

DRAFT

VILLAGE OF MONTEBELLO
LOCAL LAW NO. 2 OF THE YEAR 2021
A LOCAL LAW AMENDING CHAPTER 195, ZONING,
CHAPTER 89 FIRE PREVENTION,
AND CHAPTER 163, SUBDIVISION OF LAND,
TO CLARIFY THE STANDARDS FOR GATHERING PLACES AND PLACES OF WORSHIP,
AND TO BETTER DEFINE THE ROLE OF THE COMMUNITY DEVELOPMENT REVIEW
COMMITTEE

Be it enacted by the Village Board of Trustees of the Village of Montebello by authority of Article 7 of the Village Law and Article 10 of the Municipal Home Rule Law, as follows:

*(Note: Proposed insertions of language into the Code are indicated by underlining. Proposed deletions of language from the Code are indicated by strikeout symbols. All other language shown is to remain unchanged. The symbol "*****" indicates portions of the Code to remain unchanged, which are not shown here for brevity.)*

Section 1: Legislative findings and intent. The Village Board of the Village of Montebello hereby finds and declares:

The Village periodically reviews its Zoning Code and other related chapters of the Village Code to ensure internal consistency and that the various provisions continue to effectively implement the purposes set forth in Section 195-3 of the Village Code. The Village identified certain provisions that require minor amendments in order to effectuate these goals.

Section 2: Amend Chapter 195, Zoning, §195-124 Definitions to add the following new definitions, to be inserted in alphabetical order:

§ 195-124 Definitions.

As used in the chapter, the following terms shall have the meanings indicated:

GATHERING PLACE, RESIDENTIAL
[Added 8-15-2018 by L.L. No. 6-2018]

- A. The accessory use of a portion of a one-family detached residence, which portion is incidental and subordinate in both use and size to the residence, is located within the residence building or accessory structure, and is designated primarily for regular large gatherings, meeting all of the following criteria:
- (1) The gatherings occur more than 12 times per year; and
 - (2) These gatherings are comprised of 15 or more persons; and
 - (3) The occupancy of the gatherings shall be the lesser of: (i) 49 persons; or (ii) the number of persons determined by dividing the number of square feet of the portion of the residence so

designated as a Residential Gathering Place by 15 square feet per person. The requirement of no more than 49 occupants is the maximum permitted before the use category of “assembly” would be applicable under the New York State Uniform Fire Prevention and Building Code, as may be amended from time to time. The standard of 15 square feet per person is set forth in Table 1004.5 of said New York State Code, which is applicable to unconcentrated assembly without fixed seats,

- B. The designated area for a gathering place shall have a maximum floor area of less than 50% of the gross floor area of the one-family detached residence.
- C. Any use that exceeds any of the above criteria at any time shall not be considered a residential gathering place. The Building Inspector shall determine the appropriate use category based upon the requirements of this chapter.

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HOME OCCUPATION/HOME PROFESSIONAL OFFICE

An accessory use of a residence by the residents thereof for the performance of services of a professional or personal character, conducted entirely within a completely enclosed building, which use is incidental and accessory to the use of the residence for dwelling purposes, does not change the architectural character thereof, and is consistent with the residential zoning district involved. For the purposes of this definition, a person who performs services in the home without contact with visitors (nonresidents) seeking such services, and who has no employees for such services, shall not be considered to be engaged in a home occupation/home professional use and, thus, shall not be required to obtain a special permit for said use which shall be considered to be an accessory home occupation permitted by right.

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PLACE OF WORSHIP, COMMUNITY

The principal use of a building or structure(s) for regular organized religious assembly with 10,000 gross square feet of floor area, or greater.

PLACE OF WORSHIP, NEIGHBORHOOD

The principal use of a building or structure for regular organized religious assembly with a gross square footage of less than 10,000 square feet.

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Section 3: Amend Chapter 195 Zoning, §195-79.1, Residential Gathering Places, as follows:

§ 195-79.1 Residential gathering places.

- A. The building containing the residential gathering place shall comply with all applicable zoning code provisions of the Village of Montebello for a one-family detached residence, and with the requirements of all applicable fire and building codes of New York State, and shall be accessory to the principal use as a single-family residence.
- B. Only habitable spaces within structures in compliance with all applicable fire and building codes may be utilized for a residential gathering place. Gatherings shall not be held in temporary structures, outside of the residence building or permanent accessory structures, more than three times per year, nor for a duration of longer than ten (10) days.
- C. The maximum occupancy of the residential gathering place shall be in accordance with the definition of Gathering Place, Residential, as set forth in § 195-124.
- D. The maximum floor area of the residential gathering place shall be in accordance with the definition of Gathering Place, Residential, as set forth in § 195-124.
- E. Notwithstanding any other provision of this chapter, only those accessory uses permitted as of right to a one-family detached residence shall be allowed at a residence with a residential gathering place. Where accessory uses are proposed that are not permitted as of right to a one-family detached residence, the use shall no longer be considered for issuance of a special permit for a residential gathering place under this chapter.
- F. The required number of parking spaces for a residential gathering place shall be determined by Column F of the Table of General Use Requirements. Parking shall be provided for both the residence and the gathering place area, according to the table. This parking requirement may be reduced by up to 25% pursuant to § **195-28B**. Reserve areas for future parking lot development may be provided in lieu of construction of parking spaces, pursuant to § **195-28A**. All required parking spaces shall be provided on the lot on which the residential gathering place is located.
- G. No parking or loading shall be permitted between the structure and any street line on which the property fronts.
- H. All outdoor lighting shall be shielded in a manner to direct lighting away from adjacent properties and the public street. Exterior lighting shall be limited to the minimum requirements by code for safety and shall comply with the site development plan specifications in Chapter **146**.

- I. The Planning Board shall require adequate screening in the required rear and side yards, to protect the character and compatibility of adjacent uses. Screening can consist of a wall, fence and/or plantings as approved by the Planning Board.
- J. Except as set forth in §195-79.1.B above, the Residential Gathering Place use shall be conducted entirely within a completely enclosed structure, which use is incidental and accessory to the use of the residence for dwelling purposes, does not change the architectural character thereof, and is consistent with the residential zoning district involved. The appearance of all principal and accessory structures shall be in harmony with the surrounding area and be of a similar design aesthetic in conformity with the scale and character of the neighborhood within which it is to be located.
- K. No regularly scheduled assembly may be held between the hours of 11:00 p.m. and 6:00 a.m. For the purpose of this provision, "regularly scheduled" shall mean occurring in greater frequency than three times per calendar year.
- L. No space within the residential gathering place may be rented out to or utilized for meetings or functions not directly convened or hosted by the residents of the principal one-family detached residence.
- M. One sign is permitted which shall meet the standards for a home occupation sign as set forth in § 195-82A. In addition, the sign shall contain English language characters and text to the extent necessary for public safety and/or to aid in the dispatch of emergency services.
- N. Use of any outdoor areas of the property by nonresidents shall be limited only to parking and passive recreational uses requiring a minimum of facilities or equipment, which may include a small jungle gym or climber for children, benches and picnic tables.
- O. The Planning Board may impose such additional restrictions and conditions on the location of parking spaces, landscaping and/or fencing to screen the residential gathering place from adjacent residential properties, outdoor lighting, and other conditions of use of the residential gathering place as, in the judgment of the Board, are necessary for the residential gathering place to be able to operate in a manner that is consistent with public safety and neighborhood character.
- P. Any kitchen facilities shall be in scale or type as is customarily incidental to a one-family detached residence. No catering facilities are permitted.
- Q. A narrative summary shall be submitted to the Planning Board, providing the maximum anticipated number of persons to be assembled, square footage of the assembly spaces, days and hours of assembly, and number of parking spaces provided.

- R. Bulk provision waiver. The Planning Board shall have the authority, consistent with the purposes of this chapter and upon finding that the waiver shall not result in danger to the health, safety and general welfare of the community, neighborhood or area residents, to waive any bulk provision for residential gathering places herein up to 3%, for good cause shown. Any variation of bulk provisions greater than 3% shall be referred to the Zoning Board of Appeals.

Section 4: Amend Chapter 195 Zoning, §195-79.2, Neighborhood places of worship, as follows:

§ 195-79.2 Neighborhood places of worship.

- A. A building containing a neighborhood place of worship shall comply with all applicable provisions of the zoning code of the Village of Montebello and all applicable fire and building codes of New York State.
- B. A neighborhood place of worship may include a single residential dwelling unit, but occupancy of the unit shall be limited to clergy and their families. Such a single residential dwelling unit shall be considered an accessory use, and shall not require any additional minimum lot area.
- C. For neighborhood places of worship, the principal use shall be the holding of regularly scheduled religious services. Accessory uses such as classrooms, social halls, administrative offices, baths, gymnasiums and/or indoor recreation facilities may be provided, so long as such accessory uses in their aggregate shall be subordinate to the size and function of the neighborhood place of worship. No building permit or certificate of occupancy shall be granted to such accessory use, building or structure until the building permit and certificate of occupancy for the principal use or building, respectively, have been granted. A school of general instruction established at the site of a neighborhood place of worship shall not be considered as accessory to the neighborhood place of worship, but rather as an additional principal use.
- D. The required number of parking spaces for a neighborhood place of worship shall be determined by Column F of the Table of General Use Requirements. This parking requirement may be reduced by up to 25% pursuant to § 195-28B. Reserve areas for future parking lot development may be provided in lieu of construction of parking spaces, pursuant to § 195-28A.
- E. No parking or loading shall be permitted between the structure and any street line on which the property fronts, although a drop-off or porte cochere shall be permitted in the front yard. All loading and delivery areas shall be located in the rear yard and shall be effectively screened to a height to eight feet from any adjacent residential properties and the public street.
- F. All outdoor lighting shall comply with the site development plan specifications in Chapter 146

and be shielded in a manner to direct lighting away from adjacent properties and the public street.

- G. The application for a neighborhood place of worship shall be referred to the Architectural Review Board in accordance with Article **XI** of this chapter. The appearance of all principal and accessory structures shall be in harmony with the surrounding area and be of a similar design aesthetic in conformity with the scale and character of the neighborhood within which it is to be located.
- H. A minimum twenty-foot-wide landscaped area shall be provided along all property lines, excluding the front line, and access points. The landscaping shall incorporate plantings, berms, and such other elements as are necessary to screen the facilities.
- I. No regularly scheduled assembly may be held between the hours of 11:00 p.m. and 6:00 a.m. For the purpose of this provision, "regularly scheduled" shall mean occurring in greater frequency than three times per calendar year.
- J. To maintain the character of the use as a neighborhood place of worship, attendance at any services, wedding receptions or other social or religious functions for congregants held at the neighborhood place of worship shall be limited to available on-site parking.
- K. Signs. Signs shall be permitted for neighborhood places of worship in accordance with Chapter **143** and shall contain English language characters and text to the extent necessary for public safety and/or to aid in the dispatch of emergency services.
- L. Use of any outdoor areas of the property shall be limited only to parking and passive recreational uses requiring a minimum of facilities or equipment, which may include a small jungle gym or climber for children, benches and picnic tables.
- M. The Planning Board may impose such additional restrictions and conditions on the location of parking spaces, landscaping and/or fencing to screen the neighborhood place of worship from adjacent residential properties, outdoor lighting, and other conditions of use of the neighborhood place of worship as, in the judgment of the Planning Board, are necessary for the neighborhood place of worship to be able to operate in a manner that is consistent with public safety and neighborhood character.
- N. No cooking facilities will be permitted, other than warming kitchen equipment for use by the clergy and/or congregants of the neighborhood place of worship and any kitchen equipment for exclusive use of residents of a residential dwelling unit. No catering facilities are permitted.
- O. A narrative summary shall be submitted, providing the anticipated number of congregants, square footage of the sanctuary and other dedicated spaces, days and hours of services, and

number of parking spaces provided.

- P. Bulk provision waiver. The Planning Board shall have the authority, consistent with the purposes of this chapter and upon finding that the waiver shall not result in danger to the health, safety and general welfare of the community, neighborhood or area residents, to waive any bulk provision for neighborhood places of worship herein up to 3%, for good cause shown.

Section 5: Amend Chapter 195 Zoning, §195-79.3, Community places of worship, as follows:

§ 195-79.3 Community places of worship.

- A. A building containing a community place of worship shall comply with all requirements of all applicable building codes of New York State and the zoning code of the Village of Montebello.
- B. No parking or loading shall be permitted between the structure and any street line on which the property fronts, although a drop-off or porte cochere shall be permitted in the front yard. All loading and delivery areas shall be located in the rear yard and shall be effectively screened to a height to eight feet from all adjacent residential properties and the public street.
- C. Parking lot landscaping. One shade tree designed to reach a mature height of at least 20 feet shall be planted for every 12 parking spaces.
- D. Landscape buffer area. A minimum twenty-foot-wide landscaped area shall be provided along all property lines, excluding the front line, and access points. The landscaping shall incorporate plantings, berms, and such other elements as are necessary to screen the facilities.
- E. A community place of worship may or may not include a single residential dwelling unit, but occupancy of the unit shall be limited to clergy and/or their families. Such a single residential dwelling unit shall be considered accessory, and shall not require any additional minimum lot area.
- F. All outdoor lighting shall comply with the site development plan specifications in Chapter 146 and shall be shielded in a manner to direct lighting away from adjacent properties and the public street.
- G. The application for the community place of worship shall be referred to the Architectural Review Board in accordance with Article XI of this chapter. The appearance of all principal and accessory structures shall be in harmony with the surrounding area and be of a similar design aesthetic in conformity with the scale and character of the neighborhood within which it is to be located.
- H. For community places of worship, the principal use shall be the holding of regularly scheduled

religious services. Accessory facilities and functions such as religious schools, social halls, administrative offices and indoor recreation facilities may be provided, so long as such facilities and functions shall be subordinate in aggregate to the size and function of the community place of worship. No building permit or certificate of occupancy shall be granted to such accessory use, building or structure until the building permit and certificate of occupancy for the principal use or building, respectively, have been granted. A school of general instruction, as defined in §195-124, Definitions, established at the site of a community place of worship shall not be considered as accessory to the community place of worship, but rather as an additional principal use.

- I. On-site parking shall be provided according to the standards indicated in the Table of General Use Requirements, Column F. This parking requirement may be reduced by up to 25% pursuant to § 195-28B. Reserve areas for future parking lot development may be provided in lieu of construction of parking spaces, pursuant to § 195-28A.

- J. Attendance at any services, wedding receptions or other social or religious functions held at the community place of worship shall be limited to the capacity of the community place of worship as determined by the applicable building codes of New York State, as well as the available on-site parking, unless a parking management plan (PMP) is provided. Such events demanding parking in excess of the on-site parking provided shall require a PMP to be submitted for approval by the Planning Board as part of the special permit application establishing a community place of worship, pursuant to the requirements set forth below. The PMP shall be used to address parking demand during the maximum projected attendance at the maximum building capacity, for holy days or other large, planned events for the particular place of worship making the application. Such PMP shall be provided to the Ramapo Police Department, the applicable Fire Department and the office of the Montebello Village Clerk. If a PMP is required as part of the special permit process, the applicant shall address the following:
 - (1) Designated off-site parking areas. The applicant shall submit a fully executed written agreement between the applicant and one or more providers of a location for off-site parking;
 - (2) The applicant shall indicate implementation of group travel to and from the off-site parking locations by the use of shuttle vehicles;
 - (3) The applicant shall use traffic control measures such as the hiring of an off-duty police officer and/or volunteers to facilitate pedestrian flow, as well as on-site and off-site traffic;
 - (4) The applicant shall provide a notification process to notify patrons of the community place of worship and others regarding the locations of off-site parking areas to be used;
 - (5) The applicant shall indicate a method of pre-event registration to obtain a ticket before the

holiday or event to use the on- or off-site parking facilities; and

- (6) In the event that off-site parking areas are not available to accommodate the full capacity of the community place of worship, methods to limit the number of event attendees to the number of attendees that can be accommodated in the on-site parking area or at any available off-site locations by utilization of a pre-event registration system and distribution of tickets to registered persons that will be submitted upon arrival at the site on the day of the event.
- (7) Existing community places of worship in existence prior to the adoption of this section shall submit a PMP for large events to the Planning Board within one year of adoption.
- K. Signs. Signs shall be permitted for community places of worship in accordance with Chapter 143, and shall contain English language characters and text to the extent necessary for public safety and/or to aid in the dispatch of emergency services.
- L. The Planning Board may impose such additional restrictions and conditions on the location of parking spaces, landscaping and/or fencing to screen the community place of worship from adjacent residential properties, outdoor lighting, and other conditions of use of the community place of worship as, in the judgment of the Planning Board, are necessary for the community place of worship to be able to operate in a manner that is consistent with public safety and neighborhood character.
- M. Commercial kitchen and catering facilities are permitted, in compliance with all plumbing, electrical, fire, health and safety codes.
- N. A narrative summary shall be submitted, providing the anticipated number of congregants, square footage of the sanctuary and other dedicated spaces, days and hours of services, and number of parking spaces provided.
- O. Bulk provision waiver. The Planning Board shall have the authority, consistent with the purposes of this chapter and upon finding that the waiver shall not result in danger to the health, safety and general welfare of the community, neighborhood or area residents, to waive any bulk provision for community places of worship herein up to 3%, for good cause shown.

Section 6: Amend Chapter 195 Zoning, Article XI Architectural Review Board, Historic Preservation and Parks Commission, Overlay Districts, Village Center, as follows:

- a) *Change the title of Article XI, as follows: Architectural Review Board, Historic Preservation and Parks Commission, Community Development Review Committee, and Overlay Districts.*
- b) *Renumber the existing section §195-61 Rural Preservation Overlay District to §195-62 (which section number is now designated as "Reserved").*

- c) *Add the following section §195-61, Community Development Review Committee (CDRC) as follows:*

§195-61 Community Development Review Committee (CDRC)

- A. Establishment and Legislative Intent. There is hereby established a Community Development Review Committee (CDRC) to act as an advisory panel to the Planning Board. The CDRC shall review the technical aspects of all Planning Board applications prior to the applicant's first appearance before the Planning Board, to ensure that the application is substantially complete for consideration by the Planning Board. The intent of the CDRC is to streamline the application process by identifying technical or completeness issues early in the process, and to minimize the number of iterative appearances before the Planning Board.
- B. The CDRC shall be composed of the Village Engineer, the Village Planner, the Village Attorney, and the Village Building Inspector. The Village Planner or designee shall act as Chairperson. Meetings shall be open to the public, but public comment will only be permitted at the sole discretion of the Chairperson. The Chairperson of the Planning Board may, at his or her discretion, designate a member of the Planning Board to serve as a liaison to the CDRC.
- C. The applicant shall submit their initial application submission to the CDRC for discussion prior to first appearing before the Planning Board. The applicant should provide as much information as possible, keeping in mind the specific submission requirements of this Chapter. At this time, the applicant should outline any variances, modifications, or waivers he or she is requesting from the requirements of the Code. The CDRC shall opine as to whether an application is sufficiently complete to go before the Planning Board for review. If the CDRC determines that an application is not yet ready for Planning Board review, it shall recommend that the applicant return to the CDRC with a revised submittal, in accordance with its comments. Should the applicant wish to proceed directly to the Planning Board after the CDRC finds that the application is not ready, the applicant may do so at the applicant's own risk that the Planning Board may find it incomplete.
- D. At the beginning of each regularly scheduled monthly meeting of the Planning Board, the Village Planner or designee will provide a brief update of the applications discussed by the CDRC at its previous meeting, if any. Minutes of CDRC meetings will be provided to the Planning Board in preparation for the monthly CDRC update.
- E. At its sole discretion, the Planning Board may convene a separate and distinct update meeting with the CDRC for applications deemed particularly complex, or for any other reason deemed sufficient by the Planning Board. If such a meeting is convened, it shall be considered a "workshop" meeting of the Planning Board and will be open to the public. However, no public participation will be permitted except in the sole discretion of the Chairperson acting for the Planning Board.

- F. The CDRC may act in a technical review and/or an advisory capacity to the Village Board or to the Zoning Board of Appeals as authorized by this Chapter.
- G. The CDRC shall have those powers and duties as are set forth in these regulations or as may be delegated to them from time to time by the Planning Board; provided, however, that in no case may the CDRC be empowered to approve or disapprove, on behalf of the Planning Board, any application for relief or approval.

Section 7: Amend Chapter 195 Zoning, Article IX Site Development Plan Review, §195-48.A Preliminary Review, as follows below. Subpart §195-48.B shall remain unchanged:

§ 195-48 Preliminary review.

- A. Prior to a formal application for final site development plan approval, an application for preliminary site development plan approval shall be referred to the Community Development Review Committee (CDRC), for review, pursuant to the procedures of §195-61. The applicant shall submit all application materials provided for in the site development plan rules and regulations in as much detail as the applicant believes is warranted to enable the CDRC to come to a preliminary conclusion as to the merits of the proposal and readiness for submission to the Planning Board. Should variances from the requirements of this chapter be contemplated, their nature and degree should be specified. The application for preliminary approval shall be made and processed in the manner specified in the preceding section.

Section 8: Amend Chapter 195 Zoning, Article XV Board of Appeals, §195-109 Rules of Procedure, by adding a new subsection "E" as follows:

- E. The Board of Appeals may, at its discretion, refer an application to the Community Development Review Committee for analysis and recommendation on technical issues to assist in its deliberations, according to the procedures of §195-61.

Section 9: Amend Chapter 195 Zoning, Article XVII Amendments, §195-118 Amendment of chapter, report from Planning Board, as follows:

§ 195-118 Amendment of chapter; report from Planning Board.

This chapter, or any part thereof, may be amended, supplemented or repealed from time to time by the Village Board on its own motion or upon recommendation by the Planning Board or by petition. The Village Board, at its discretion, may refer any proposed amendment to the Community Development Review Committee for analysis and recommendation on technical issues to assist in its deliberations, according to the procedures of §195-61. Prior to a public hearing, every such proposed amendment shall be referred by the Village Board to the Village Planning Board for a report, unless the proposed amendment was initiated by the Village Planning Board. The Village Board shall not take action on any such amendment without such report from the Village Planning Board unless the Planning Board fails for any reason to render such report within 60 days following the date of such referral.

Section 10: Amend Chapter 195 Zoning, Article XII Special Permit Standards, §195-66 Applications, as follows:

§ 195-66 Applications.

Application for a special permit pursuant to this chapter shall be on forms prescribed by the Planning Board or the Village Board. Such application shall accompany the application for preliminary or final site development plan approval. The Planning Board or Village Board, at its discretion, may refer an application for a special permit to the Community Development Review Committee for analysis and recommendation on technical issues to assist in its deliberations, according to the procedures of §195-61. The preliminary or final site development plan and special permit application may be processed concurrently in accordance with Article IX, §195-47. Fees for special permit application shall be in accordance with the Standard Schedule of Fees of the Village of Montebello.

Section 11: Amend Chapter 163 Subdivision of Land, section §163-10, as follows:

§ 163-10 General procedure.

[Amended 1-21-2004 by L.L. No. 1-2004]

Whenever any subdivision of land is proposed, before any contract is made for the sale of any part thereof, and before any permit for the erection of a structure in such proposed subdivision shall be granted, the subdividing owner, or his authorized agent, shall apply for and secure approval of such proposed subdivision in accordance with the following procedure, which includes two steps for preliminary plat and subdivision plat.

- A. An applicant may request a meeting with the Planning Board to informally discuss a plan. The Board has the option of providing such an opportunity. If an informal plan is to be discussed, it shall be noted on the Planning Board agenda.
- B. All subdivision applications shall be reviewed by the Community Development Review Committee (CDRC) prior to their initial appearance before the Planning Board, according to the procedures for new Planning Board applications set forth in of §195-61 of Chapter 195, Zoning of this code.

Section 12: Amend Chapter 89 Fire Prevention, §89-25, Places of Assembly, as follows:

§ 89-25 Places of assembly.

- A. No place of assembly shall be maintained, operated or used as such without a certificate of compliance.

Section 13: This local law shall take effect immediately upon filing with the Secretary of State.