

# Local Law Filing

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

County  City  Town  Village  
(Select one.)

of RUSH

Local Law No. 8 of the year 20 03

A local law TO AMEND CHAPTERS 120-5, 120-15, 120-21 OF THE TOWN OF CODE OF THE TOWN  
(Insert Title)  
OF RUSH REGARDING USES IN LIMITED INDUSTRIAL DISTRICTS

Be it enacted by the RUSH TOWN BOARD of the  
(Name of Legislative Body)

County  City  Town  Village  
(Select one.)

of RUSH as follows:

ATTACHED

(If additional space is needed, attach pages the same size as this sheet, and number each.)

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

**1. (Final adoption by local legislative body only.)**

I hereby certify that the local law annexed hereto, designated as local law No. 8 of 2023 of the (County)(City)(Town)(Village) of RUSH was duly passed by the RUSH TOWN BOARD on NOVEMBER 8 2023, in accordance with the applicable provisions of law.

**2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer\*.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_ of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_, and was (approved)(not approved) \_\_\_\_\_ (Name of Legislative Body) (repassed after disapproval) by the \_\_\_\_\_ and was deemed duly adopted on \_\_\_\_\_ 20\_\_\_\_, in accordance with the applicable provisions of law.

**3. (Final adoption by referendum.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_ of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_, and was (approved)(not approved) \_\_\_\_\_ (Name of Legislative Body) (repassed after disapproval) by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_.

Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on \_\_\_\_\_ 20\_\_\_\_, in accordance with the applicable provisions of law.

**4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_ of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_, and was (approved)(not approved) \_\_\_\_\_ (Name of Legislative Body) (repassed after disapproval) by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of \_\_\_\_\_ 20\_\_\_\_, in accordance with the applicable provisions of law.

\* Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

**5. (City local law concerning Charter revision proposed by petition.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_ of City of \_\_\_\_\_ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on \_\_\_\_\_ 20\_\_\_\_, became operative.

**6. (County local law concerning adoption of Charter.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_ of the County of \_\_\_\_\_ State of New York, having been submitted to the electors at the General Election of November \_\_\_\_\_ 20\_\_\_\_, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

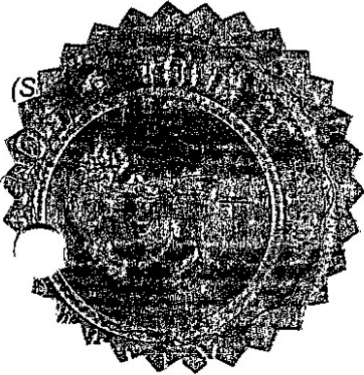
**(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)**

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph 1 above.

*Yamila G. Buccis*

Clerk of the county legislative body, City, Town or Village Clerk or officer designated by local legislative body

Date: November 9, 2023



LOCAL LAW NO. 8 OF 2023 TO AMEND CHAPTERS 120-5, 120-15, AND 120-21 OF  
THE TOWN CODE OF THE TOWN OF RUSH REGARDING USES IN LIMITED  
INDUSTRIAL DISTRICTS

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. Authorization**

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

**Section 2. Title and Purpose**

This Local Law shall be known as Local Law No. 8 of 2023, to amend Chapters 120-5, 120-15, and 120-21 of the Rush Town Code regarding uses in Limited Industrial Districts.

**Section 3. Legislative Finding**

The Rush Town Board finds that the Town Code pertaining to uses in Limited Industrial (LI) Districts is in need of amendment in order to better regulate permitted uses. Therefore, the Town Board hereby finds that it is in the best interest of the Town to amend the Town Code as herein provided regarding uses in LI Districts.

**Section 4. Validity and Severability.**

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 5. Inconsistency.**

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 6. Effective Date**

This Local Law will take effect upon filing in the office of the New York State Secretary of State, in accordance with § 27 of the Municipal Home Rule Law.

## Article II. Amendments to the Code of the Town of Rush

Chapter 120-15, entitled "Limited Industrial (LI) Districts" shall be amended as follows: (*new language shown in italics, omitted language shown with strikethrough*):

### § 120-15 Limited Industrial (LI) Districts.

The purpose of a Limited Industrial District is to permit, where appropriate, the construction of facilities for research and development oriented industries and high technology and/or light manufacturing operations, ~~and~~ business and professional offices, *and limited commercial business activities*. Areas for this zoning shall be identified by the Town Board or upon application. Areas shall be zoned as Limited Industrial Districts in accordance with the normal rezoning procedures. In researching its decision, the Town Board shall consider the general criteria set forth in this chapter, the current Comprehensive Plan for the Town, and this statement of purpose.

#### A. Permitted uses.

- (1) The following uses and their accessory uses are permitted after *Site Plan* review by the Planning Board to determine conformance with the intent of this section:
  - (a) Scientific or engineering research and/or experimental development of materials, methods or products.
  - (b) Engineering design of products
  - (c) Manufacture of:
    - [1] Electric, electronic or optical instruments or devices;
    - [2] Scientific, laboratory and process control instruments and devices;
    - [3] Computers and data processing equipment.
  - (d) Light manufacturing, assembling, fabricating or packaging of products produced from previously prepared materials such as textiles, plastics, *wood*, paper, leather, precious or semiprecious metals or stones, glass, ceramics, base metal bar, sheet and special shapes. *Machine shops and cabinet and furniture making are permitted.*
  - (e) Testing and repairing of the products or type of products which may be manufactured in the district.
  - (f) Support services *such as accounting, human relations, payroll, and child care, which provide services to the facilities and employees of the district and other businesses rather than mostly to needs of retail customers.*
  - (g) *Graphic arts, graphic design, and similar light printing operations.*

- (h) Offices for professional, executive, engineering and administrative purposes. *Permitted uses for professional offices shall include professional classifications as described in New York State Education Department Office of the Professions and shall also follow these guidelines: An office or place of business where professional services are offered and which does not mainly involve the keeping of an inventory or sale of goods. Professional offices include but are not limited to doctors, dentists, surgeons, attorneys, architects, engineers, planners, accountants, real estate brokers, insurance brokers, psychologists, veterinarians and chiropractors. Medical clinics are permitted so long as overnight care of humans is not provided.*
- (i) *Primarily sales, installation, and service type businesses such as plumbing, water treatment, electrical, kitchen and bath design and display, plumbing, electrical, power systems including generators and solar, geothermal and conventional HVAC, municipal and truck-mounted equipment, traffic and road safety equipment, and other equipment sales/installation/service businesses that are determined by the Planning Board to be similar in nature, but excluding vehicle sales/service*
- (j) *Manufacture of pharmaceuticals, and food and beverage products including bakeries, coffee, breweries, wineries and similar businesses, but not including the production of fish, meat or dairy products, slaughtering, or the rendering of fats and oils or other fermented foods, such as sauerkraut, vinegar or the like. Any such facility shall use waste treatment approved by Monroe County Department of Public Health.*
- (2) Retail and service-type commercial businesses with the following stated limitations and after Site Plan review by the Planning Board to determine conformance with the intent of this section: *These commercial uses are permitted but are limited to no more than 30% of the land area in a Limited Industrial District. For determining the % land area, the Building Inspector or Code Enforcement Officer shall base the calculation on the land area of all parcels or lots with the below listed commercial uses divided by total land area of that one contiguous LI district. For lots with more than one separate and distinctly different use by different companies (regardless of lot and building ownership), that lot land area shall be proportioned to those different uses by building area associated with those different companies. There shall be no attempt to split out functions within the same company. For example, if a building includes both a manufacturing area and a warehouse area for the same business and products, that whole building would be counted as the single primary objective of manufacturing. In all cases, warehousing shall be primarily for the temporary storage of the business's manufactured products for sale. Similarly, offices of the same manufacturing business would not be split out, since offices only support the primary business function of manufacturing. Whether or not a proposed use fits within any % land area limit shall be calculated on a first come - first served basis based on what is currently known about parcel uses.*
- (a) *Uses permitted in § 120-12 Commercial (C) Districts except public buildings and grounds, farming activities except as stated in (3) below, automobile and truck sales, and any residential uses.*

- (3) *Farming. The following farming activities are permitted and are not subject to*

*commercial % of land area limitations:*

- (a) Vegetable and field crop farming is permitted and does not require Site Plan review*
- (b) Farm buildings such as greenhouses, hoop houses, hydroponics, vertical agriculture, controlled environment agriculture (CEA), or similar agricultural enterprises within enclosed or semi-enclosed buildings are permitted with site plan approvals by the Planning Board to determine conformance with the intent of this section.*
- (c) Other farm uses. Because conventional farming is not intended to be a long term use in Limited Industrial districts, all other farm uses shall be subject to the requirements of limited industrial businesses, including Site Plan review. Special Permit review and approval by the Planning Board is required for outside parking of vehicles and outside storage.*

*(4) Multiple uses*

*(a) Multiple uses within a building are permitted, if any one such use and the combined total conform to requirements of this Chapter, and the Planning Board determines that such multiple uses are compatible with each other and the intent of this Chapter.*

*(b) Multiple buildings are permitted on a single lot, so long as the sum total conforms to all area, size and other requirements of the Town Code.*

*B. Site plan review, change of use, and/or transfer of ownership.*

- (1) All proposed uses or developments, including building additions, in a Limited Industrial District shall be subject to site plan review in accordance with § 120-69, except as specifically exempted.*
- (2) If a specific use originally permitted within a Limited Industrial District is proposed to be changed to a separate, different and distinct use, process or product or change in use location within a parcel, application must be made to the Planning Board for a new Site Plan and/or Special Permit ~~determination of conformance~~, for approval of the new use and conditions.*
- (3) Changes to parking, lighting, grading, filling, excavating or drainage that have the potential to impact a neighboring property are prohibited except after Site Plan review and approval by the Planning Board.*
- (4) In the case of a transfer of ownership, the new owner shall adhere to the conditions of the site plan. If a site plan does not exist or does not match the operation, the new owner shall apply for a new site plan. Special permits do not carry over to a new owner, so new owners must apply for a new special permit.*

*C. Special permit. The following uses and their accessory uses shall be permitted upon issuance of a special permit by the Planning Board in accordance with § 120-69:*



(1) Uses not specifically listed above but deemed by the Planning Board to be similar in nature and compatible with the purposes of the Limited Industrial District; provided, however, that in no event shall any explicitly prohibited use be allowed within the Town, whether in any LI (Limited Industrial) District, or otherwise.

(2) *Self storage or mini-warehouse facilities with the following conditions:*

(a) *shall include a conditioned storefront/rental office*

(b) *shall be located no closer than 1,500 feet of an existing self-storage or mini-warehouse site.*

(c) *the minimum area for a rental unit shall be 100 square feet. The maximum area for a rental unit shall not exceed 300 square feet.*

(d) *The maximum size for an unconditioned mini-warehouse structure, not including any storefront portion, shall be 6,000 square feet.*

(e) *The maximum lot coverage for a mini-warehouse conditioned structure, including a storefront/rental office portion, shall be 35% in any Limited Industrial District.*

(3) Distribution center with the following conditions:

(a) The minimum lot area shall be ~~two~~ *four* acres.

(b) *Any lot(s) with distribution centers may total no more than 25% of the land area in each Limited Industrial District ~~may be used for such purpose.~~ Distribution centers shall adhere to lot coverage maximums provided in § 120-21. However, because of the large paved area required for truck maneuvering and parking, distribution center building size may be limited by total building plus hardscape maximums.*

(c) Any vehicle or equipment repairs and service, including washing, shall be conducted within an enclosed building, except for fuel dispensing.

(d) Any outside storage of vehicles shall be screened from any adjacent *residential lot site. The Planning Board may require screening from any other lot(s) as well.*

(e) The loading and unloading space must be of sufficient size to accommodate the numbers and types of vehicles that are likely to use this area, given the nature of the proposed use.

(f) No area allocated to loading and unloading facilities may be used to satisfy the area requirements for off-street parking as specified in § 120-57, nor shall any portion of any off-street parking area be used to satisfy the area requirements for loading and unloading facilities.

(g) Loading and unloading area shall be so located and designed that the vehicles intended to use them can maneuver safely and conveniently to and from a public



right-of-way.

(h) There shall be no retail uses associated with the distribution center.

- (3) Telecommunications towers and accessory facilities or structures which are permitted only in accordance with the procedures and standards set forth in §§ 120-64 and 120-69.
- (4) Sexually oriented businesses as regulated under Chapter 91, Sexually Oriented Businesses, of the Code of the Town of Rush.

D. Prohibited activities. No land, building or premises may be used in any way which will cause or result in:

- (1) Dissemination of dust, smoke, observable gas or fumes, odor, noise, vibration or excessive light beyond the immediate site of the building or buildings in which such use is conducted.
- (2) Menace to neighboring properties by reason of fire, explosion or other physical hazard, including radiation.
- (3) Harmful discharge of waste materials, including refuse and airborne or waterborne wastes.
- (4) Unusual traffic hazards or congestion.

E. General provisions.

- (1) Outside parking of vehicles except during business hours of 7 AM to 12 AM daily shall be permitted only upon issuance of a Special Permit by the Planning Board in accordance with the procedure set forth in § 120-69. *Outside parking should not be within front, side and rear setbacks. Outside parking of vehicles or any other machinery or equipment for sale, display or service, shall be permitted only upon issuance of a Special Permit by the Planning Board in accordance with the procedure set forth in § 120-69, and may be within the front setback but shall not be permitted within the landscaped parking lot setback.*

*Outside storage stockpiles, racks, or displays, outside storage of machinery or equipment, or outside storage or sales of merchandise shall be permitted only upon issuance of a Special Permit by the Planning Board in accordance with the procedure set forth in § 120-69, and based upon location on the lot, visibility to other properties, and time duration that racks and displays are outside. Long term and overnight outside storage shall not be within front, side and rear setbacks. The Planning Board may require screening from residential lots and any other adjacent lots.*

- (3) All equipment for the handling of material and processes shall be enclosed in a suitable building or shall require a Special Permit by the Planning Board in accordance with the procedure set forth in § 120-69.
- (4) All waste, scrap, refuse, empty containers, drums, bottles and cartons shall be stored in

suitable closed containers. *Waste containers, dumpsters, and roll-offs shall be located behind the front building line and screened from any residential properties. The Planning Board may require screening of any waste containers from any adjacent lots or roads.*

(5) Notwithstanding the provisions of § 120-19, side and rear setbacks adjacent to any residential district shall be a minimum of 75 feet, of which 20 feet thereof shall be used to create a screened buffer zone. Such screening shall not be less than ~~four~~ six feet in height and may be accomplished by deciduous and/or evergreen plantings or by a fence or masonry wall of acceptable design. All such buffers and screenings shall be properly and *perpetually* maintained by the owner or owners of the screened *limited industrial or commercial* property.

(6) *Parking lots and driveways.*

(a) *Parking lots and driveways shall conform to conditions of § 120-57 Required off-street parking and § 120-58 Required off-street loading and unloading space.*

(b) *Parking lots and internal drives shall be set back from any public road by 20 feet of landscaped area, measured perpendicular to the road, whether lawn or maintained trees and shrubs. This 20 foot parking lot setback area shall not be used for display or storage. The Planning Board may require larger parking lot setbacks where lot size and building location allows. Parking lots and internal drives shall be set back 15 feet from any other side or rear property boundary. Storm runoff retention areas shall be allowed in the setback areas, and shall be maintained free of high vegetation as allowed by weather conditions. For lots with site plans approved prior to enactment of this law, a maximum of 25% of the frontage may be excluded from the parking lot setback requirement for extended access drives and parking areas if shown on that approved site plan.*

(c) *Access to parking areas shall be limited to one or two driveways depending upon the lot frontage size and distance from intersections and other driveways, and shall be approved by the Planning Board. On corner lots, the Planning Board shall determine which of the public roads is used for access driveway(s) and any driveway shall be sufficient distance from the road intersection so as to not interfere with traffic and not less than 50 feet from the intersection. If there are two separate driveways, they shall not be less than 50 feet apart. If entrance and exit driveways are separate, the entrance and exit shall be clearly marked.*

(d) *Parking lots shall provide sufficient space so that vehicles with or without trailers shall not need to back into or out of any State or County roads, for access to parking spaces or loading/unloading areas.*

(e) *The general intent of parking lot design is that employee and business parking should be located to the sides and rear of the primary building, while customer parking may be located in front of the building or also to the sides and rear.*

(f) *Curbs along driveways and parking areas may be required by the Planning Board for pedestrian safety along walkways and to prevent vehicles from driving over*

*landscaped parking lot setbacks. Curbs are most needed for high traffic areas with tight turns such as fast food restaurants, banks, convenience stores, pharmacies and filling stations, especially with drive-through services.*

*(7) Unloading space shall conform to § 120-58 Required off-street loading and unloading space. Loading docks and garage doors shall be located behind the front face of any primary building, and shall instead be located on the sides and rear of the building so that buildings present a clean attractive face to the road. Garage doors are permitted on the front of the primary building when used for customer vehicle entrances as with service stations, and for distribution centers and self-storage warehouses if the Planning Board deems that preferable to other options.*

*(8) Building Architecture - The Planning Board shall include architectural considerations of buildings in a Limited Industrial Zone, based on front, side, and rear elevations and renderings that shall be required for such buildings. The Planning Board may consider the types of exterior materials proposed for use and their appearances. The Planning Board shall consider the building purpose, and the location of the building relative to visibility from major roads and primary entrances to the Town, as some of the factors controlling the extent to which the building design may affect the area. The Planning Board may hire architectural consultants as they deem appropriate, and such fees incurred by the Rush Planning Board shall be paid by the Applicant plus the current administrative fee.*

*(9) Landscaping.*

*(a) All projects shall be suitably landscaped, including the provision of vegetation of suitable species and at appropriate levels of maturity in order to screen effectively dissimilar uses from one another, both visually and acoustically, and to protect and enhance the overall quality of the environment. A landscaping plan shall be prepared by a licensed landscape architect and shall show his seal and signature. The Planning Board may hire landscaping consultants as they deem appropriate, and such fees incurred by the Rush Planning Board shall be paid by the Applicant plus the current administrative fee.*

*(b) All projects shall have landscaping equal to a minimum expenditure of 1% of the total building cost or more at the discretion of the Planning Board. Landscaping shall be considered as any living plants, grading specific to landscaping such as planted berms, and surface covers like mulch and stone. Landscaping costs shall not include excavating, earthmoving, fill, grading or paving associated with normal requirements of building, cost of the landscaping design, or costs to install lawns.*

*(10) Maximum building size - In addition to requirements of § 120-21 Maximum coverage, any building in a Limited Industrial district shall not exceed 50,000 square feet gross floor area. Buildings larger than 50,000 square feet may be permitted at the discretion of the Planning Board with a Special Permit.*

F. All uses not specifically permitted by virtue of Subsection A through E of this § 120-15 shall be prohibited in Limited Industrial Districts.

G. *Building Permits and Certificates of Occupancy and Certificates of Completion. No Building Permit will be issued by the Building Inspector until all conditions of the approved Site Plan and Special Permit have been completed to the satisfaction of the Town Engineer and/or Planning Board. No Certificate of Occupancy or Certificate of Completion for a building with an approved site plan shall be issued without site approval by Town Engineer for all conditions on the site plan and for building approval by the Building Inspector unless a certified check to cover the full cost of the required improvements or a letter of credit to cover the full costs of the required improvements has been provided by developer/applicant. The amount shall be set by the Town Engineer. Any such letter of credit shall be satisfactory to the Planning Board, the Town Board and Town Attorney as to form, sufficiency and manner of execution. A period of one year (or such other period as the Planning Board may determine appropriate, not to exceed three years) shall be set forth within which required improvements must be completed.*

Chapter 120-5, entitled "Definitions and word usage" shall be amended as follows: (*new language shown in italics, omitted language shown with strikethrough*):

B. The following words or phrases as used in this chapter are defined as follows:

**GROSS FLOOR AREA**

The sum of the gross horizontal areas of the several floors of a building, measured from the exterior faces of exterior walls. It does not include attics, cellars, basements, garages or porches.

**HARDSCAPE**

*The sum of paved or compacted driveway and parking areas, sidewalks, patios and any other structures which are not lawn or landscaping.*

Chapter 120-21, entitled "Maximum coverage" shall be amended as follows: (*new language shown in italics, omitted language shown with strikethrough*):

§ 120-21 Maximum coverage.

The maximum coverage of any building or buildings hereafter erected or placed on any premises in any district shall conform to the following schedule with the exception of telecommunications towers and/or accessory facilities or structures constructed in accordance with the procedures and standards set forth in § 120-64.

District	Maximum <i>Building</i> Coverage	Maximum <i>Building plus Hardscape</i> Coverage
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R-20	25%	50%
R-30	25%	50%
RR-5	25%	50%
R-MH	25%	50%
R-MD	25%	50%
R-TH	25%	50%
C	30%	65%
I	30%	65%
LI	30%	65%
RB	30%	65%

All other provisions of Chapters 120-5, 120-15, and 120-21 not heretofore amended shall remain unchanged.