

TOWN OF MONTGOMERY

INTRODUCTORY LOCAL LAW NO. 6 OF 2024

A LOCAL LAW ESTABLISHING A PROCEDURE TO CREATE A BUSINESS PARK FLOATING ZONE IN THE TOWN OF MONTGOMERY

Be it enacted by the Town Board of the Town of Montgomery, County of Orange, State of New York as follows:

Section 1. Title

This Local Law shall be referred to as “A LOCAL LAW ESTABLISHING A PROCEDURE TO CREATE A BUSINESS PARK FLOATING ZONE WITHIN THE TOWN OF MONTGOMERY”.

Section 2. Legislative Purpose

It is the intent of this Business Park Floating Zone (BP) to encourage diversified business in industries such as commercial, technological, agricultural, athletic, office, manufacturing, and similar uses allowed in the BP zoning district. Additionally, it is the intent of the Business Park Floating Zone to encourage the efficient development of individual or groups of parcels dependent on parcel size and site constraints. To encourage diversified businesses, an increase in Building Lot Coverage is allowed per the Table of Dimensional Requirements, excluding intensive warehouse uses.

Section 3. Enabling Authority

The adoption of this Local Law is in accordance with Section 10 of the New York Municipal Home Rule Law.

Section 4. Adding a New Subsection entitled “Business Park Floating Zone.

The Town of Montgomery Code Chapter 235 (Zoning) is hereby amended to add the following subsection to Section 7 (Business and Industrial Districts):

§237-7.14 Business Park Floating Zone

- A. *Intent. It is the intent of this Business Park Floating Zone (BP) to encourage diversified business in industries such as commercial, technological, agricultural, athletic, office, manufacturing, and similar uses allowed in the BP zoning district. Additionally, it is the intent of the Business Park Floating Zone to encourage the efficient development of individual or groups of parcels dependent on parcel size and site constraints. To*

encourage diversified businesses, an increase in Building Lot Coverage is allowed per the Table of Dimensional Requirements, excluding intensive warehouse uses.

B. Procedure for designation of Business Park Zoning District. Petition for the BP overlay to be applied to a parcel or parcels shall be made to the Town Board in accordance with the following procedure.

(1) Any person wishing to petition the Town for the creation of a Business Park Zoning District shall submit to the Town Clerk an original and 11 copies of a signed application on a form prescribed by the Town Board, which shall contain at least the following information and documents:

(a) The name, address and telephone number of the applicant, together with the name of the person to contact for further information, if the applicant is not an individual. If the applicant is not a natural person, the application shall contain the names and addresses of all of the individuals who are members, shareholders, partners, directors or managers of the applicant entity.

(b) A Master Development Plan (MDP) shall be submitted that meets the following criteria:

[1] The MDP shall be prepared by an architect, engineer or land surveyor licensed in the State of New York.

[2] The MDP shall be drawn to an engineering scale and contain the date of last revision, north arrow and graphic scale.

[3] The MDP shall contain the stamp or seal and be signed by the professional preparing the map.

[4] The interior road system of all existing and proposed rights-of-way and easements shall be depicted and indicated as to whether public or private ownership is proposed.

[5] Use areas shall be designated with conceptual footprints indicating the floor area, number of stories and building height of structures.

[6] Any proposed open spaces or conservation easements shall be outlined on the MDP and a narrative provided indicating how open spaces are to be preserved in perpetuity, owned and maintained.

[7] Proposed bulk requirements applicable to designated use areas of the site, including building heights, building setbacks from proposed site roadways or external existing Town roadways, coverage restrictions, floor area restrictions, separation between buildings, and any other bulk constraints necessary to ensure site plans for component use areas are consistent with the plan portrayed in the MDP.

- (c) Conceptual elevations of proposed buildings and identification of general architectural or site design features.*
 - (d) The proposed water, storm and sanitary sewer systems shall be shown and how they are proposed to be connected to the system of adjoining areas shall be indicated.*
 - (e) Environmental characteristics of the project site shall be shown, including topography, areas of slope in excess of 25%, flood zones, rock outcrops, waterbodies, jurisdictional wetlands and all proposed alterations of said environmental characteristics.*
 - (f) Estimates of peak-hour traffic generation derived from the proposed development and its relation to surrounding development and its relation to surrounding roads and intersections, including design elements to mitigate traffic impacts shall be provided in an accompanying narrative.*
 - (g) If the development is to be phased, a clear indication of the phasing process shall be provided.*
 - (h) Narrative of how the proposal would be consistent with the official planning objectives of the Town as well as the criteria listed in subsection C.*
- (2) Every application for BP authorization shall be accompanied by a fee as set forth in the Town fee schedule.*
- (3) State Environmental Quality Review. The authorization of BP zoning to any parcel shall be subject to SEQR pursuant to 6 NYCRR 617.*
- (4) Referral to Planning Board. After the Town Board has determined that the application is for a viable project that it wishes to consider for BP Floating Zone, it shall refer the application to the Planning Board. Such referral shall include the proposed petition and Master Development Plan. In the case of such referral, the Planning Board shall submit its report on the proposed petition to the Town Board within 45 days of receipt of a referred petition. The Planning Board shall review the petition and Master Development Plan against the criteria in paragraph C in recommending whether to authorize the BP floating zone. The Planning Board shall also review the layout of the Master Development Plan as well as the scale and intensity of proposed development. The Planning Board shall recommend whether the MDP should be approved, approved with modifications or denied and is encouraged to provide recommendations for how the MDP could be improved in order to incorporate best practices of sustainable land development. No public hearing shall be held by the Planning Board in connection with this referral.*
- (5) Referral to Orange County Planning. The Town Board shall refer the petition to Orange County Planning Department for comment pursuant to the applicable provisions of GML §239 and receive their report prior to making a decision to land the BP floating zone district.*
- (6) Public Hearing Required. Prior to designating or “landing” the BP floating zone district, the Town Board shall hold a public hearing for the purposes of soliciting public comment. This public hearing shall be held concurrently with any public hearing required under 6 NYCRR 617. The public hearing shall be advertised and noticed in accordance with the Town Board’s policies and procedures.*
- (7) Decision. The Town Board when deciding whether to disapprove, approve, or approve with conditions a petition for BP, the Town Board will consider:*

- (a) *The consistency of the proposed petition and MDP with the intent of the BP floating zone.*
 - (b) *The consistency with the goals and objectives of the Comprehensive Plan.*
 - (c) *The consistency with the criteria listed in subsection C.*
 - (d) *The report of the Planning Board including any recommended modifications.*
 - (e) *The input of any interested or involved agencies as defined by 6 NYCRR 617.*
 - (f) *The suitability of the MDP to meet the purposes of this chapter as well as their incorporation of best practices for sustainable land development.*
- (8) *The Town Board, in its discretion, may impose reasonable conditions to an approved BP authorization as necessary to assure conformance of the project with the intent, objectives and requirements of these regulations.*
- (9) *The approved BP shall be designated on the Zoning Map of the Town of Montgomery, New York and the map shall reference the local law authorizing the designation.*
- (10) *Standard conditions regarding BP authorization. Unless otherwise overridden by the Town Board, authorization for BP shall be conditioned upon the following:*
- (a) *Securing of site plan approval in accordance with Article VI of the Zoning Code of the Town of Montgomery prior to issuance of a building permit in connection with the construction of any element of an approved MDP.*
 - (b) *If a valid and complete application for site plan approval is not presented to the Planning Board for approval within 12 months of the date of BP authorization or if no development is initiated on the site within 24 months of the date of approval of a site plan by the Planning Board, the zoning of said parcel shall revert back to the zoning of said parcel prior to its change to a BP district. The Town Board may upon application, extend either term for up to four six-month periods, where it finds that the development was delayed for cause reasonably beyond the control of the applicant.*
- (1) *Upon designation, the MDP and attendant narratives, design requirements, indicated bulk standards and other conditions of approval shall override any competing provisions of the Zoning Local Law.*
- C. *Criteria for authorization of BP Zoning District. Authorization of the BP Zoning District is subject to the same discretion as any zoning map amendment. Compliance with indicated criteria in no way compels the Town Board to designate the site for BP Floating Zone. The Town Board shall consider the following criteria among other relevant considerations in determining whether or not to authorize the "landing" or designation of the BP Floating Zone to a particular parcel or group of parcels in connection with a proposed petition and MDP.*
- (1) *The lots to which the BP Zoning District is proposed, are currently located in an Industrial District.*
 - (2) *The proposal is conceptually sound in that it meets a demonstrated community or market need and it conforms to sustainable design principles in the layout of the proposed roadway system, in the land use configuration, open space and drainage system and in the scale of the elements, both absolute and as they relate to one another.*
 - (3) *The proposed project area shall have access from existing Town/County/State roads unless additional access points are required by the NYS Building/Fire Code. Where more than two buildings are proposed, the site shall have at least two access points.*
 - (4) *Any proposed access roads shall be constructed to the Town Road Standards or a higher standard if deemed necessary by the Town Highway Superintendent and Engineer based on anticipated traffic for the proposed use(s). The access road shall be offered to the Town for dedication, however the Town has*

no obligation to accept the dedication, and it will be the responsibility of the business park to maintain the road.

(5) If the site is proposed to utilize a community water or sewer system, a water/sewer district shall be created and offered to the Town for dedication.

(6) There are adequate public facilities, services, utilities and road access available to support the development or adequate facilities are proposed to be made available.

D. Authorized principal uses. Uses authorized for the BP Zoning District are identified in the Table of Use Regulations. The Town Board may restrict one or more of these authorized uses on a site specific basis upon designating a BP Zoning District. Unless otherwise authorized by the Town Board upon designating a BP Zoning District, no more than one out of every four principal structures, nor no more than ¼ of the floor area of a concurrently designated BP zoning district may be utilized for non-intensive warehousing.

E. Dimensional standards.

(1) The lot area requirement, lot coverage and lot width requirements listed in the Table of Dimensional Regulations shall apply to the totality of the concurrently designated BP Zoning District.

(2) The height standard for all principal structures contained within the BP Zoning District shall be as listed in the Table of Dimensional Regulations.

(3) The minimum yard standards listed in the Table of Dimensional Regulations shall apply to the exterior boundaries of the concurrently designated BP zoning district.

(4) Performance buffers consistent with §235-11.9 shall be provided along the exterior boundaries of the concurrently designated BP zoning district. Performance buffers shall not be required between individual parcels, structures or uses within the Business Park, except where required by the Town Board.

(5) The land within a Business Park may be further subdivided into multiple lots and tracts for the purpose of sale, leasing, or financing, subject to subdivision approval by the Town Board. Such lots need not meet the Table of Dimensional Regulations but shall instead provide such covenants and restrictions as the Town Attorney finds appropriate and necessary for orderly development of the lots consistent with the approved MDP.

(6) Off-street parking and loading. Off-street parking and loading shall be provided in accordance with the ratios established in §235-12 of this chapter.

(7) The following dimensional standards shall be maintained within a BP Zoning District:

(a) Distance between principal buildings. At a minimum, the distance between two principal buildings shall be not less than their average height and be in compliance with the NYS Building and Fire Code.

(b) Separation from existing public street. No building shall be proposed within 25 feet of a public or private street.

(c) The right-of-way and pavement widths for internal roads shall be determined from sound planning and engineering standards to be adequate and sufficient in size, location and design to accommodate the maximum traffic, parking and loading needs and the access of fire-fighting equipment and police or emergency vehicles. The construction of roads shall meet Town requirements for design and materials and be approved by the Town Highway Superintendent.

*F. Site plan approval required. Site Plan approval by the Planning Board shall be required prior to issuance of a building permit for construction of a **structure** or use authorized as part of the MDP. The Planning Board will utilize the MDP and any bulk standards or other conditions imposed by the Town Board as the*

authorized uses and bulk requirements relative to site plan approval. All other provisions of the Zoning Local law including §235-16.5 shall apply except to the extent that they are not consistent with the approved MDP and resolution of BP approval.

Section 5. Modifying Existing Definitions.

The Town of Montgomery Code Chapter 235 (Zoning) is hereby amended to replace existing definitions contained within §235-3.2 (Definitions of words and terms) with the following new definitions in appropriate alphabetical order:

INDUSTRY, NON-NUISANCE [replacing “NON-NUISANCE INDUSTRY”] - Any general industry which is not detrimental to the environment in which it is located by reason of the emission of smoke, noise, odor, dust, vibration or excessive light perceptible or detectable beyond the limits of its lot and which does not include any outdoor processing or storage of materials that is visible from public vantagepoints.

INDUSTRY, LIMITED NONNUISANCE [replacing “NON-NUISANCE INDUSTRY, LIMITED”]- That non-nuisance industry which employs four or fewer employees, is expected by the Planning Board to generate little or no heavy truck traffic, contains no outdoor storage, and is situated in a building or portion of a building of not more than 2,500 square feet in floor area.

Section 6. Adding New Definitions.

The Town of Montgomery Code Chapter 235 is hereby amended to include the following new definitions in appropriate alphabetical order within §235-3.2 Definitions of Words or Terms:

AGRICULTURAL SUPPLY – A wholesale or retail business where at least 50% of income comes from the sales of a range of products and services uniquely intended for use by farmers or individuals engaged in farm operations as defined by the NY Agriculture and Markets Law, or non-commercial facsimiles of farm operations.

AGRICULTURAL SUPPORTIVE BUSINESS – A business involved in the provision of goods or services to persons or organizations engaged in farm operations as defined by the NYS Agriculture and Markets Law . Agricultural supportive business shall include but not be limited to: wholesale agricultural supply; crop dusting and spraying; farm equipment repair; veterinary services where 51% of income is derived from farm operations, and where no drop-off on-site veterinary care is provided; businesses involved in the washing, cutting, drying, sorting, flash freezing or packaging of field crops or horticultural products. Agricultural supportive business shall not include: abattoirs and animal processing facilities; retail farm or agricultural supply; retail garden supply; animal hospitals.

AIR SERVICES, FIXED-BASE OPERATORS – A business located on or adjacent to an airport involved in providing aviation services including but not limited to: temporary or long-term storage or hangaring of aircraft; servicing of aircraft including but not limited to refueling, de-icing, servicing of aircraft sanitary facilities, maintenance and repair; waiting areas and comfort and rest facilities for travelers and flight crews; facilities for flight-planning; facilities and equipment for the storage and handling of luggage; preparation or storage of catering and food stuffs intended for consumption on aircraft; other reasonable accessory facilities including storage and

maintenance of air service and towing equipment, meeting rooms, business centers, lounges, snack bars, and restaurants, where such uses are ancillary to the provision of air services and where at least 51% of business is anticipated from travelers and flight crews.

ANIMAL HOSPITAL – a facility, which provides veterinary services to animals brought to the site.

ANIMAL BOARDING – a facility which provides transient overnight accommodations to pets.

AUTOMOBILE LAUNDRIES – a facility for the cleaning of motor vehicles. Car washes.

BUILDING SUPPLY – A retail or wholesale business involved in selling lumber, sheathing, fixtures, plumbing supplies, electrical supplies, construction equipment, and/or other products used in the construction of buildings. Building supplies can be specialized such as lumber yards, and plumbing supplies, or generalized such as home improvement superstores. It is intended that generalized and retail uses be limited to business districts, while more wholesale and specialized businesses be permitted in industrial districts. Building supply is not generally recommended for residential districts.

GENERAL INDUSTRY - A business use or activity involving the manufacture, fabrication, processing, production, reduction, assembly, packaging or destruction of any article, substance, or commodity, or any other treatment thereof in such a manner as to change the form, character, or appearance thereof. Normal operations may include the use of heat noise or odor generating processes. General Industry may include testing or repair as processes. General Industry shall not be construed to include types of industry that would fit this definition but are more narrowly defined herein, for example: high-tech industry, wearing apparel manufacturing or monument works.

HEALTH CLUBS AND FITNESS CENTERS- A facility offering exercise equipment or areas, sport courts, swimming pool, and other physical fitness activities to members for a monthly or less frequent fee. Accessory uses to health clubs and fitness centers include but are not limited to snack bars and refreshment stands, retail sales of health products or consumables, massage and/or spa services, changing rooms, fitness classes, and child care facilities.

HIGH TECH INDUSTRY – General Industry that involves highly-trained workers utilizing precision instruments or machinery for a significant portion (at least 20%) of its on-site workforce. For the purpose of this definition, a highly-trained worker shall be considered a worker whose position requires at least 120 hours of initial training and at least 10 hours per year of ongoing training, or that has a post-secondary degree in science, technology, engineering, mathematics or a similar technical field.

HOSPITAL, SANITARIUM, A facility providing health services and medical or surgical care of the sick, injured or infirm, primarily for inpatients and including related facilities and staff offices. Hospitals and sanitariums shall include residential facilities for psychiatric, addiction or substance abuse treatment, only where residents of such facilities are under 24-hour supervision and direct care of an on-site physician and where such facilities are licensed by the State of NY.

INTEGRATED RESIDENTIAL, AGRICULTURAL AND LIGHT INDUSTRIAL COMMUNITY- A planned mixed-use development where residents may engage in agricultural activities over common areas, and where one or more buildings are reserved for non-nuisance industry.

LANDSCAPE SUPPLY, NURSERIES, GARDEN CENTERS- A retail establishment providing plants, trees, flowers, natural materials such as rock and wood chips, pavers, decorative features including sculpture, patterned walks, fountains and pools, and other landscaping and gardening materials primarily to the public.

MEDICAL ARTS BUILDING – A facility containing one or more offices providing medical services to the public, including but not limited to chiropractic, dental, general or family practice, physical therapy, psychiatry, or specialized medical practices. A facility containing both medical and non-medical offices shall be considered a Medical Arts Building.

MONUMENT WORKS – A facility involved in the cutting and/or carving of stone into an object or structure intended to be installed for the purpose of commemorating a person or event.

NURSING HOME, REST HOME- - A facility for the 24-hour supervision and care of sick, injured, disabled or elderly persons. Nursing home and rest homes shall be deemed to include “Assisted Living Facility” and “Assisted Living Residences.” Nursing homes and rest homes shall not include supportive housing where residents receive but do not rely on 24-hour care or supervision, nor do they include residential facilities for psychiatric, addiction or substance abuse treatment. (see also: Hospital, Sanitarium)

OFFICE, BUSINESS – An office used by a professional service provider for the conduct of their business. The business office of a professional is distinguished from a professional office by the frequent visitation by customers, usually by both drop-in customers and by appointment. Common examples of business offices include tax preparers, real estate agents, physical trainers and financial advisors. (see also: “Office, Professional”)

OFFICE, PROFESSIONAL – An office used by a professional for engaging in the conduct of their business. A professional office, may be occasionally visited by peers and clients, but usually by appointment only. Common examples of professional offices include attorneys, architects, engineers, planners, accountants and similar professionals that are licensed by the NYS Department of Education. Professional office shall also include “back office” uses of corporations, businesses and government agencies that do not require frequent visitation by clients or the public.

OFFICE, UTILITY – A business office for a utility provider. Examples include but are not limited to offices of a cable, telephone, water utility, or mobile phone provider

PHILANTHROPIC, FRATERNAL OR SOCIAL ORGANIZATION OFFICE OR MEETING ROOM- A facility for meetings conducted by a not-for-profit charitable, benevolent, generous or humane organization whose principal mission involves charities and endowments for the benefit of society, humanity, animal welfare or the environment.

PRINTING AND PUBLISHING PLANTS- A facility involved in the wholesale bulk production of books, newspapers, or other printed materials.

PROFESSIONAL OFFICE, MEDICAL ARTS BUILDING- A use where services are performed involving predominately administrative or clerical operations for either business or professional purposes. Office use, as defined herein, also includes medical offices, buildings 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.

RADIO OR TV BROADCASTING STUDIO- A studio where radio or television programs are produced.

SEWAGE OR WASTEWATER TREATMENT PLANT- A plant for the processing and disposal of wastewater, subject to design approval by the New York State Department of Health and/or New York State Department of Environmental Conservation.

SMALL UTILITY STRUCTURES LOCATED PARTIALLY OR WHOLLY ABOVE GROUND (SEE§ 235-11.11) - Structures such as water and sewer pump stations, electric distribution boxes, "hand holds," telephone distribution boxes and subscriber loop carriers. Small utility structures shall not include battery storage facilities.

THEATRE OR MOTION-PICTURE THEATRE OTHER THAN AN OUTDOOR DRIVE-IN THEATRE - A building or a part of building devoted to the showing of motion pictures and/or plays and/or live performances of any type, and/or which provides for poetry or dramatic readings, and/or which provides or showcases other similar types of entertainment on a paid or nonpaid admission basis

WEARING APPAREL OR ACCESSORIES MANUFACTURE- Any establishment which utilizes a process whereby apparel or accessories are manufactured, produced, assembled or packaged in bulk quantity. Wearing apparel or accessories manufacture, does not include retail sales and production of screen-printed clothing in small quantities, nor does it include tailor shops, cobbler shops, hand-knitting or custom dress shops.

Section 5. Replacing the Table of Use Regulations.

The existing Table of Use Regulations (attachment 1) of Chapter 235, is hereby replaced with the Table of Use Regulations attached hereto as Attachment 1.

Section 6. Replacing the Business and Industrial Districts - Table of Dimensional Regulations.

The existing Business and Industrial Districts - Table of Dimensional Regulations of Chapter 235, is hereby replaces with the Business and Industrial Districts – Table of Dimensional Regulations attached hereto as Attachment 2.

Section 5. Repeal, Amendment, and Supersession of Other Laws.

All other Resolutions, Ordinances or Local Laws of the Village of Monroe which conflict with the provisions of this Local Law are hereby superseded or repealed to the extent necessary to give this Local Law force and effect.

Section 6. Severability

If any section, part or provision of this Local Law or the application thereof to any person, property or circumstance is adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its

operation to the section, part, provision or application directly and expressly adjudged invalid and shall not affect or impair the validity of the remainder of this Local Law or the application thereof.

Section 7. Effective Date

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

Attachment 1 – Table of Use Regulations

Attachment 2 – Business and Industrial Districts – Table of Dimensional Regulations