

LOCAL LAW NO. 2 OF 2016 TO AMEND THE ZONING LAW OF THE TOWN OF RUSH, CHAPTER 120 OF THE CODE OF THE TOWN OF RUSH, BY ADDING CERTAIN NEW DEFINITIONS, AND MODIFYING, CLARIFYING AND ADDING TO THE PROVISIONS OF THE ZONING LAW REGARDING SETBACKS, AGRICULTURAL USES, SIGNS, AND OUTDOOR PARKING.

BE IT ENACTED, by the Town Board of the Town of Rush, Monroe County, State of New York, as follows:

Article I. General Provisions

Section 1.1 The Town Board of the Town of Rush does hereby make the following findings relative to the matters set forth in this Local Law:

A. The purposes of this Local Law is to provide for various revisions to the text of the Zoning Law of the Town of Rush so as to clarify and update the sections set forth in this Local Law, thereby updating the Zoning Law to reflect current trends in the development of the Town of Rush.

B. The Town Board of the Town of Rush finds that this Local Law advances the governmental purposes of the Town of Rush and will serve to advance the purposes of the Zoning Law of the Town of Rush and provide for the health, safety and welfare of persons and property within the Town of Rush.

Section 1.2 This local law is adopted pursuant to NYS Municipal Home Rule Law.

Section 1.3 All other local laws and ordinances of the Town of Rush that are inconsistent with the provisions of this local law are hereby repealed provided, however, that such repeal shall only be to the extent of such inconsistency. In all other respects, this local law shall be in addition to such other local laws or ordinances regulating and governing the subject matter covered herein.

Section 1.4 If any clause, sentence, paragraph, word, section or part of this local law shall be adjudged by any court of competent jurisdiction to be unconstitutional, illegal or invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, word, section, or part thereof directly involved in the controversy in which such judgment shall have been rendered.

Section 1.5 This local law will take effect upon filing in the office of the New York State Secretary of State.

Article II. Amendments to the Zoning Law of the Town of Rush

Section 2.1 Amendment to Section 120-5 of the Zoning Law of the Town of Rush

Section 120-5 of the Zoning Law of the Town of Rush shall be amended so as to insert the following definitions of “FARM”, “FARM STAND” and “FRONTAGE” therein, said definitions to be inserted immediately after the definition of “FAMILY” and immediately before the definition of “FLOOR SPACE”:

FARM

Any parcel of land which is used primarily for farm or agricultural practices as defined in Section 52-2, including necessary farm structures and storage of farm operation-related vehicles and equipment.

FARM STAND

A structure from which agriculture, farm or nursery products principally produced on the farm upon which such facility is located are offered for retail sale.

FRONTAGE

The total length of the property line of a parcel bounded by or abutting a public highway right-of-way.

Section 2.2 Amendment to Section 120-7 of the Zoning Law of the Town of Rush

A. Section 120-7 of the Zoning Law of the Town of Rush shall be amended so as to delete the present text of Section 120-7(A)(4) in its entirety and replace it with the following text:

“(4) Customary farming activities on premises which are primarily agricultural use.

(a) Cultivation and spraying may take place up to the boundary line of any agricultural premises. Structures now existing which have regularly been used for farming activities, including sawing, grinding, refining, or processing agricultural products, may continue to be used for those activities, up to the boundary line of the agricultural premises. However, any new structure for farming activities shall not come within 100 feet of the front boundary line or within 25 feet of the side or rear boundary lines. Any building housing a commercial livestock operation, unless now existing, shall be located at least 100 feet from any boundary line. No animals shall be pastured or otherwise kept in such a manner that they can cause physical damage to any adjoining property.

(b) Farm Stands. Farm stands located along the frontage are allowed. Permanent structures for such purposes must comply with the setback, permitting and other requirements of this Chapter. Temporary movable structures may be placed and used for such purpose under the following conditions:

(i) The farm stand shall not exceed 500 square feet of floor area and shall be set back a minimum of 10 feet from the front lot line. Any farm stand in excess of 500 square feet shall require a special permit from the Planning Board pursuant to the requirements of Section 120-69(D).

(ii) There is safe access to and from the highway.

(iii) All temporary farm stands and signage shall be removed after the seasonable use of the structure.

(c) Signage. Farm stand signs shall be allowed and shall be exempt from the permitting requirements of this Chapter; provided that such sign shall not otherwise be prohibited under Section 120-27. Signs for temporary farm stands shall be allowed, both on-site and off-site during the seasonal use of the structure.

(d) Fencing. Fencing of all types that are associated with the agricultural use shall be allowed on farms and shall be exempt from all permit requirements.”

B. Section 120-7 of the Zoning Law of the Town of Rush shall be further amended to delete “Section 120-28A(5)” from the present text of Section 120-7(A)(5)(d) and replace it with the following text:

“Section 126 (Permitted Signs) and Section 120-28 (Exempt Signs)”.

C. Section 120-7 of the Zoning Law of the Town of Rush shall be further amended to delete the present text of Sections 120-7(B)(12) and (13) in its entirety and replace it with the following text:

“(12) Seasonal farm stands; provided that temporary structures shall be exempt from the special permit process if the conditions set forth in Section 120-7(A)(4)(b) are met.

(13) Outside storage of commercial equipment and vehicles; provided that farm operation-related vehicles and equipment shall be exempt from the special permit process and may be stored outside without issuance of a special permit.”

Section 2.3 Amendment to Section 120-12 of the Zoning Law of the Town of Rush

Section 120-12 of the Zoning Law of the Town of Rush shall be amended so as to delete the present text of Section 120-12(B)(1) in its entirety and replace it with the following text:

“(1) Gasoline filling stations.”

Section 2.4 Amendment to Section 120-18 of the Zoning Law of the Town of Rush

A. Section 120-18 of the Zoning Law of the Town of Rush shall be amended so as to insert at the end of the present text of Section 120-18(B) the following text:

“Notwithstanding anything to the contrary contained in this Chapter, a front yard and front setback shall be required on a corner lot from each highway line, such that a yard shall be provided on each street equal in depth to the required front yard on such streets. There shall be designated which of the remaining yards or setbacks shall be the side and rear yard or setback, respectively.”

B. Section 120-18 of the Zoning Law of the Town of Rush shall be further amended so as to delete the present text of Section 120-18(C) in its entirety and replace it with the following text:

“In areas already built-up or partially built-up where structures already existing have actual front setbacks at distances less than those provided for herein, any addition to an existing building, or any new construction performed on an existing building which is closer to the road than the front setback required in that district, shall not require a variance and shall be allowed; provided that the setback of the addition to the existing building is not less than the existing front setback and meets all other applicable code requirements.”

Section 2.5 Amendment to Section 120-20 of the Zoning Law of the Town of Rush

Section 120-20 of the Zoning Law of the Town of Rush shall be amended so as to delete the present text of Section 120-20(C) in its entirety and replace it with the following text:

“An accessory structure shall meet the same front and rear setback requirements as the main structure in the district in which it is to be erected or located. An accessory structure shall have a minimum side setback requirement of 5 feet in an R-20 district and 15 feet in an R-30 district.”

Section 2.6 Amendment to Section 120-24 of the Zoning Law of the Town of Rush

A. Section 120-24 of the Zoning Law of the Town of Rush shall be amended so as to delete the present text of the definition of “FARM STAND” in its entirety and replace it with the following text:

“A facility from which agriculture, farm or nursery products principally produced on the farm upon which such facility is located are offered for retail sale.”

B. Section 120-14 of the Zoning Law of the Town of Rush shall be further amended so as to delete the heading “A-FRAME SIGN” in its entirety and replace it with the following:

“A-FRAME SIGN/SANDWICH SIGN.”

Section 2.7 Amendment to Sections 120-26 of the Zoning Law of the Town of Rush

The Table of Permitted Signs set forth as an attachment to this Chapter, and incorporated by reference in Section 120-26, is hereby deleted in its entirety and replaced with the Table of Permitted Signs as more fully set forth on the attached Appendix "A."

Section 2.8 Amendment to Section 120-27 of the Zoning Law of the Town of Rush

Section 120-27 of the Zoning Law of the Town of Rush shall be amended so as to delete the present text of Section 120-27(B) in its entirety and replace it with the following text:

“B. Signs specifically prohibited are as follows:

(1) Billboards.

(2) Any sign other than an exempt sign placed on any curb, sidewalk, hydrant, utility pole, building or tree.

(3) Any sign erected or maintained which might be confused with any traffic control device or which might interfere with the vision or discernment of any traffic sign.”

Section 2.9 Amendment to Section 120-28 of the Zoning Law of the Town of Rush

Section 120-28 of the Zoning Law of the Town of Rush shall be amended so as to insert the following at the end of the present text of Section 120-28:

“Y. Farm signs.

Z. Permitted professional offices or any accessory use in a residential building in any zoning district are allowed one attached on-premises sign in connection with the permitted use, not exceeding 1½ square feet. Such sign shall only state the name and type of business.

AA. Warning and “Private Drive” signs not to exceed two square feet per face.”

Section 2.10 Amendment to Section 120-32 of the Zoning Law of the Town of Rush

Section 120-32 of the Zoning Law of the Town of Rush shall be amended so as to delete the present text of Section 120-32(B) and replace it with the following text:

“B. Places of business with signs that are otherwise allowable or permitted under the provisions of this article may illuminate those signs until one half-hour after the closing times of those businesses, unless a longer period is allowed by special permit.”

Section 2.11 Amendment to Section 120-33 of the Zoning Law of the Town of Rush

A. Section 120-33 of the Zoning Law of the Town of Rush shall be amended so as to delete the present text of Section 120-33(E) in its entirety and replace it with the following text:

“E. If a sign authorized by a permit is not completed and in place within one year of the date the permit was issued, said permit shall become null and void.”

B. Section 120-33 of the Zoning Law of the Town of Rush shall be further amended so as to delete Section 120-33(H) in its entirety.

Section 2.12 Amendment to Section 120-38 of the Zoning Law of the Town of Rush

Section 120-38 of the Zoning Law of the Town of Rush shall be amended so as to insert in the present text of Section 120-38 the word “to” immediately after the word “Pertaining” in the definition of “PUBLIC”.

Section 2.13 Amendment to Section 120-39 of the Zoning Law of the Town of Rush

Section 120-39 of the Zoning Law of the Town of Rush shall be amended so as to insert in the present text of Section 120-39(A) the words “no later than one half-hour” immediately after the word “off” and immediately before the word “after”.

Section 2.14 Amendment to Section 120-50 of the Zoning Law of the Town of Rush

Section 120-50 of the Zoning Law of the Town of Rush shall be amended so as to delete the present text of Section 120-50(C) in its entirety and replace it with the following text:

“C. If the Code Enforcement Officer finds that any lighting is a source to peril to person or property, and if an attempt to get the property owner to rectify the problem is impractical or unsuccessful, in an emergency situation the Code Enforcement Officer may cause such lighting to be removed immediately without notice and may assess the owner for all costs incurred for such service.”

Section 2.15 Amendment to Section 120-55 of the Zoning Law of the Town of Rush

Section 120-55 of the Zoning Law of the Town of Rush shall be amended so as to delete the words “Board of Appeals” from the present text of Section 120-55 and replace it with the following text:

“Planning Board. Outside storage of agricultural materials shall be exempt from this prohibition and from the requirement for a special permit, with the exception of hazardous materials defined under New York State or federal law, which shall comply with all laws relating to the storage, use, disposal, emission, or release of any such substance.”

Section 2.16 Amendment to Section 120-56 of the Zoning Law of the Town of Rush

A. Section 120-56 of the Zoning Law of the Town of Rush shall be amended so as to insert in the first sentence of the present text of Section 120-56(C) the word “residential” immediately after the word “permanent” and immediately before the word “dwellings”.

B. Section 120-56 of the Zoning Law of the Town of Rush shall be further amended so as to delete in the second sentence of the present text of Section 120-56(C) the words “pool permit by the Board of Appeals” and replace them with the words “special permit by the Planning Board.”

Section 2.17 Amendment to Section 120-57 of the Zoning Law of the Town of Rush

A. Section 120-57 of the Zoning Law of the Town of Rush shall be amended so as to delete the present text of Section 120-57(A) accompanying the heading “One-family dwellings” (being “1 parking space”) and replacing it with the following:

“2 parking spaces”

B. Section 120-57 of the Zoning Law of the Town of Rush shall be further amended so as to delete the present text of Section 120-57(G) in its entirety and replace it with the following text:

“G. (1) In all districts, the outdoor parking of motor homes, horse trailers, travel or camping trailers, boat trailers, snowmobile trailers and similar vehicles shall be permitted only to the rear of the main structure, but not within the space between the property line and any required front, side or rear setback line. Notwithstanding the foregoing, on a lot in any residential district, parking shall be permitted in front of the main structure provided any of the following conditions are satisfied:

(a) The homeowner is unable to move said trailer or vehicle to the rear of the structure due to existing structural features including the placement of the septic system or disadvantageous site conditions such as drainage swales, a steep gradient, or proximity of existing structures, trees or other vegetation;

(b) Due to the weight of the trailer or vehicle, the homeowner would have to make an unreasonable expenditure to expand the driveway to access the rear portion of the main structure; or

(c) There are no apparent safety issues of access in and out of the driveway, and the trailer or vehicle is not parked in the right of way of any state, county or town road.

(2) Camping trailers and boat trailers are permitted to be parked outdoors between May 1 and October 1 of the same year, and snowmobile trailers are permitted to be parked outdoors between November 15 and April 15 of the following year; provided that exceptions may be made by the Code Enforcement Officer for reasons of hardship including, but not limited to, those listed above, and without the need to apply for a special permit. The use of such vehicles on any lot as living quarters shall be limited to three months per year.”

Section 2.18 Amendment to Section 120-63 of the Zoning Law of the Town of Rush

Section 120-63 of the Zoning Law of the Town of Rush shall be amended so as to insert in first sentence of Section 120-63(A) the words “, regardless of change in ownership,” immediately after the word “continued” and immediately before the word “only”.

Section 2.19 Amendment to Section 120-65 of the Zoning Law of the Town of Rush

Section 120-65 of the Zoning Law of the Town of Rush shall be amended so as to delete in word “Board” in the present text of Section 120-65(B) and replace it with the words “Zoning Board”.

Section 2.20 Amendment to Section 120-68 of the Zoning Law of the Town of Rush

A. Section 120-68 of the Zoning Law of the Town of Rush shall be amended so as to insert in the heading of Section 120-68 the word “Zoning” at the beginning of the heading immediately before the word “Board”.

B. Section 120-68 of the Zoning Law of the Town of Rush shall be further amended to insert in the first sentence of Section 120-68 the word “Zoning” immediately after the word “a” and immediately before the word “Board”.

APPENDIX "A"

TABLE OF PERMITTED SIGNS