

**INTRODUCTORY LOCAL LAW No. ___ OF 2022
VILLAGE OF MONROE**

**A LOCAL LAW AMENDING CHAPTER 200 (“ZONING”) TO VEST AUTHORITY TO
PERFORM THE “MONROE BALANCING TEST” IN THE
VILLAGE OF MONROE BOARD OF TRUSTEES**

BE IT ENACTED by the Board of Trustees of the Village of Monroe, Orange County, New York, as follows:

SECTION 1. LEGISLATIVE INTENT, PURPOSE AND AUTHORITY.

The Village Board of Trustees is vested with the management of property lying within its boundaries and “may take all measures and do all acts, by local law, not inconsistent with the provisions of the constitution, and not inconsistent with a general law except as authorized by the municipal home rule law, which shall be deemed expedient or desirable for the good government of the village, its management and business, the protection of its property, the safety, health, comfort, and general welfare of its inhabitants, the protection of their property, the preservation of peace and good order, the suppression of vice, the benefit of trade, and the preservation and protection of public works.” Village Law § 4-412. Furthermore, the State has delegated police power to municipalities to regulate development within its boundaries through zoning law. Village Law § 7-700.

This local law is enacted in order to protect the Village, its residents and resources from unnecessary and potentially harmful incursion by other municipal entities that own land within Village of Monroe boundaries, and which may seek to thwart compliance with local land use regulations, property maintenance law and Village enforcement of the NYS Uniform Fire Prevention and Building Code.

This local law is enacted by the Board of Trustees of the Village of Monroe by authority of Article 7 of the Village Law and Article 10 of the Municipal Home Rule Law.

SECTION 2: CHAPTER 200 (“ZONING”)

Article II, Section 200-5 (“Definitions”) is hereby amended by adding the following new definition:

MONROE BALANCING TEST – In making a determination as to whether the actions of governmental units are “exempt” from local zoning regulations, the New York Court of Appeals in the 1988 case of Matter of County of Monroe v City of Rochester, 72 N.Y.2d 338, 533 N.Y.S.2d 702, established a new method for resolving inter-governmental land use disputes using the “balancing of public interests” analytic approach. Unless a statute exempts it, the encroaching governmental unit is presumed to be subject to the zoning regulations of the host community where

the land is located. The host community weighs nine factors to determine whether or not it is in the public interest to continue to subject the encroaching government to its land use regulations:

1. the nature and scope of the instrumentality seeking immunity,
2. the kind of function or land use involved,
3. the extent of the public interest to be served thereby,
4. the effect local land use regulation would have upon the enterprise concerned,
5. the impact upon legitimate local interests,
6. applicant's legislative grant of authority,
7. alternative locations for the facility in less restrictive zoning areas,
8. alternative methods of providing the needed improvement,
9. intergovernmental participation in the project development process and an opportunity to be heard.

Section 200-10, titled, "Effect of establishment of zones," of Article III, titled "Zones Established; Zoning Map," is amended by adding as follows subsection F, titled, "Application of Village of Monroe zoning law to municipal-owned land within the Village of Monroe," is hereby added as follows:

F. Application of Village of Monroe zoning law to municipal-owned land located within the Village of Monroe.

1. Real property owned by other municipal entities. The Board of Trustees hereby declares that all land within its municipal boundaries is subject to its zoning, subdivision and property maintenance laws unless specifically exempted by State or Federal Law, local law or deemed wholly or partially exempt after the Village of Monroe Board of Trustees performs a "Monroe Balancing Test" as defined herein. Said "Monroe Balancing Test" shall in all cases be performed by the Village of Monroe Board of Trustees.

Real property owned by the Village of Monroe. Property owned by the Village and located within its municipal boundaries and used for a public purpose as determined by resolution of the Board of Trustees shall be exempt from its zoning law and subdivision regulations.

Where such Village-owned land is leased for a commercial use, however, said land shall be subject to the Village's zoning law and subdivision regulations unless specifically found to be exempt after the Village has conducted a Monroe Balancing Test.

2. All real property located within the Village of Monroe shall be subject to Village enforcement of the NYS Uniform Fire Prevention and Building Code by the Village of Monroe Building Inspector and Fire Inspector.

SECTION 3: SUPERSEDING PROVISION.

To the extent that any State or local laws fail to provide specific authority for this Local Law or the procedures necessary for its adoption, or otherwise appear to be in conflict with this Local Law or the procedures followed for its adoption, then such laws are hereby superseded by this Local Law pursuant to New York Municipal Home Rule Law and the common law.

SECTION 4: SEVERABILITY.

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 the remaining provisions shall remain in full force and effect.

SECTION 5: EFFECTIVE DATE.

This law shall take effect upon the filing of this Local Law with the New York Secretary of State in the manner provided for in the Municipal Home Rule Law.

