

# 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 of BRIARCLIFF MANOR
- Town
- Village

Local Law No. 7 of the year 20 07

A local law TO AMEND CHAPTER 220 OF THE CODE OF THE VILLAGE OF BRIARCLIFF MANOR  
(Insert Title)  
RELATING TO BUILDING AND LOT COVERAGE

Be it enacted by the BOARD OF TRUSTEES of the  
(Name of Legislative Body)

- County
- City of BRIARCLIFF MANOR as follows:
- Town
- Village

SEE ATTACHED

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

A LOCAL LAW TO AMEND  
CHAPTER 220 OF THE CODE OF  
THE VILLAGE OF BRIARCLIFF  
MANOR RELATING TO  
BUILDING AND LOT  
COVERAGE

Section 1. Section 220-2, "Definitions", of the Code is hereby amended to revise the definition of "Gross Floor Area" to read as follows:

"FLOOR AREA, GROSS - The sum of the horizontal areas of the floors of the building or buildings, excluding attics and any floor area used for off-street parking or loading purposes (except for one-family residences), measured from the exterior walls or, in the case of a common wall separating two buildings, from the center line of such a common wall and including any two story space or enclosed porch or enclosed breezeway. For single-family residences, the following areas shall also be included in the Gross Floor Area:

- "a. The sum of the area of the building coverage multiplied by the percentage of the building perimeter with exposed walls of seven (7) feet or greater below the first floor elevation.
- "b. Any floor area with a floor to ceiling height of sixteen (16) feet or greater shall be doubled for the purpose of calculating gross floor area.

“c. The portion of the total area of any deck(s) elevated above ground (not patio) on the Lot that is in excess of the square footage set forth below for the zoning district in which the Lot is located.

District	Square Feet
R60A	600
R40A	400
R40B	400
R30A	300
R20A	200
R20B	200
R12B	180
R10B	150
RT4B	100

Section 2. Section 220-2, “Definitions”, of the Code is hereby amended to revise the definition of “Story” to read as follows:

“STORY - That portion of a building between the surface of any floor and the surface of the floor next above it, or if there be none, between the surface of the floor and the ceiling or rafters above it. A basement shall be counted as a story if the finished floor level directly above the basement is more than six (6) feet above the average finished grade of the ground adjacent there to, or except for one-family residences if it is used for business purposes other than storage or for dwelling purposes other than for a janitor or watchman.”

Section 3. Section 220-2, “Definitions,” of the Code is hereby amended to add the definition of “Enclosed Porch or Breezeway” as follows.

“ENCLOSED PORCH or ENCLOSED BREEZEWAY- Any porch or breezeway that has walls, windows, screens or other elements that restrict movement to or from the porch or breezeway, except that an open porch or breezeway may have walls with a height of up to three feet six inches (3’6”) above finished floor elevation so long as eighty percent (80%) of the area above that height to the height of the ceiling remains open.”

Section 4. A new Section 220-9B, "Landscape Planting Plan," of the Code is added to read as follows:

"220-9B. Mandatory Tree Planting Plan (MTPP):

"A Statement of Purpose: The purpose of this section is to screen and mitigate the view of proposed residential structures and additions from the street and adjoining properties by requiring a mandatory tree planting plan ("MTPP") as outlined below.

"(1) If the total Gross Floor Area on a Lot in a single family residential district will exceed 3,500 square feet, then a MTPP must be submitted to and approved by the Village before any Building Permit for construction of additional floor area on the Lot can be issued.

"(a) If the Gross Floor Area on the Lot will be greater than 3,500 square feet but less than 5,000 square feet, then the MTPP shall be submitted to the Building Department for review and approval.

"(b) If the Gross Floor Area on the Lot will be equal to or greater than 5,000 square feet, then the MTPP shall be submitted to the Planning Board for review and approval.

"(2) Definitions:

"(a) Required Tree – a 2 ½" caliper shade tree, a 3 ½" caliper or 10' tall flowering tree, or an 8' tall evergreen tree, measured per current edition of the American Nursery and Landscape Association (ANLA) Standards.

"(3) A Building Permit for construction of any additional floor area on a Lot on which the principal and accessory structures will have a Gross Floor Area of greater than 3,500 square feet after that construction shall not be issued prior to receipt of approval for the MTPP.

"(4) The MTPP shall be prepared by a registered Landscape Architect, a registered Architect, or a Professional Engineer with a minimum of 5 years of applicable experience.

"(5) Every MTPP shall meet the following minimum standards:

"(a) In the case of any free-standing new construction when the total Gross Floor Area on the Lot exceeds 3,500 square feet after the new construction, one Required Tree shall be planted for each 100 square feet of Gross Floor Area or part thereof exceeding 3,500 square feet; PROVIDED, however, that even if Gross Floor Area on the Lot is less than 3,800 square feet, a minimum of three

Required Trees shall be planted if the total Gross Floor Area on the Lot exceeds 3,500 square feet.

"(b) In the case of any addition when the total Gross Floor Area on the Lot exceeds 3,500 square feet after the addition, one Required Tree shall be planted for each 100 square feet of Gross Floor Area or part thereof in the lesser of either (i) the addition or (ii) the total Gross Floor Area on the Lot minus 3,500 square feet, PROVIDED, however, that even if the square feet of Gross Floor Area in the addition is less than 300 square feet, a minimum of three Required Trees shall be planted if the total Gross Floor Area on the Lot exceeds 3,500 square feet after the addition.

"(c) Required Trees shall generally consist of 33% evergreens.

"(d) Required Trees shall be selected and located so as to soften and/or mitigate the view of a proposed structure from adjoining streets and properties.

"(6) The approving authority shall take into consideration existing vegetation, terrain, and other physical features of the Lot when reviewing the MTPP for proper placement and size of proposed Required Trees. The approving authority may also consider a MTPP using alternative sizes, mixes, and numbers of Required Trees based on the Lot and surrounding property's particular conditions, but unless the approving authority finds that fewer trees will achieve the purposes of this section, no MTPP using such alternative(s) may be approved unless it is comparable in value to a MTPP calculated for the Lot using Required Trees.

"(7) All plantings shall have a minimum one year guarantee from issuance of Certificate of Occupancy. Any planting which the approving authority determines to be diseased, dead, or dying before or during the guarantee year shall be replaced during the next planting season after such determination is made."

Section 5. Schedule 220:A5, "Schedule Limiting the Use of Buildings and Land and the Location, Arrangement, Bulk and Size of Buildings," is hereby amended at Column 6 to add the following values for the corresponding zoning districts.

Key	Total All Buildings
R60A	11
R40A	12
R40B	12
R30A	13
R20A	15
R20B	15
R12B	18
R10B	20
RT4B	23

Section 6. Schedule 220:A5, "Schedule Limiting the Use of Buildings and Land and the Location, Arrangement, Bulk and Size of Buildings," is hereby amended at Column 8, 9, 10, and 11 to substitute the following values for the corresponding zoning districts.

KEY	8	9	10	11	8A	9A	10A	11A
<b>Lot Limitations</b>								
<b>Minimum Yard Dimensions in Feet From Lot</b>								
<b>Lines to Principal Building<sup>1</sup></b>								
	<b>Lots with Buildings with Gross Floor Area Less Than or Equal to 3,500 Square Feet</b>				<b>Lots with Buildings with Gross Floor Area Greater Than 3,500 Square Feet</b>			
	Front Yard	One Side Yard	Two Side Yards Combined	Rear Yard	Front Yard	One Side Yard	Two Side Yards Combined	Rear Yard
R60A	40	25	55	40	65	40	80	60
R40A	40	22	50	35	55	30	60	45
R40B	40	22	50	35	55	30	60	45
R30A	40	20	45	35	50	25	55	40
R20A	40	18	40	30	45	20	45	35
R20B	40	18	40	30	45	20	45	35
R12B	40	16	35	30	40	18	39	32
R10B	40	12	25	30	40	14	30	32
RT4B	200	50	100	100	200	50	100	100

Section 7. Schedule 220:A5, "Schedule Limiting the Use of Buildings and Land and the Location, Arrangement, Bulk and Size of Buildings," of the Code is hereby amended at Note 1 to read as follows:

"1. A. Existing homes built at or within previously allowed minimum setbacks: A principal residence which is existing with a Gross Floor Area of less than or equal to 3,500 square feet and complies with zoning on January 1, 2007, will be allowed an addition of up to 500 square feet along its current building line without a variance from the Zoning Board of Appeals even if that addition will raise the Lot's Gross Floor Area to greater than 3,500 square feet and will cause the residence to violate the front, side, or rear yard requirement applicable to Lots with Gross Floor Area greater than 3,500 square feet, but this relief can be applied to a residence only once, and then only to one of the front, side, or rear yard requirements, the residence must comply with other yard requirements applicable to the Lot, and the residence and other buildings on the Lot must comply with the Maximum Gross Floor Area limitation applicable to the Lot. Any further addition must comply with all otherwise applicable requirements or a variance must be granted by the Zoning Board of Appeals.

B. Sloped Properties: For properties with a measured slope of fifteen percent (15%) or greater as measured across the building footprint, only fifty percent (50%) of the basement area shall be included in the Gross Floor Area calculation for determining the increased setback for the yard setback on the uphill side. In the case of property sloping from multiple property lines, only one uphill setback may be calculated with only fifty percent (50%) of the basement area included in the Gross Floor Area. All other setbacks shall be calculated with full basement area included in the Gross Floor Area.

Section 8. Schedule 220:A5, "Schedule Limiting the Use of Buildings and Land and the Location, Arrangement, Bulk and Size of Buildings," of the Code is hereby amended at Note 2 to read as follows:

"2. The reduced minimum distances set forth in Columns 13, 14, and 15 shall apply only to accessory buildings with floor areas less than the amounts set forth below. In all other cases, the distances shall be measured as if the accessory building were a principal building:

A. Less than or equal to 300 square feet in the R10A and R12B zoning districts.

B. Less than or equal to 150 square feet in all other zoning districts".

Section 9. Schedule 220:A13, "Schedule Limiting the Use of Buildings and Land and the Location, Arrangement, Bulk and Size of Buildings," of the Code is hereby amended at Column 25, Paragraph 3(e) to read as follows:

"If any accessory building is attached to the principal building by an enclosed breeze-way, that accessory building shall comply in all respects with the requirements of this ordinance applicable to the principal building."

Section 10. Schedules 220:A1, AS, A7, A11, and A13, "Schedule Limiting the Use of Buildings and Land and the Location, Arrangement, Bulk and Size of Buildings," of the Code is hereby amended at their title to read as follows:

"Schedule Limiting the Use of Buildings and Land and the Location, Arrangement and Size of Buildings"

Section 11. Section 220-13, "Applicability of Provisions," is hereby amended to read as follows:

"D. Applicability of Bulk Local Laws. Nothing in the building bulk provisions of Local Law No. 6 of 2003, adopted on September 3, 2003, or in this Local Law No. 7 adopted on August 16, 2007, shall be deemed to require any change in the plans, construction or designated use of any building (i) for which a special permit was duly issued prior to the adoption date of said Local Law regardless of the status of the construction of such building, or (ii) for which a building permit was duly issued and on which actual construction was lawfully begun prior to the adoption date of said Local Law and upon which building actual construction has been diligently carried on. For purposes of this section, the definition of 'Actual Construction' shall be that as provided in Section 220-I 3.B hereof."

Section 12. Severability.

The invalidity of any word, section, clause, paragraph sentence, part, or provision of this local law shall not affect the validity of any part of this local law which can be given effect without such invalid part or parts.

Section 13. Effective Date.

This local law shall take effect immediately upon filing in the Office of the Secretary of State of New York in accordance with the provisions of the Municipal Home Rule Law.

(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. 7 of 20 07 of the (County)(City)(Town)(Village) of BRIARCLIFF MANOR was duly passed by the BOARD OF TRUSTEES on AUGUST 16, 20 07, in accordance with the applicable provisions of law.  
*(Name of Legislative Body)*

**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 *(Elective Chief Executive Officer\*)* 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 \_\_\_\_\_ *(Elective Chief Executive Officer\*)*

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.)**

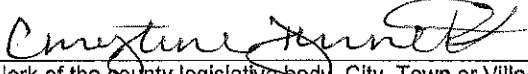
I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20 \_\_\_\_\_ of the City of \_\_\_\_\_ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority 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.

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

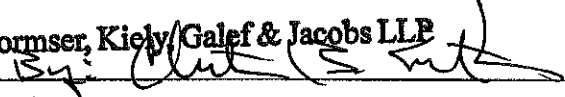
Date: 8-21-07

(Seal)

**(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized attorney of locality.)**

STATE OF NEW YORK  
COUNTY OF WESTCHESTER

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.

**Wormser, Kiely/Galef & Jacobs LLP**  
  
\_\_\_\_\_  
Signature  
Village Attorney, Wormser, Kiely, Galef & Jacobs  
Title

County \_\_\_\_\_  
City of BRIARCLIFF MANOR  
Town \_\_\_\_\_  
Village \_\_\_\_\_

Date: AUGUST 21, 2007