shall be placed at a minimum of three trees per 100 linear feet, and can be grouped to provide aesthetic interest. Other plantings, such as shrubs, perennial flowers intended to be naturalized are encouraged to add visual interest, and shall be of a variety that needs little or no care, except during the first two years of establishment of such bush or plant.
- L. **Site Plans:** Whenever a site plan is required by the Planning Board for review and approval, such site plan shall require a landscaping plan, with a minimum area of landscaping shown on such plan as follows:
- i. **Landscaping at footing of building:** Landscaping shall be required at the footing of all buildings in all zones, of at least a 3 foot area around the perimeter of the front and sides of the building as determined by the front entry. In the event that the applicant would utilize planters instead of footing, such required area shall be include in the parking areas or adjacent areas to the building. Applicants shall be permitted to arrange or group this area on other portions of the site of the developable area of a plan to create visual interest. Planters shall only count 50% toward the required area.
  - ii. **Parking Lots:** Landscaping shall be required in parking lots larger than 5 spaces, at a ratio of 15 percent of the area used for such parking lot. Arrangement of landscaping shall break up paving, and provide for pedestrian safety. Such landscaping shall be protected with the use of permanent curbing. Applicants shall be encouraged to design rain gardens as a landscaping feature to help mitigate the effects of stormwater runoff from such parking lot.
  - iii. **Stormwater detention structures:** All permanent storm water detention structures shall be required to be landscaped. Such facilities shall be

design to include natural features, implementing native deep-rooted shoreline plantings that stabilize the soil, slow runoff, decrease erosion and facilitate infiltration. In addition, where such features create a lake or a pond, three trees shall be planted for each 100 feet of water at the high water line of such facility. All plantings are subject to review and approval by the Town Engineer.

- iv. Other equipment and garbage containers: For all site plans, other equipment installed in the ground shall require landscaping to soften and screen such equipment. In addition, garbage dumpsters and other containers shall be located within permanent structures with gates to conceal such container, and shall have landscaping around such container area when located in the side or front yard of the submitted plan.

- E. Native Planting Required: All landscaping plans submitted for review and approval shall utilize native plantings to the greatest extent possible, however, in no case shall be less than 75% native plants.

**§57-95 Specifications for planting trees.**

- (1) In Subsection A(1) through (4) above, the planting specifications and requirements are as follows:
  - (a) Trees shall be bailed and burlapped and shall not be less than two to 2 1/2 inches caliper measured six inches above the top of the ball nor less than 10 feet high. Trees should be nursery grown, and a nursery inspection certificate should be available covering all trees.
  - (c) In general, excavations for planting shall be large enough to accommodate the natural spread of the root system and at least one foot deeper and two feet wider than the ball or earth supplied with the tree. The pit shall be rock free and refilled with seven parts topsoil and one part humus and the parent soil discarded. Hardpan shall be loosened an additional 12 inches from bottom and side of pit. Trees shall be adequately fertilized and watered at the time of planting and mulched with three inches of approved mulch immediately after planting.
  - (d) Removal of debris is required. The property must be left in a neat and orderly condition in accordance with good and accepted planting and tree surgery practice.
  - (e) Trees shall not be planted between May 15 and September 15 without specific authorization of the Building Inspector.
  - (f) Notice must be given to Building Inspector 30 days prior to the start of planting in order that the plants and trees may be inspected and approved for tree variety, condition, size and quality. All work shall be subject to the general supervision and approval of the Building Inspector or designated individual. The Building Inspector is authorized to request assistance of tree experts to monitor the aforementioned activities. All costs will be borne by the developer.
- (2) Any tree improperly planted or not meeting these specifications will be subject to removal. Any tree that does not survive or is in an unhealthy condition at the end of one year shall be replaced at no cost to the Town of Monroe. Said replacement shall be made

within 60 days following written demand for such replacement or within a more extended period as may be specified.

**§ 57-96. Administration and enforcement.**

This chapter shall be administered and enforced by the Building Department and Planning Board of the Town of Monroe as detailed herein. Specifically, the Planning Board shall be responsible for approving the tree plan, and the Building Inspector, for seeing that it is implemented.

**§ 57-97. Bond.**

At the time of public improvement bonding, the cost of complying with the above requirements will be estimated and appropriately included in the bond amount.

**§ 57-98. Compliance of Landscaping Plan required; penalties for offenses.**

- A. No certificate of occupancy shall be issued until the landscaping plan is satisfactorily complied with.
- B. In the case where the developer violates the intent of the landscaping plan, the penalty shall be \$1,000 per day that the activity persists.

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**ARTICLE XX-A, Timber Harvesting**

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§57-99 Timber Harvesting

- A. Removal of timber in quantities greater than three (3) standard cords of wood from any parcel of land within any twelve (12) month period shall require a timber-harvesting permit. Such permit may only be granted by the Planning Board upon review and recommendation for approval by a Cooperating Consulting Forester of the New York Institute of Consulting Foresters hired by the Town of Monroe. The Costs of any consulting forester reviewing the Timber Harvest application (or Harvest itself), or other professional including the Town Engineer, or Town Attorney (or Planning Board Attorney), shall be payable to the Town of Monroe by the applicant.
- B. Application Requirements. The following shall be provided as part of the application for a timber harvesting permit:
  - (1) Name, address and phone number of the property owner and harvester (if different from property owner).
  - (2) Location map and tax parcel number of the property where the timber harvesting operation is to take place.
  - (3) The commencement and end dates between which the proposed harvesting activity is to take place. Such permit shall expire at the conclusion of such end

date. Such end date shall be not longer than twelve months from the date of the permit's issuance.

- (4) Evidence of no unpaid taxes or assessments affecting or constituting a lien on the premises described in the application.
- (5) Identify all landmark, specimen and protected trees. The Planning Board in considering the Timber Harvest application is expressly authorized, in addition to all other authority, to limit the removal of landmark, specimen, or protected trees.
- (6) Plan of Operation. A plan of operation shall be presented as part of the Application for timber harvesting. The plan shall show compliance with the following elements of the timber harvesting operation:
  - i. That the property owner or timber harvester shall have retained a Cooperating Consulting Forester to conduct or oversee the Timber Harvest. Such Cooperating Consulting Forester shall follow the practices of the New York Institute of Consulting Foresters.
  - ii. Timber harvesting shall be conducted so that the operation does not interfere with any natural watercourse or the natural drainage of the property.
  - iii. No timber within fifty feet (50') of a public roadway shall be cut.
  - iv. No timber within fifty feet (50') of any property line less than one hundred fifty feet (150') long shall be cut.
  - v. No timber within thirty feet (30') of any property line longer than one hundred fifty feet (150') shall be cut.
  - vi. Soil erosion control measures to be in place at the commencement of the timber harvesting operation.
  - vii. Location of road access and curb cuts (driveways) necessary to conduct timber-harvesting plan of operation.
  - viii. All timber-harvesting operations shall be conducted in compliance with the Town of Monroe noise ordinance.
  - ix. Best management practices shall be observed for all aspects of timber harvesting and adequate erosion and sedimentation controls shall be in place before the start of said harvesting.
  - x. Slash shall not be burned; but shall be chipped or stacked according to best management practices. Slash consists of the debris that remains after the Timber is Harvested.
  - xi. A replanting plan for trees taken as part of the Timber Harvest shall be required.
- (7) The fee established by resolution of the Town Board, for the review of the Timber Harvesting Permit Application.

C. Planning Board Review The Planning Board shall, as part of its consideration of the issuance of the Timber Harvest permit conduct a public hearing, make such additional permit requirements as it believes are necessary to ensure the purposes of the comprehensive plan of the Town of Monroe and all other applicable laws are carried out. The Public Hearing Notice shall be sent by the applicant by first class, return receipt requested mail, at least 10 days before the public hearing to owners of record of all

adjacent parcels of land as well as to owners of record of land within seven hundred fifty feet (750') from the trees that are to be removed . In addition, notice of the public hearing shall be published in the official paper of the Town of Monroe.

- D. Term of Permit. Any permit granted pursuant to the terms herein shall be for a period not to exceed one (1) year. The granting of a permit shall not be held to supersede any other state, county or federal laws, requirements or regulations affecting land use.
- E. Completion of Operation. At the termination of the permit approval period, any structure, improvement, equipment or machinery erected, placed or maintained upon the premises in accordance with the permit shall be removed, unless such structure, improvement, equipment, or machinery shall be approved to stay on the premises by Town Board Resolution.
- F. Penalties Any person, firm or corporation, or individual connected with such firm or corporation who violates any provision of this Article shall be guilty of a violation, the fine for which shall not exceed one thousand dollars (\$1,000.00) for a first offense. For a second and further offense within a one-year period, the violator shall be guilty of a violation punishable by a fine of not more than three thousand dollars (\$3,000.00) for each offense. Persons, firms or corporations, or individual connected with such firm or corporation, found in violation of the provisions of this Article shall be required to replant trees in the locations from which they were improperly removed or destroyed, or, if that is not practicable, in such locations as the Code Enforcement Officer shall authorize elsewhere in the Town of Monroe, or shall otherwise pay an additional fee to the Town of Monroe Parkland account of Seven Hundred Fifty Dollars (\$750.00) per tree improperly removed or taken when such tree cannot be replanted at the location it was removed from or destroyed at.

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## **ARTICLE XXI, Construal, Severability, and Effective Date**

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### **§ 57- 100. Construal.**

No provision of this chapter shall be construed to impair any common law or statutory cause of action, or legal remedy therefrom, of any person for injury or damage arising from any violation of this article.

### **§ 57- 101. Severability.**

In the event a court of law determines that any provision of this article is unenforceable, then only that provision shall be effected, and any and all other provisions shall be fully enforceable.

### **§ 57- 102. When effective.**

This local law shall take effect upon the filing of certified copies thereof with the Office of the Secretary of State in accordance with the Municipal Home Rule Law

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- <sup>i</sup> Editor's Note: See Ch. 23, Building Construction Administration.
- <sup>ii</sup> Editor's Note: The Schedule of District Regulations is on file in the office of the Town Clerk.
- <sup>iii</sup> Editor's Note: The Schedule of District Regulations is on file in the office of the Town Clerk.
- <sup>iv</sup> Editor's Note: A copy of the Zoning Map is on file in the office of the Town Clerk.
- <sup>v</sup> Editor's Note: A copy of the Zoning Map is on file in the office of the Town Clerk.
- <sup>vi</sup> Editor's Note: The Schedule of District Regulations is located at the end of this chapter.
- <sup>vii</sup> Editor's Note: This local law also provided that a utility tower shall be a special exception use within the utility tower subzone areas, subject to the applicable provisions of Articles V and VI, §§ 57-11 through 57-20, of Chapter 57 of the Code of the Town of Monroe, and shall be treated as a public utility building in such regard.
- <sup>viii</sup> Editor's Note: This local law also provided that in the event the Planning Board has issued a special exception use permit for a golf course prior to the enactment of this local law, the Town Board authorizes the Planning Board to amend such permit to conform with the regulations pertaining to golf courses as herein enacted. In amending any such permit, the Planning Board is hereby authorized to waive the public hearing on the permit amendment.
- <sup>ix</sup> Editor's Note: This local law also provided for the repeal of former Subsection E, concerning Planning Board approval or approval with conditions and/or modifications of site plans, which immediately followed this subsection.
- <sup>x</sup> Editor's Note: This local law also redesignated former Subsections C and D as D and E, respectively.
- <sup>xi</sup> Editor's Note: Former Article VIII, Planned Unit Development, comprised of §§ 57-22 through 57-30, was repealed 10-1-1990 by L.L. No. 7-1990. Section II of said local law provided that the Applecross project was exempt from the repealer.
- <sup>xii</sup> Editor's Note: This local law also stated that, to the extent that it departs therefrom, it supersedes Town Law § 274-a, Subdivision 7, and § 277, Subsection 9.
- <sup>xiii</sup> Editor's Note: This local law also stated that, to the extent that it departs therefrom, it supersedes Town Law § 274-a, Subdivision 7, and § 277, Subsection 9.
- <sup>xiv</sup> Editor's Note: This local law also stated that, to the extent that it departs therefrom, it supersedes Town Law § 274-a, Subdivision 7, and § 277, Subsection 9.
- <sup>xv</sup> Editor's Note: This local law also stated that, to the extent that it departs therefrom, it supersedes Town Law § 274-a, Subdivision 7, and § 277, Subsection 9.
- <sup>xvi</sup> Editor's Note: This local law also stated that, to the extent that it departs therefrom, it supersedes Town Law § 274-a, Subdivision 7, and § 277, Subsection 9.
- <sup>xvii</sup> Editor's Note: This local law also stated that, to the extent that it departs therefrom, it supersedes Town Law § 274-a, Subdivision 7, and § 277, Subsection 9.
- <sup>xviii</sup> Editor's Note: Former Subsections M and N, which followed this subsection and which set maximum density requirements, were repealed 3-11-1985 by L.L. No. 1, 1985. For current provisions, see § 57-13N of this chapter.
- <sup>xix</sup> Editor's Note: Former § 57-48, Parking area requirements for residential uses, was repealed 4-17-2000 by L.L. No. 1-2000.
- <sup>xx</sup> Editor's Note: See Ch. 23, Building Construction Administration.
- <sup>xxi</sup> Editor's Note: For current fees pertaining to building permits and certificates of occupancy, see Ch. 26B, Fees.