

VILLAGE OF MONROE
LOCAL LAW 9 of 2023

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

Section 1. Title.

This Local Law shall be known and may be cited as the Amendments to Regulate Illegal Residential Occupancies in the Village of.

Section 2. Legislative Purpose.

Boardinghouses have been and continue to be a prohibited use in the Village of Monroe as per Section 200-13K of the Zoning chapter. Further, two-family and multifamily residential dwellings are permitted only in specified zoning districts as per Chapter 200 of the Village Code. The Board of Trustees of the Village of Monroe (“Village Board”) finds that throughout the Village’s residential neighborhoods, one-family detached dwellings have been illegally converted into boardinghouses, two- and multifamily dwellings in violation of the zoning law. In addition, multiple accessory apartments, including multiple accessory apartments within one-family detached dwellings that do not comply with the zoning regulations are also being created. Together, all forms of residential occupancies which exceed the number of dwellings permitted in the applicable zoning district are referred to as “illegal residential occupancies.” Illegal residential occupancies occur on properties that are mostly owned by absentee landlords and have resulted in overcrowded conditions in buildings without adequate provision of basic sanitation or protection against fires, improper ventilation, inadequate room size, improper maintenance and other basic considerations related to the protection of the health, safety and welfare of Village residents and the continued quiet enjoyment of residential neighborhoods.

These prohibited illegal residential occupancies often do, or are more likely to, fail to comply with the NYS Fire Code and NYS Building Code, creating dangerous conditions. In addition to violating the zoning law, illegal residential occupancies are much more likely to violate other Village regulations including the local Property Maintenance Law (Chapter 155A of the Village of Monroe Code) and the prohibition against excessive noise.

The Village Board has observed obvious evidence of illegal residential occupation including, among other things, a multiplicity of vehicles parking illegally on properties, Village streets and on public sidewalks which cannot withstand the constant wear and tear of vehicle parking, garbage strewn on properties and streets, poor or total absence of basic property maintenance, unkempt lawns, and other impacts that are having a deleterious effect on the health, safety, welfare of adjoining property owners and an overall reduction in property values which negatively impacts the Village’s tax ratable base.

This Local Law is intended to support the enforcement of Village laws and regulations to eliminate use of properties as illegal boardinghouses and other illegal residential occupancies and eliminate safety hazards and the blighting effect of these illegal structures on the surrounding neighborhood.

The Village also finds, on the basis of the findings of the Village of Monroe Comprehensive Plan Update, that within its boundaries and within adjoining municipalities there exist a diversity of housing opportunities, including but not limited multifamily dwellings and accessory apartments, all of which are properly regulated, and which provide sufficient, proper and legal housing options for people now living in illegal and unsafe boardinghouses and other illegal residential occupancies.

Section 3. Enabling Authority.

This Local Law is enacted pursuant to the authority of Municipal Home Rule Law § 10 and in accordance with Chapter 235, Article XVII (Amendments) of the Code of the Village of Monroe.

Section 4. Amendments to Chapter 200, Zoning.

- A. Chapter 200, Zoning, Section 200-5, Definitions, is hereby amended to remove the definitions for “DWELLING UNIT” and “FAMILY”,
- B. Chapter 200, Zoning, of the Village of Monroe is hereby amended to add the following to Section 200-5, Definitions:

“BOARDINGHOUSE

A dwelling unit used for temporary occupancy purposes by two or more individuals not constituting a family or functional family unit who normally pay based on a share of total expenses of the dwelling unit, or other personal, financial, or other services in exchange for boarding. The term includes the term “rooming house”, “tourist homes”, and “residential hotels” but does not include a motel, hotel, bed-and-breakfast, or group residence as defined by Title 18 and regulated by the New York State Department of Social Services. Single-room occupancies are deemed boardinghouses.”

“DWELLING UNIT

A building or portion thereof containing a cooking area (including all types of cooking appliances), bathroom, dining, sleeping, sanitation, and related facilities necessary and/or incidental to human habitation, designed and intended as a self-contained unit for one functional family unit. All rooms in a unit must have internal structural connections such as internal doorways or internal stairs.”

“FUNCTIONAL FAMILY UNIT (OR “FAMILY”)

A single individual, or a group of two or more persons not necessarily related by blood, marriage, or adoption, living, sleeping, cooking and eating in and otherwise occupying one dwelling unit as a single unit and who function as a family with respect to those characteristics that are consistent with the purposes of zoning and use restrictions in residential neighborhoods. Notwithstanding the provisions

of this definition, a group of unrelated persons shall be considered a functional family unit upon a determination by the Zoning Board of Appeals that the group is the functional equivalent of a family pursuant to the standards enumerated below. This presumption may be rebutted, and the unrelated individuals may be considered the functional equivalent of a family for the purposes of this article by the Zoning Board of Appeals if such group of individuals exhibits characteristics consistent with the purposes of zoning restrictions in residential districts. In determining whether a group of unrelated persons constitutes a family for the purpose of occupying a dwelling unit, as provided herein, the Zoning Board of Appeals shall utilize the standards enumerated herein in making said determination. Before making a determination under this subsection, the Zoning Board of Appeals shall hold a public hearing, after public notice. In determining whether individuals living together are a functional family unit, the following criteria shall be considered:

- A. A functional family unit is distinguished from two or more persons occupying a boardinghouse, rooming house, dormitory, residence hall, fraternity or sorority.
- B. For a group of two or more unrelated persons to operate as a functional family, they must regularly share the common dwelling areas, including dining areas, cooking areas, and social spaces.
- C. For a group of two or more unrelated persons to operate as a functional family, they must do so with a measure of stability characteristic as set forth below.
- D. Such stability is presumed present if at least four of the following conditions are met:
 - (1) The presence of one or two adults residing in the unit with either or both acting as a head of household.
 - (a) In the circumstance that all members of the household are senior citizens, the responsibilities of head of household may be shared.
 - (2) The presence of one or more minor children regularly residing in the household as dependent(s) of one or more adult occupant(s) of the household.
 - (3) Sharing of expenses for food, rent or ownership costs, utilities and other household expenses.
 - (4) Common use or ownership of furniture, appliances and other household furnishings and supplies among the members of the household.
 - (5) Employment of members of the household in the region, or active pursuit of such employment.
 - (6) Utilization of the address of the dwelling by adult members of the functional family for purposes of voter registration, or driver's license, motor vehicle registration, passports, bank accounts, bills, loans, or state or federal income tax filings.
 - (7) A showing that all members of the household have been living together as a single housekeeping unit for a year or more, whether in the current dwelling unit. Proof of sharing

expenses for food, rent or ownership costs, transportation, insurance, utilities, and other household expenses shall be submitted.

- (8) Any other factor that, in the judgment of the Zoning Board of Appeals, reasonably demonstrates that the group of persons are occupying the dwelling unit as a single unit in a manner consistent with the purposes of zoning and use restrictions and not simply as unrelated occupants renting or otherwise occupying a dwelling.
- E. A group of individuals living in the same dwelling unit shall be presumed not to be a functional family unit, as defined in this section, if such dwelling unit contains no head of household while also including two or more unrelated students, which shall be defined as individuals over the age of 16 years enrolled in a public or private college, university, or other institution of post-secondary education. For the purpose of this presumption, dependent children of any other adult member of the household shall be excluded in calculating the number of college students in the household.
- F. Any determination under this subsection shall be limited to the status of a particular group as a family and shall not be interpreted as authorizing any other use, occupancy, or activity. In making any such determination, the Board of Appeals may impose such conditions and safeguards as the Board of Appeals shall deem necessary or advisable in order to maintain the stability and character of the neighborhood and protect the public health, safety and welfare.”

“SINGLE ROOM OCCUPANCY (SRO)

The occupancy by one or two persons of a single room, or of two or more rooms which are joined together, separated from all other rooms within a dwelling, so that the occupant or occupants thereof reside separately and independently of the other occupant or occupants of the same dwelling but may share a bathroom, kitchen or both.”

- C. Chapter 200, Zoning, of the Village of Monroe is hereby amended to add the following to Section 200-33, “Supplementary regulations applying to all residential districts,” by adding a new Subsection G, as follows:

“G. Prosecution for illegal residential occupancies and overcrowding in dwellings.

- (1) In determining whether civil and/or criminal prosecutions should be brought for the enforcement of these provisions with respect to the illegal use of any building for residential purposes or the illegal residential occupancy of any dwelling by more families than the number of families permitted for such dwelling under this Code, or has been developed with more dwelling units than permitted for the zoning district within which the building is located, or that are not being inhabited by a family as defined herein, the following rebuttable presumptions shall apply:
 - (a) That any one-family dwelling which maintains any one of the following; more than one mailbox or mail receptacle, or more than one house number, or more than one gas meter, or more than one electric meter, or more than one water meter, or more than one cable/fiber optic/phone connection, or more than one satellite antenna, or any

combination thereof, is being used as the residence of two or more families.

- (b) That any two-family dwelling which maintains any one of the following; more than two mailboxes or mail receptacles, or more than two house numbers, or more than two gas meters, or more than two electric meters, or more than two water meters, or more than two cable/fiber optic/phone connections, or more than two satellite antennae, is being used as the residence of three or more families.
- (c) That any multifamily residential dwelling which maintains any one of the following; more than three mailboxes or mail receptacles, or more than three house numbers, or more than three gas meters, or more than three electric meters, or more than three water meters, or more than three cable/fiber optic/phone connections, or more than three satellite antennae, is being used as the residence of four or more families.
- (d) That any dwelling which exhibits a number of exterior or interior additional entrances thereto, which entrance or entrances have not been set forth on any plans approved by and on file with the Building Department, or that otherwise indicates the dwelling is being used by more families or includes more dwelling units in the dwelling than permitted in the applicable zoning district within which the dwelling is located. This includes multiple exterior or interior doors with locks to create separate dwellings or sleeping areas. Locks includes padlocks, latches, keyed doors, electronic or keyless door entries, and other such similar security methods and devices of separation.
- (e) That any dwelling which has been advertised in any newspapers, magazines, advertising publications or through Internet advertising, as being available for sale or rent for residential purposes, in whole or in part, which advertisement expressly or implicitly provides that such building and the number of dwelling units or rooms for rent therein, exceed the number of dwelling units or number of families permitted to occupy a dwelling in the applicable zoning district within which the dwelling is located.
- (f) That the dwelling exhibits excessive parking of vehicles, including commercial vehicles illegally occupying a property in contravention of the Village Code, multiple parking areas on the lot including within yards not permitted by the zoning chapter, vehicles with multiple registrations of ownership, including vehicles not registered to the address in which the occupant resides, occupying the same lot.
- (g) That the dwelling has multiple trash receptacles beyond that required typically for a legal residential occupancy for the dwelling permitted in the applicable zoning district within which the dwelling is located.
- (h) That the dwelling may contain occupants each with separate and multiple accounts for utilities, telephone, cable, and other media services, and a multiplicity of utility, cable, fiber optic, phone lines, antenna, and similar utility infrastructure entering the building.
- (i) That the dwelling is presumed to serve more families than allowed in the applicable

district where the following is demonstrated:

- [1] Permanent partitions or internal doors which serve to bar access between segregated portions of a dwelling, including but not limited to bedrooms, or the inability of any occupant or person in possession thereof to have unimpeded and/or lawful access to all parts of the dwelling unit; and/or
 - [2] The presence of illegal bedrooms or conversions; and/or
 - [3] Lack of smoke detectors as required by Fire Code; and/or
 - [4] Number or signs displayed on bedroom doors; and/or
 - [5] Three or more kitchens each containing one or more of the following: a range, oven, microwave, or other similar device customarily used for cooking or preparation of foods such as hot plates and other cooking devices; and/or
 - [6] Signs detailing “house” rules on walls or elsewhere.
- (j) That occupants are inhabiting areas of a building not deemed to be habitable by the NYS Building and Fire Codes such as a cellar, attic or similar space not deemed habitable or exceeding the maximum occupancy permitted by the NYS Building and Fire Codes.

(2) Demand for inspection of premises.

- (a) A person charged with a violation of this subsection 200-33.G as described herein may demand an inspection of the subject dwelling by the Building Department to rebut such presumption. Such demand shall be in writing, addressed to the Village Code Enforcement Officer or Village Building Inspector (the “Building Department Official”). Code enforcement personnel shall prepare a report of the findings of the inspection, together with photographs, if appropriate.
- (b) Where a violation for illegal residential occupancy is issued to the property owner by the Village Building Department Official, said Village official may request consent to inspect the inside of the dwelling unit to determine whether the presumption of illegal occupation is correct or rebutted. Where such access is denied, the Village Attorney or Village Prosecutor shall, upon due notice to the owner, apply to the Village of Monroe Justice Court to obtain an administrative search warrant presenting such documented evidence as necessary to support the issuance of a warrant.

(3) Penalties for offenses.

- (a) Civil penalty. Notwithstanding any provision of this Code inconsistent herewith, for each code violation involving an illegal residential occupancy or an over-occupancy of a dwelling or dwelling unit, the owner and any person who is in charge of the subject building, dwelling, or dwelling unit at the time of the violation shall be liable to a fine of not less than \$1,000 nor more than \$3,500 for the first violation; for a second and any subsequent violation, the fine shall be not less than \$5,000 nor more than \$7,500.
- (b) Criminal penalty. Any person who shall violate any of the provisions of this chapter, in addition to the civil penalties contained herein, shall, upon conviction, be guilty of a

misdemeanor subject to a fine not exceeding \$1,000 and up to 15 days in prison.

- (c) Each day that a violation continues to exist shall constitute a separate and distinct violation for the purpose of civil and criminal penalties.

- (4) Legal accessory apartment. Nothing herein is intended to classify an accessory apartment as an illegal residential occupancy where the accessory complies with all regulations set forth in Section 200-49 of this zoning chapter and any conditions of a special use permit approved by the Planning Board in accordance with Section 200-49. Any accessory apartment which has not received a special use permit shall be deemed an illegal residential occupancy.

Section 5. 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 6. Effective Date.

This Local Law shall take effect immediately upon filing with the Secretary of State