

ZONING ORDINANCE

FOR

TOWN OF WESTMORELAND, NEW YORK

**ADOPTED AUGUST 25, 1964 AND
AS REVISED AUGUST 9, 2010**

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**Zoning Ordinance
Of the
Town of Westmoreland, New York**

An ordinance regulating and restricting the location, construction and use of buildings, structures and the use of land in the Town of Westmoreland, and for said purposes dividing the Town into districts.

Adopted August 25, 1964 and as Revised

For the purpose of promoting the health, safety and general welfare of the community, the Town Board of the Town of Westmoreland, in the County of Oneida, pursuant to Article 16 of Chapter 62, of the Consolidated Laws of the State of New York, hereby ordains and enacts as follows:

SECTION 1 SHORT TITLE

This ordinance shall be known and be cited as "The Town of Westmoreland Zoning Ordinance."

SECTION 2 DEFINITIONS

Except where specifically defined herein, all words used in this ordinance shall carry their customary meanings. Words used in the present tense include the future, and the plural includes the singular. The word "lot" includes the word "plot." The word "shall" is intended to be mandatory. The word "building" includes the word "structure." "Occupied" or "used" shall be considered as though followed by the words, "or intended, arranged or designed to be used or occupied."

- A. ACCESSORY USE or BUILDING:** A use or building customarily incidental and subordinate to the principal use or building, and located on the same lot, and includes swimming pools.
- B. ALTERATIONS:** As applied to a building or structure, means a change or rearrangement in the structural parts or the exit facilities, or an enlargement, whether by extending on a side or by increasing in height or the moving from one location or position to another.
- C. DUMP:** A lot or land or part thereof used primarily for the disposal by abandonment, dumping, burial, burning or any other means and for whatever purpose, of garbage, sewage, trash, refuse, junk, or waste material of any kind.

D. DWELLING-1 FAMILY: A detached building designed for and occupied exclusively by one family.

E. HOME OCCUPATION: An occupation or a profession which:

1. is customarily carried on in a dwelling unit or in a building or other structure accessory to dwelling unit, and
2. is carried on by a member of the family residing in the dwelling unit, and
3. is clearly incidental and secondary to the use of the dwelling unit for residential purposes, and
4. conforms to the following additional conditions:
 - a The occupation or profession shall be carried on wholly within the principal building or other structure accessory thereto;
 - b Not more than one person outside the family shall be employed in the home occupation;
 - c There shall be no exterior display, no exterior sign (except as permitted under Section 7 (A)(2), no exterior storage of materials and no other indication of the home occupation or variation from the residential character of the principal building;
 - d No offensive noise, vibration, smoke, dust, odors, heat or glare shall be produced.

F. HOG FARM: The use of any land for the purpose of raising hogs on a commercial or experimental basis and shall include the raising of more than four hogs in any year on such Land for any purpose.

G. JUNK YARD: The use of more than 200 square feet of the area of any lot, whether inside or outside a building, or the use of that half of any lot that adjoins any street, for the storage, keeping or abandonment of junk, or scrap materials, or the dismantling, demolition or abandonment of automobiles or other vehicles or machinery or parts there of. See Regulation of Automobile Junk Yards.

H. MOBILE HOMES: A structure, transportable in one or more sections, which in the traveling mode is 8 body feet or more in width, or 40 body feet or more in length or, when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning and electrical systems contained therein. For the purpose of this ordinance double mobile homes known as "Double Wides" are to be considered as mobile homes.

I. MIGRANT LABOR CAMP: Any buildings, structures or mobile homes, permanent or temporary, designed or intended to be used for temporary housing of three or more persons, whose principal occupation consists of agricultural labor in the seasonal harvesting of crops. As used in this

definition, the word "temporary" shall mean for a purpose of less than seven (7) months.

- J. MOTEL:** One or more frame or masonry buildings, whether detached or in connected units, designed primarily for transient automobile travelers and providing for accessory off street parking facilities. The term motel includes buildings designated as tourist courts, motor lodges, auto courts and similar appellation. The term "Motel" does not include a mobile or trailer motel designed for transportation to a site after fabrication and requiring only minor and incidental site construction whether on wheels, supports or foundations.
- K. NATURAL LAND PRODUCTION USE:** The use of land for the excavation of sand, gravel, clay, shale, fill or other natural mineral deposits.
- L. NONCONFORMING:** Structure, or use of and existing at the time of enactment of this Ordinance which does not conform to the regulations of the district or zone in which it is situated. A use which constitutes a violation of Westmoreland Zoning Ordinance of 1958 shall not be deemed a non-conforming use, but shall be a violation of this Ordinance.
- M. MOBILE HOME COURT:** A parcel of land which has been planned and improved for the placement of two or more mobile homes for non-transient use.
- N. USED CAR LOT:** The use of an area of any size for the purpose of selling or advertising for sale two or more second hand automobiles.
- O. YARD, FRONT:** An open unoccupied space between the front line of the building and the center of the road and extending the full width of the lot.
- P. YARD, SIDE:** An open space, unoccupied except for accessory buildings as permitted in this Ordinance on the same lot with the main building situated between the building and the side line of the lot and extending from the front yard to the rear yard. Any lot line not a rear lot line or a front line shall be deemed a side line.
- Q. YARD, REAR:** An open space, unoccupied except for accessory buildings as permitted in this Ordinance, on the same lot with the main building between the rear line of the building and the rear line of the lot, and extending the full width of the lot.
- R. SWIMMING POOL:** A private, outdoor pool designed and built for swimming purposes, as an accessory used on the same parcel as the principal use, for use primarily by the occupants or tenants of said property. Such pool shall include any permanent under or above-ground and any portable pool more than three (3) feet in height and fifteen (15) feet in length or diameter.

- S. CUSTOMARY AGRICULTURAL OPERATIONS:** The use of land and on-farm buildings, equipment, manure processing and handling facilities and practices which contribute to the production, preparation and marketing of crops, livestock and livestock products as a commercial enterprise including "commercial horse boarding operations," "timber processing" and "compost, mulch or other biomass crops," as are all defined in NYS Agriculture and Market Law.
- T. RIDING ACADEMIES:** A commercial operation which offers horse riding lessons to the public and/or individuals that do not own or have a long-term lease for the horse that is boarded and/or used at the facility for such riding.
- U. UNUSED LAND:** All land available over and above the land required for the primary residence which includes the residence, well, road set back, septic system and driveway.
- V. ANIMAL UNITS:** The definition of an animal unit as previously utilized by the United States Environmental Protection Agency and as previously utilized by the New York State Department of Environmental Conservation is generically based on 1,000 pounds of animal body weight to equal one animal unit.

SECTION 3 ESTABLISHMENT OF DISTRICTS

For the purposes of this Ordinance, the Town of Westmoreland is divided into the following types or classes of Districts:

- A. R-1 District** - One Family residential districts
- B. R-2 District** - One Family residential districts
- C. R-3 District** - One Family residential districts
- D. R-4 District** - One Family residential districts (Mobile Homes)
- E. B-1 District** - General Business districts
- F. B-2 District** - General Business districts
- G. I District** - Industrial district

Said districts are bounded and divided as shown on a map entitled "Town of Westmoreland Zoning Map," which is hereby adopted by the Town Board and certified by the Town Clerk which, with all explanatory matter thereon accompanies and is hereby made a part of this Ordinance. A true copy of such map shall be maintained by the Town Clerk at his or her office, available for inspection by the public during the regular office hours of the Town Clerk. A copy of same is attached hereto as **Appendix A**. See also, Local Law No. 1 of the Year 2005, attached hereto as **Appendix B**.

SECTION 4 INTERPRETATION OF DISTRICT BOUNDARIES

In determining the boundaries of the Districts shown on the Zoning Map, the following rules shall apply:

1. Where district boundaries are indicated as approximately following streets or highways, the center lines of such streets or highways shall be deemed to be such boundaries.
2. Unless otherwise shown on the Zoning Map where the boundaries of any district are parallel to any road, such district shall be deemed to be five hundred (500) feet in depth measured from the center of the road.
3. Where district boundaries are so indicated that they approximately follow lot lines such lot lines shall be deemed to be such boundaries.

SECTION 5 APPLICATION OF REGULATIONS

Except as otherwise provided herein:

1. No building shall be erected, constructed, reconstructed or altered and no land or building or part thereof shall be used for any purpose except as permitted for the district in which such building or land is located.
2. No building shall be erected, constructed, reconstructed or altered, nor shall any open space surrounding any building be encroached upon or reduced in any manner except in conformity to the yard, lot area and building location regulations hereinafter designated for the district in which such building or open space is located.
3. No part of a yard or other open space required about any building for the purpose of complying with the provisions of this Ordinance shall be included as a part of a yard or other open space similarly required for another building.

SECTION 6 R-1 DISTRICTS - ONE FAMILY RESIDENTIAL DISTRICTS

The following regulations shall apply to all R-1 Districts:

A. USES PERMITTED:

1. Detached one-family dwellings.
2. Churches or similar places of worship.
3. Public parks and playgrounds and other municipal recreation uses.
4. Public and private elementary schools.
5. Golf courses and country clubs operated by membership organizations for the benefit of their member, and not for profit.
6. Fire stations or other public service, including public utility buildings or structures necessary for protection or servicing of the neighborhood, provided however, that such buildings shall be so-designated and

landscaped as to conform with the general character of the area in which they may be located.

7. Customary agricultural operations, but only if the property falls within a County adopted, New York State Certified Agricultural, provided however, that no storage of manure or odor and/or dust producing substance shall be within 25 feet of any property line, and provided further than any building in which farm animals or poultry are kept is at least 25 feet from any side or rear lot lines.
8. Other customary accessory uses and buildings, provided such uses are incidental to the principal use and do not include any activity commonly conducted as a business.

B. REQUIRED LOT FRONTAGE AND AREA: Each lot in a Residential R-1 District shall have a frontage of not less than One Hundred Fifty (150) feet and an area of not less than Forty Thousand (40,000) square feet.

C. PERCENTAGE OF LOT COVERED: All buildings, including accessory buildings, shall not cover more than thirty percent (30%) of the area of the lot.

D. YARDS REQUIRED: Each lot shall have a front, side and rear yard not less than the depth or width following:

1. Front yards shall have a depth of not less than One Hundred Twenty-Five (125) feet where the house is located on a state road and not less than One Hundred (100) feet where located on a town or county road.
2. Each side yard shall have a minimum width of Twenty-Five (25) feet.
3. Each rear yard shall have a minimum depth of Fifty (50) feet.

E. BUILDING HEIGHT LIMIT: No building shall be erected with a height in excess of thirty-five (35) feet, provided, however, that parapet walls or cornices for ornamental purposes only, and without windows, may be permitted to extend a distance of five (5) feet above the height limit prescribed herein.

F. FLOOR AREA: Each house hereafter erected in an R-1 District shall have a minimum floor area, exclusive of attached garage, on the ground level enclosed by the main walls of such house of 1040 square feet for a one story house and 780 square feet for house having more than one story.

G. ACCESSORY BUILDINGS AND USES:

1. All accessory buildings or uses shall require a permit to be issued prior to their initiation as elsewhere required in this Ordinance, except that no permit shall be required for a single accessory building with dimensions that do not exceed maximum of one hundred (100) square feet in size, providing all minimum required yard dimensions are observed.

2. There shall not be more than two (2) accessory buildings to the residential lot, except that an agricultural operation shall not be subject to such provisions.
3. Maximum height of accessory building shall be one (1) story or twenty (20) feet, whichever is less.
4. Accessory buildings or structures in residential districts which are not attached to a principal building may be erected within the side or rear yard in accordance with the following requirements:
 - a. For Garage, tool house or similar storage building, and swimming pool, ten (10) feet from side or rear lot line.
 - 1) Distance for in-ground pools will be measured from water line and distance for above-ground pools will be measured from the most external portion of the structure, including decking.
5. When an accessory building is attached to the principal building, it shall comply in all aspects with the requirements of this Ordinance applicable to the principal building.
6. Accessory buildings in Business or Industrial Districts shall comply with front, side and rear yard requirements for the principal building to which they are accessory.
7. No accessory building shall have a floor area in excess of twelve hundred (1200) square feet at ground level.
8. No accessory building or structure shall be permitted on a tax parcel without the presence of an approved dwelling structure.

SECTION 7 R-2 DISTRICTS - ONE FAMILY RESIDENTIAL DISTRICTS

The following regulations shall apply to all R-2 Districts:

A. USES PERMITTED:

1. The same uses permitted in R-1 Districts.
2. Customary home occupations: provided that there shall be no external evidence of such occupations except a small announcement or professional sign not over 2 square feet in area, shall not be illuminated in any color other than white.
3. Temporary stands for agricultural products which are not predominantly regionally grown or produced, upon obtaining a permit from the Zoning Board of Appeals. Such permit shall be for a period of not to exceed six months and shall be subject to such reasonable restrictions as the Zoning Board of Appeals may prescribe.
4. Customary agricultural operations provided however, that no storage of manure or odor and/or dust-producing substance shall be permitted within 25 feet of any property line; and provided further that any

building which farm animals or poultry are kept at least 25 feet from any side or rear lines.

- a. In an R-2 District, from the adoption of this legislation forward, there shall not be permitted the equivalent of one animal unit, as defined in Definition V, on lots/parcels which contain less than 40,000 square feet to open, unused land.
- b. In an R-2 District, there shall be allowed one animal unit or the equivalent for every 40,000 square feet of open, unused land.
- c. In an R-2 District, for a landowner who wishes to have more than five animal units on their land, said landowner shall have to undergo a site plan review from the Westmoreland Planning Board. The Westmoreland Planning Board will then submit the site plan proposal to the Oneida County Soil and Water Conservation District for their review and recommendation. Said proposal, after site plan review, must be approved by the Town of Westmoreland Planning Board and filed with same. All costs associated with this site plan proposal and the mandatory review shall be the responsibility of the land owner.

B. REQUIRED LOT FRONTAGE AND AREA: Each lot in a Residential R-2 District shall have a frontage of not less than 150 feet and an area of not less than 40,000 square feet except where said lot is on a public water supply, in which case the frontage shall not be less than 100 feet and the total area shall not be less than 20,000 square feet.

C. PERCENTAGE OF LOT COVERED: All buildings, including accessory buildings, shall not cover more than 35% of the area of the lot.

D. YARDS REQUIRED: Each lot shall have front, side and rear yard not less than depth or width following:

1. Front yards shall have a depth of not less than 100 feet where the house is located on a state road and not less than 75 feet where located on a town or county road, provided, however, that if at the effective date of this Ordinance, 25% of the lots comprising the frontage along the street between two intersecting streets, on the same side of the street upon which a dwelling is to be located, are occupied by houses having a front yard depth of less than that herein prescribed, a house may be located on any remaining unoccupied lot so as to have a front yard depth equal to the average depth of all lots so occupied unless such house is located a distance of 500 feet or more from the next nearest house in which even the minimum front yard requirements shall apply regardless of the location of other houses on such street.
2. Each side yard shall have a minimum width of 15 feet.
3. Each rear yard shall have a minimum depth of 35 feet.

- E. BUILDING HEIGHT LIMIT:** No building shall be erected to a height in excess of 30 feet; provided, however that parapet walls or cornices for ornamental purposes only, and without windows, may be permitted to extend a distance of 5 feet above the height limit permitted.
- F. FLOOR AREA:** Each dwelling house hereafter erected in an R-2 District shall have a minimum floor area, exclusive of attached garage, on the ground level enclosed by main walls of such house of 832 square feet for a house having more than one story.
- G. SIZE, LOCATION AND HEIGHT OF ACCESSORY BUILDINGS:**
1. No accessory building shall be set closer to the highway than is permitted for the main building, nor shall such accessory building be located closer than 10 feet to a side lot line, nor closer than 10 feet to a rear lot line.
 2. No accessory building shall be constructed to exceed a height of 30 feet.
 3. No accessory building shall have a floor area in excess of 1200 square feet at ground level.
 4. For barns, stable, poultry house, kennel or other animal shelter or farm structure, twenty-five (25) feet from side or rear lot line.

SECTION 8 R-3 DISTRICTS - ONE FAMILY RESIDENTIAL DISTRICTS

The following regulations shall apply in all R-3 Districts:

A. USES PERMITTED:

1. The same uses permitted in R-2 Districts.
2. Riding stables only upon obtaining a special use permit from the Zoning Board of Appeals and subject to such reasonable restrictions as may be prescribed by the Zoning Board of Appeals.
3. Two family houses, upon obtaining a special permit from the Zoning Board of Appeals.
4. Customary Agricultural Operations, provided, however, that no storage of manure or odor or dust producing substances shall be permitted within 100 feet of any property line.
5. Additional depth for any business may be acquired in R-3 Districts adjoining business districts by obtaining a special permit from the Zoning Board of Appeals in accordance with the provisions of Section 18(B)(2) hereof.
6. The following uses, only upon obtaining a permit from the Town Board and subject to such reasonable restrictions as may be prescribed by the Town Board:
 - a. Dump
 - b. Natural land production uses

- c. Summer recreation camps
- d. Golf courses operated for profit together with facilities customarily incidental thereto
- e. Aircraft landing fields operated for profit
- f. Riding academies where adjacent to R-3 and R-4 residential districts
- g. Mobile Courts where adjacent to B-1 and B-2 Districts
- h. Temporary commercial parking of more than 25 vehicles
- 7. The following use, only upon undergoing a site plan review and receiving a special permit from the Zoning Board of Appeals.
 - a. Migrant Labor Camps

B. REQUIRED LOT FRONTAGE AND AREA: Each lot in a Residential R-3 District shall have a frontage of not less than 150 feet and an area of not less than 40,000 square feet, except where said lot is on a public water supply, in which case the frontage shall not be less than 100 feet and the total area shall not be less than 20,000 square feet.

C. PERCENTAGE OF LOT COVERED: All buildings, including accessory buildings shall not cover more than 35% of the area of the lot.

D. YARDS REQUIRED: Each lot shall have front, side and rear yard not less than depth or width following:

- 1. Front yards shall have a depth of not less than 100 feet where the house is located on a state road and not less than 75 feet where located on a town or county road, provided, however, that if at the effective date of this Ordinance, 25% of the lots compromising the frontage along the street between two intersecting streets, on the same side of the street upon which a dwelling is to be located, are occupied by houses having a front yard depth of less than that herein prescribed, a house may be located on any remaining unoccupied lot so as to have a front yard depth equal to the average depth of all lots so occupied unless such house is located a distance of 500 feet or more from the next nearest house in which even the minimum front yard requirements shall apply regardless of the location of other houses on such street.
- 2. Each side yard shall have a minimum width of 15 feet.
- 3. Each rear yard shall have a minimum depth of 35 feet.

E. BUILDING HEIGHT LIMIT: No building shall be erected to a height in excess of 30 feet; provided, however, that parapet walls or cornices for ornamental purposes only, and without windows, may be permitted to extend a distance of 5 feet above the height limit permitted.

F. DWELLING AREA: Each dwelling house hereafter erected in an R-3 District shall have a minimum floor area, exclusive of attached garage, on

ground level enclosed by the main walls of such house and 624 square feet for a house having more than one story.

1. The main living area of a single family or duplex structure shall not be longer than twice its width until that structure width reaches 24 feet at which time the length should not exceed 2 ½ times its width.
2. Width to be the distance from side to side at a right angle of the longest side of the structure.

G. SIZE, LOCATION AND HEIGHT OF ACCESSORY BUILDINGS:

1. No accessory building shall be set closer to the highway than is permitted for the main building, nor shall such accessory building be located closer than 10 feet to a side lot line, nor closer than 10 feet to a rear lot line.
2. No accessory building shall be constructed to exceed a height of 15 feet.
3. No accessory building shall have a floor area in excess of 1200 square feet at ground level.

SECTION 9 R-4 DISTRICTS - ONE FAMILY RESIDENTIAL DISTRICTS (MOBILE HOMES)

The following regulations shall apply in all R-4 Districts:

A. USES PERMITTED:

1. The same uses permitted in an R-3 District.
2. Mobile Homes, subject to the following regulations:
 - a. Such mobile homes shall be so located as to conform to all front, side and rear yard requirements.
 - b. Such mobile homes shall be so located that a line passing through the center of the front and rear of such mobile home will be parallel with the road.

- B.** Except as provided in Subsection (A) of this Section all regulations pertaining to an R-3 District shall apply to an R-4 District.

AMENDMENTS

SECTION 9 TEMPORARY PERMITS

- A.** Mobile homes may be placed in R-3 and B-2 Districts by obtaining a special permit from the Zoning Board of Appeals. A special permit shall be obtained as outlined in Section 18B (2) of this Ordinance. A special permit may be granted by the Zoning Board of Appeals only upon finding that:

1. The use is temporary.
 2. No other housing facilities are available to the applicant.
 3. That the mobile home is occupied by a member of the family of the owner of the land who is either a mother, father, brother, sister, son, daughter, mother-in-law or father-in-law of the owner of the land.
 4. The permit is for a maximum of two years.
 5. The site must be approved by the building inspector and comply with the minimum set-back requirements for the district involved.
- Such approval shall be presented to the Board of Appeals prior to the hearing of the application.

- B. At least sixty days before the expiration of the two-year period, the holder of said permit shall notify the building inspector in writing of his intentions to renew said permit and the building inspector shall, upon reapplication and the payment of any fees specified in this Ordinance, renew said permit.

SECTION 9D NEW HOME CONSTRUCTION

- A. A one-year trailer permit may be granted in 1, B-1, B-2 and R-3 districts for the sole purpose of constructing a home subject to the following:
1. That the foundation or excavation has been started evidencing the good faith of the applicant; and the location of said site has been approved by the building superintendent and a building permit issued for said construction.
 2. The location of the mobile home is approved by the Building Inspector prior to the placement of the trailer.
- B. The Zoning Board of Appeals is empowered to grant a variance as to sidelines and set-backs for the mobile home if the regular set-backs and sidelines restriction would interfere with the proper construction of the home. Said mobile home must be removed from the premises as soon as the home can be occupied.
- C. The Building Inspector may grant a six-month extension of said permit after application by the owner can evidence good faith in attempting to complete the constructions.

SECTION 9E RE-BUILDING DUE TO DESTRUCTION

A one-year mobile home permit will be granted to the owner of a house in any district that is wholly or partially destroyed subject to the following provisions: That no other facilities for housing are available to the owner, and the location of the mobile home be approved by the Building Inspector prior to its placement.

SECTION 9F AGRICULTURAL PROPERTY

Where land is used for active farming, although zoned other than agriculturally, the owner may place temporary mobile home for the use of a person actively engaged in the work of the farm, provided other facilities are not available and subject to the following restrictions:

1. The location must be approved by the Building Inspector prior to the placement of the mobile home to assure compliance with the Town Code and the Building Code of the State of New York.
2. The size of the mobile home shall be in accordance with 2H.

SECTION 9G

No permits granted under Section 9C shall be transferable and all septic systems must be approved by the Building Inspector, as set forth in Section 16B. No more than one mobile home shall be allowed under a permit, except as set forth in Section II of this Ordinance.

SECTION 9H ADDITION OF FIVE OR MORE LARGE ANIMALS ANIMAL UNIT

If, after the adoption of this legislation, a property in a New York State Certified Agricultural District, which did not contain any animal husbandry practices and/or livestock operations immediately previously thereto and wished to add over five animal units to the property, said landowner shall be required to undergo a site plan review from the Westmoreland Planning Board. The Westmoreland Planning Board will then submit the site plan proposal to the Oneida County Soil and Water Conservation District for their review and recommendation. Said proposal, after site plan review, must be approved by the Town of Westmoreland Planning Board and filed with same. All costs associated with this site plan proposal and the mandatory review shall be the responsibility of the landowner.

SECTION 10 B-1 DISTRICTS - GENERAL BUSINESS DISTRICTS

The following regulations shall apply in all B-2 Districts:

A. USES PERMITTED:

1. All uses permitted in R-2 Residential Districts, subject to all provisions specified for such residential districts.
2. Stores, shops and showrooms for the conduct of any retail business.

3. Personal service shops, including but not limited to barber shops and beauty parlors.
4. Banks, offices, restaurants and similar community services.
5. Hotels and motels.
6. Theaters, assembly halls, bowling alleys and other public recreation uses.
7. Places for conducting the following and similar businesses that may be conducted without unreasonable noises, odors or disorder, provided that any manufacturing or processing of goods on the premises is clearly incidental to a retail business conducted on the premises; i.e., barber, caterer, cleaner, confectioner, decorator, dressmaker, dyer, florist, furrier, hand laundry, milliner, optician, photographer, printer, shoeshiner, shoemaker, or repairer, tailor, telegraph and telephone office, undertaker, upholsterer.
8. Such accessory uses as are customarily incidental to the foregoing uses.
9. Garages, used car lots and filling stations, subject to the following provisions:
 - a. No repair work is to be performed out-of-doors.
 - b. Pumps, lubricating or other devices are to be located at least 25 feet from edge of the paved portion of the road.
 - c. All fuel, oil or similar substances are to be stored at least 35 feet distant from any lot line.
 - d. All automobile parts, dismantled automobiles and similar articles are to be stored within the building.
 - e. Such use shall be permitted only upon obtaining a special use permit from the Zoning Board of Appeals.
10. Outdoor advertising signs erected on or a part of the permitted business uses, but not separate or apart from the immediate premises of the business advertised.
11. Other signs may be erected in a business district no larger than 32 square feet upon obtaining a building permit from the Code Enforcement officer or Deputy, provided however, that no such sign shall be within 1000 feet of any resident, shall not be located closer than 20 feet to the edge of the road, and shall not be located closer than 500 feet to any other advertising sign.
12. Other uses which may, in the opinion of the Zoning Board of Appeals, be of the same nature and general character as those listed as permitted uses, and which will not be detrimental to the district in which they are located.

B. REQUIRED LOT FRONTAGE AND AREA: Each lot in a General Business B-1 District shall have frontage of not less than 150 feet and an area of not less than 40,000 square feet, except where said lot is on a public water supply, in which case the frontage shall not be less than 100 feet and the total area shall not be less than 20,000 square feet.

SECTION 11 B-2 DISTRICTS - GENERAL BUSINESS DISTRICTS

The following regulations shall apply in all B-2 Districts:

A. USES PERMITTED:

1. All uses permitted in a B-1 District subject to all provision specified for such district.
2. Mobile Home Courts, subject to the following regulations,
 - a. Each mobile home shall be located on a lot having a frontage of not less than 150 feet and an area of not less than 40,000 square feet with the following exception, 50 feet frontage and a minimum area of 5,000 square feet if a central water and sewage system is provided.
 - b. Mobile homes fronting on state, county or town roads shall be set back 100 feet from the center of a state road and 75 feet from the center of a county or town road. Mobile homes fronting on streets within a mobile home court shall be set back 45 feet from center of such streets.
 - c. Mobile homes shall be so located that each lot in mobile home court will have side yards of at least 10 feet on each side.

- B.** Except as provided in subsection (A) of this Section all regulations pertaining to a B-1 District shall apply to a B-2 District.

SECTION 12 AGRICULTURAL DISTRICTS, A DISTRICTS

This Section has been omitted per Local Law No. 1 of the year 2010, Section 9

SECTION 13 GENERAL INDUSTRIAL DISTRICTS - I DISTRICTS

The following regulations shall apply in all I Districts:

A. USES PERMITTED:

1. All uses not otherwise prohibited by law, except as herein otherwise provided.

B. USES PROHIBITED:

1. Junk yards or automobile wrecking yards.
2. Yards for the storage, sorting or bailing of scrap iron, scrap paper or rags.

3. All uses of land, buildings and structures or industrial processes that may be noxious or injurious by reason of the production or emission of dust, smoke, refuse matter, odors, gas, fumes, noise, vibration or similar substances or conditions; provided, however, that any uses may be permitted if approved by the Zoning Board of Appeals and subject to the securing of a permit therefore, and to such conditions, restrictions and safeguards as may be deemed necessary by said Board for the purpose of protecting the health, safety, morals or the general welfare of the community.

C. BUILDING HEIGHT LIMIT: All buildings hereafter constructed in an I District shall be limited to a height of 45 feet.

D. YARDS REQUIRED:

1. Each lot shall have a front yard of not less than 200 feet depth where located on a state road or not less than 175 feet in depth where located on a county or town road.
2. There shall be a side yard along the side of each lot in an I District of not less than 10 feet; provided, however, that any lot bordering on a residence district shall have side yard of a width not less than 200 feet of unoccupied space on the side bordering such residential district.
3. There shall be a rear yard on every lot of an industrial district of not less than 25 feet.

SECTION 13-A PLANNED DEVELOPMENT DISTRICTS

See Local Law No. 1 of the Year 2005, §2, attached hereto at **Appendix B**.

SECTION 14 SUPPLEMENTARY REGULATIONS

- A. HEIGHT EXECPTIONS:** The height limits of this Ordinance shall not apply to church spires, belfries, cupolas, penthouses and domes not used for human occupancy or to chimneys, ventilators, skylights, water tanks or necessary mechanical appurtenances usually carried above the roof level, nor to flagpoles, monuments, transmission towers, and cables, radio or television antennas or towers and similar structures. Such features, however, shall be erected only to such height as is necessary to accomplish the purpose they are to serve, and provided further that such structure shall be permitted to be so located or built to such height as to extend above the normal flight path of aircraft landing at or leaving the Oneida County Airport.
- B. VISIBILITY AT INTERSECTIONS:** On corner lots, no fence, wall, hedge, or other structure or planting more than 3 feet in height shall be erected, placed or maintained so as to obstruct visibility or vehicular traffic within the triangular area formed by the intersecting street lines and a straight line

joining said street lines at points which are 20 feet distant from the point of intersection measured along said street lines.

C. LOTS WITH LESS THAN REQUIRED DIMENSIONS: Any lot with an area of a width less than that required in the district in which said lot is located may be used for any purpose permitted in the district, provided that all other regulations prescribed for the district shall be complied with, and further provided that said lot was held under separate ownership at the time of the adoption of this Ordinance, and the owner thereof owned no adjoining land that could be combined with said lot to meet the dimension requirement. In the event that compliance with the yard and coverage requirements of district would result in a structure of less than 575 square feet in area or a width less than 24 feet, the Zoning Board of Appeals shall determine and fix yard and coverage requirements for said lot to permit its reasonable utilization for a permitted use.

D. SIGNS PERMITTED: In addition to signs herein before permitted, the following signs may be erected:

1. Signs not exceeding 9 square feet in area, pertaining only to the prospective sale or lease of land or buildings upon which such signs are located.
2. Signs not exceeding 100 square feet in area, advertising the sale of property within a subdivision of land and located thereon, subsequent to the final approval of such sub-division plans by the Planning Board.

E. MOBILE HOMES: A mobile home or house trailer which would be included in the definition of mobile home but fore requirements as to size, presently located within the Town of Westmoreland pursuant to permit of the Zoning Board of Appeals under the Town of Westmoreland Zoning Ordinance of 1958 shall constitute a non-conforming use as defined by Section 15 of this Ordinance and shall be governed by the provisions of that section and by the terms of the permit granted by said Zoning Board of Appeals. Any mobile home or house trailer located in the Town of Westmoreland as a non-conforming use under the provisions of the Town of Westmoreland Ordinance of 1958 shall be permitted as a non-conforming use under the provisions of this ordinance. All other mobile homes or house trailers are forbidden except as provided in this ordinance; provided however that a small house trailer of the variety commonly known as a "Travel Trailer" used by its owner exclusively for recreational purposes may be parked for storage as provided in Subdivisions (1) of this Section.

1. All mobile homes, except those located in mobile home courts, whether a permitted use under this Ordinance or granted through a variance, shall be placed on a permanent perimeter foundation, including any front porch attached thereto. Said foundation shall consist of a reinforced concrete pad being a minimum thickness of 6 inches and extending a minimum of 2 inches beyond the structures perimeter on all four sides.

The reinforced concrete pad shall have a typical base of gravel, stone, sand or other suitable material with a thickness of 6 inches or more. Skirting material must be one of the following types: vinyl, aluminum, concrete, blocks (stucco) or exterior grade wood either stained or painted. The type of material to be used for skirting must be state at the time of permit application

F. APARTMENTS PERMITTED: The owner of any dwelling house in an R-2, R-3, R-4, B-1, or B-2 District existing at the effective date of the Ordinance, having one or more stories and a ground floor area in excess of 800 square feet, may make such alterations as may be necessary to convert such house into not more than two apartments on any one floor, provided that such conversion is accomplished without major alteration of exterior appearance of such house.

G. OFF-STREET PARKING: The following parking spaces shall be provided and satisfactorily maintained, by the owner of the property, for each building which, after the date when this Ordinance becomes effective, is erected, enlarged or altered for use for any of the following purposes:

1. Auditorium, stadium, theater or other places of public assemblage. At least one (1) parking space for each eight (8) seats provided for its patrons (based on maximum seating capacity)
2. Hotel, at least one (1) parking space for each three (3) guest sleeping rooms.
3. Restaurant or other eating place, at least one (1) parking space for each five (5) seats, except when it is in a building which provides parking space, in which case the –
4. Hospital, sanitarium or nursing home, at least one (1) parking space for each five (5) patients.
5. Stores, at least one (1) parking space for each sixty (60) feet of store floor area.
6. Office buildings, at least one (1) parking space for each 300 square feet of office floor space.
7. Industrial or manufacturing establishments, at least one (1) parking space for each 400 square feet of gross floor area or for each five (5) workers.

All parking spaces provided pursuant to this section shall be on the same lot with the building, except that the Board of Appeals may permit the parking spaces to be on any lot within 500 feet of the building, if it determines that it is impractical to provide parking on the same lot with the building.

H. LOCATION OF GAS PRESSURE REDUCTION VALVES: All valves and other devices installed by a public utility for the purpose of reducing the pressure of fuel gas shall be located, if installed on the exterior of any house or building, not farther than three (3) feet from the front foundation wall of

such house or building, except where unusual circumstances require, in the interest of safety, that such valves or device be located elsewhere in which event a permit may be obtained from the Zoning Board of Appeals without the requirement that a public hearing be held. A written application for such permit shall state the conditions existing which make such other location necessary in the interest of safety.

1. **Recreational Vehicles:** No travel trailer, boat, boat trailer or recreational vehicle shall be parked or stored for the off season storage in any residential district except on the side or rear yards. No such vehicles shall be used for any residential, commercial or industrial purpose on the premises. For any single property no more than one (1) type of each unit shall be placed on such property at any given time.

SECTION 15 NON-CONFORMING USES

The lawful use of any building or land existing at the time of the enactment of this Ordinance may be continued except as otherwise provided herein, as follows:

- A. **NON-CONFORMING USE OF LAND:** No non-conforming use of land shall be enlarged or increased, nor shall it be extended to occupy a greater area of land than that occupied by such use at the time of the adoption of this Ordinance. No such non-conforming use of land may be moved in whole or in part to any other portion of the lot or parcel of land occupied by such non-conforming use at the time of the adoption of this Ordinance. No non-conforming use of land shall be changed to another non-conforming use.

B. NON-CONFORMING USE OF BUILDINGS:

1. **CHANGES:** A non-conforming use of a building, other than a one-family residence, may not be changed except to a conforming use. When once changed, a non-conforming use may not thereafter be resumed.
2. **EXTENSION:** No non-conforming building, other than a one-family residence, may be enlarged or extended, unless such building or structure including such enlargement or extension is made to conform to all regulations for the district in which it is located. A non-conforming use may be extended throughout any part of the building manifestly designed for such use, if at the time of the adoption of this Ordinance a portion of the building was used for such non-conforming use.
3. **RESTORATION:** No non-conforming building, other than a one-family residence damaged by fire, structural failure, wind, exposure or other nature cause to the extent of 50 % or more or its real value at the time of such damage exclusive of foundations, shall be repaired or rebuilt except in conformity with the provisions of this Ordinance.

4. **ALTERATIONS:** No non-conforming building, other than a one-family residence, may be structurally altered unless such alterations are required by law; provided, however, that such maintenance and repair work as is required to keep a non-conforming building or structure in sound condition shall be permitted.
 5. For the purposes of this section, the word "building" is intended to be used in the singular regardless of whether or not the non-conforming use consists of more than one building.
- C. BUILDING UNDER CONSTRUCTION:** Any building for which a permit has been lawfully granted, the construction of which has been started and diligently prosecuted before the effective date of this Ordinance, may be completed.
- D. REMOVAL:** If any building in which any non-conforming use is conducted is hereafter removed, the subsequent use of land on which such building was located and the subsequent use of any building erected thereon shall be in conformity with the regulations of the district in which such building is located.
- E. DISCONTINUANCE:** Wherever a non-conforming use of land or building has been discontinued, such use shall not be thereafter re-established, and any future use shall be in conformity with the provisions of this Ordinance. The use shall be deemed to have been discontinued under any of the following circumstances:
1. Vacancy of a building occupied by a non-conforming use for a continuous period of nine (9) months.
 2. Vacancy of land occupied by a non-conforming use for a continuous period of ninety (90) days.
 3. The manifestation of a clear intent on the part of the owner to abandon the non-conforming use.
- Nothing in this paragraph shall be construed to be a discontinuance of a non-conforming use where the use shall be temporarily discontinued by reason of the service in the United States Armed Forces of the owner or lessee of such property.

SECTION 16 ADMINISTRATION AND ENFORCEMENT

- A. ENFORCEMENT:** This Ordinance shall be enforced by the Building Superintendent, who shall be appointed annually by the Town Board.

B. BUILDING PERMITS:

1. No building or structure shall be erected, added to or structurally altered, nor shall any septic tank be installed, until a permit therefore has been issued by the Building Superintendent. Except upon a written order of the Zoning Board of Appeals, no such building permit or certificate of occupancy shall be issued for any building where said construction, addition or alteration or use thereof would be in violation of any of the provisions of this Ordinance. A certificate of occupancy shall not be denied to the owner of a building the exterior of which is complete because incidental details of work remain to be completed on the interior, provided that necessary sewage and water facilities have been installed.
2. There shall be submitted with all applications for building permits two copies of the layout or plot plan, drawn to scale, showing the actual dimensions of the lot to be built upon, the exact size and location on the lot of the building and accessory buildings to be erected, with such other information as may be necessary to determine and provide for the enforcement of this Ordinance.
3. One copy of such layout or plot plan shall be returned when approved by the Building Superintendent, upon the payment of the required fees.
4. There shall be paid to the Building Superintendent a fee upon each application for a building permit as follows: *
 - Single Family Residence: \$150.00 first 1500 sq. ft., plus \$0.12/sq. ft. over 1500
 - Multi Family Residence: \$150.00 per unit up to 1500 sq. ft. plus \$0.12/sq. ft. over 1500 sq. ft.
 - Single/Doublewide: \$150.00
 - Additions (Residential): \$0.10/sq. ft.
 - Additions (Commercial): \$.015/sq. ft.
 - Accessory Buildings: \$0.06/sq. ft. (\$20.00 minimum)
 - Alterations (Residential): \$0.06/sq. ft.
 - Alterations (Commercial): \$0.12/sq. ft.
 - Commercial Buildings: \$0.15/sq. ft.
 - Site Plan Review (Residential): \$50.00
 - Site Plan Review (commercial): \$150.00
 - ZBA Conference (Residential): \$50.00
 - ZBA Conference (Commercial): \$150.00
 - Cell Tower – New Construction: \$500.00
 - Cell Tower – Retrofit: \$50.00
 - Fire Inspection – Solid Fuel Burning Device: \$50.00
 - Septic Permit: \$45.00
 - Dye Test: \$45.00
 - Sign Permit: \$15.00
 - Demolition Permit: \$20.00
 - Pool Permit: \$30.00

*fees subject to change by Town Board

C. CERTIFICATE OF OCCUPANCY:

1. No land shall hereafter be occupied or used, and no building hereafter erected, altered or extended shall be used or changed in use, until a certificate of occupancy shall have been issued by the Building Superintendent, stating that the building or proposed use thereof complies with the provisions of this Ordinance.
2. No non-conforming use shall be maintained, renewed, changed or extended without a certificate of occupancy having first been issued therefore by the Building Superintendent.
3. All certificate of occupancy shall be applied for coincident with the application for building permit. Such certificate shall be issued within ten (10) days after the erection or alteration shall have been approved as complying with the provisions of this Ordinance.
4. The Building Superintendent shall maintain a record of all certificates, and copies shall be furnished upon request to any person having proprietary or tenancy interest in the building affected.
5. No permit for excavation for or the erection or alteration of any building shall be issued until an application has been made for a certificate of occupancy.

D. DURATION AND RENEWAL OF PERMITS: All permits issued pursuant to the provisions of this section shall remain in force for a period of one year, subject to being renewed for a further period of one year, without fee, upon application to the Building Superintendent. Subsequent renewals may be granted upon payment of the same fee as is required upon an original application.

SECTION 17 INTERPRETATION-CONFLICT WITH OTHER LAWS

In their interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements adopted for the promotion of the public health, morals, safety and general welfare. Wherever the requirements of any other lawfully adopted regulations, rules, ordinances or statutes, the most restrictive, or that imposing the higher standard, shall govern.

SECTION 18 BOARD OF APPEALS

A. CREATION, APPOINTMENT AND ORGANIZATION: A Board of Appeals is hereby created. Said Board shall consist of five (5) members, whose chairman shall be designed by the Town Board. Of the members of the Board first appointed, one shall hold office for the term of one year; one for the term of two years; one for the term of three years; one for the term of four years; and one for the term of five years from and after his appointment. Their

successors shall be appointed for the term of five years from and after the expiration of the terms of their predecessors in office. If any vacancy shall occur otherwise than by expiration of term, it shall be filled by the Town Board by appointment for the unexpired term. The Board of Appeals shall appoint a Secretary and prescribe rules for the conduct of its affairs.

B. POWERS AND DUTIES: The Board of Appeals shall have all of the powers and duties prescribed by law and by the Ordinance, which powers and duties are more particularly specified as follows:

1. **INTERPRETATION:** Upon appeal from a decision by the Building Superintendent or other administrative official, to decide any question involving the interpretation of any provision of this Ordinance, including determination of the exact location of any district boundary, if there is uncertainty with respect thereto.
2. **SPECIAL PERMITS:** To issue special permits for any of the uses for which this Ordinance requires the obtaining of special permits from the Zoning Board of Appeals. Such permit shall be granted only after a public hearing, upon due notice as prescribed by Section 267 of the Town Law and upon mailing notice of such hearing to the owners of property immediately adjacent extending one hundred feet from the property in connection with which such permit is sought and of that directly opposite thereto, extending one hundred feet from the street frontage of such opposite land. In granting such permits, the Board may specify the appropriate conditions and safeguards as a condition thereof, and may grant such permit only upon its determination that:
 - a. The use proposed is reasonably consistent with the public health, morals and general welfare;
 - b. The proposed use will be so located and of such a size and character that it will be in harmony with the appropriate and orderly development of the district in which it is situated, and will not be detrimental to the orderly development of the adjacent districts;
 - c. Location and size of the proposed use, the nature and intensity of the operations involved in or conducted in connection with it, with its site, layout and its relation to streets giving access to it shall be such that traffic to and from the use and the assembly of persons in connection with it will not be hazardous or inconvenient to the neighborhood, or conflict with the normal traffic of the neighborhood. In applying this standard, the Board shall consider, among other things, convenient routes of pedestrian traffic, particularly of children; relation to main traffic thoroughfares and to street and toad intersections; and the general character and density of population of the neighborhood;

- d. The proposed use is appropriately located with respect to transportation facilities, water supply, fire and police protection, waste disposal and similar facilities;
 - e. Surrounding property values will be reasonably safeguarded; and
 - f. Use for which such permit is sought will not, in the circumstances of the particular case and under any conditions that the Board considers to be necessary or desirable, be injurious to the neighborhood or otherwise detrimental to the public welfare.
3. **VARIANCES:** To vary or adapt the strict application of any of the requirements of this Ordinance in the case of exceptionally irregular, narrow, shallow or steep lots or other exceptional physical conditions, wherever such strict application would result in practical difficulty or unnecessary hardship that would deprive the owner of the reasonable use of the land or building involved, but in no other case. No variance in the strict application of any provisions of this Ordinance shall be granted by the Board of Appeals except upon its determination that:
- a. There are special circumstances or conditions fully described in the findings of the Board applying to the land or building for which the variance is sought, which circumstances or conditions are peculiar to such land or buildings and do not apply generally to land or buildings in the neighborhood and that such circumstances or conditions are such that the strict application of the provisions of this Ordinance would deprive the applicant of the reasonable use of such land or buildings;
 - b. For reasons fully set forth in the Board's findings, the granting of a variance is necessary for the reasonable use of the land or buildings and that the variance as granted by the Board is the minimum variance that will accomplish this purpose;
 - c. The granting of the variance will be in harmony with the general purpose and intent of this Ordinance and will not be injurious to the neighborhood or otherwise detrimental to the public welfare. In granting any variance, the Zoning Board of Appeals shall prescribe any conditions that it deems to be necessary or desirable.

C. **PROCEDURE:** The Zoning Board of Appeals shall act in strict accordance with the procedure specified by law and by this Ordinance. All appeals and applications made to the Board shall be in writing, on forms prescribed by the Board. Every appeal or application shall refer to the specific provision of the Ordinance involved, and shall exactly set forth the interpretation that is claimed, the use for which the special permit is sought, or the details of the variance that is applied for and the grounds on which it is claimed that the variance should be granted, as the case may be. At least five (5) days before the date of the hearing required by law on an application or appeal to the Zoning Board of Appeals, the Secretary of said Board shall transmit to the Planning Board of the Town of Westmoreland a copy of the notice of the

aftermentioned hearing, and shall request that the Planning Board submit to the Zoning Board of Appeals, its advisory opinion on said application or appeal, and the Planning Board shall submit a report of such advisory opinion prior to the date of said hearing. Every decision of the Zoning Board of Appeals shall be by resolution, each of which shall contain a full record of the findings of the Board in the particular case. Each such resolution shall be filed in the office of the Building Superintendent by case number under one or another of the following headings: (1) Interpretations; (2) Special Permits; or (3) Variances, together with all documents pertaining thereto. The Zoning Board of Appeals shall notify the Town Board and the Planning Board of the Town of Westmoreland of each special permit and each variance granted under the provisions of this Ordinance.

- D. FEES:** Applications for a special permit or variance shall be accompanied by a fee of \$50.00, residential and \$150.00, commercial.

SECTION 19 AMENDMENTS

- A.** The Town Board may from time to time on its own motion or on Petition of one or more residents of the Town or on recommendation of the Planning Board, amend, supplement, or repeal the regulations and provisions of this Ordinance. Every such proposed amendment or change, whether initiated by the Town Board or by petition, shall be referred to the Planning Board for report thereon before the public hearing hereinafter provided for. The Town Board, by resolution adopted at a regular meeting, shall fix the time and place of a public hearing on the proposed amendment and cause notice to be given as follows:
1. At least ten (10) days notice of the time and place of hearing shall be published in a newspaper of general circulation in the Town of Westmoreland.
 2. A written notice of change or amendment affecting property within the protectively zoned area of a housing project authorized under the Public Housing Law, as such area is shown on an approved zoning map filed with the Building Inspector, shall be given to the Housing Authority erecting or owning the project and to the government providing financial aid for assistance thereto at least ten (10) days prior to the date of such hearing.
 3. A written notice of any proposed change or amendment affecting property within five hundred (500) feet of the boundaries of any State Park or parkway shall be given to the Regional State Park Commission having jurisdiction over such State Park or parkway at least ten (10) days prior to the date of such public hearing.
 4. A written notice of any proposed change or amendment affecting property within five hundred (500) feet of the boundaries of any city,

village, town or county shall be given to the Clerk of the Board of Supervisors at least ten (10) days prior to the date of hearing.

5. A written notice of any proposed change or amendment shall be given to every association of residents of the town which shall have registered its name and address for this purpose with the Town Clerk, at least ten (10) days prior to date of such public hearing.
- B. Whenever a protest against such change signed by the owners of 20% or more of the area of land included in such proposed change or that immediately adjacent, extending one hundred (100) feet there from, or of that directly opposite thereto, extending one hundred feet there from, or of that directly opposite thereto, extending one hundred (100) feet from the street frontage of such opposite land, is filed with the Town Clerk, such amendment shall not become effective except by the favorable vote of at least four (4) members of the Town Board.
- C. Subject to the provision of Section 281 of the Town Law, the Planning Board of the Town of Westmoreland is hereby empowered, simultaneously with the approval of any subdivision plat, either to confirm the zoning regulations of the land so platted, as shown on the official zoning map, or to make any reasonable change therein after a public hearing preceded by the same notice as in the case of the approval of the plat itself.
- D. Every petition for an amendment of this Ordinance shall be accompanied by a fee of \$35.00.

SECTION 20 VALIDITY

If any part or provision of this Ordinance, or the application thereof to any person or circumstance, adjudged invalid or unconstitutional by any court of competent jurisdiction, such judgment, shall be confined in its operation to the part, provision or application directly involved in the controversy in which such judgment shall have been rendered, and shall not affect or impair the validity of the remainder of this Ordinance or the application thereto to the other persons or circumstances and the Town Board of the Town of Westmoreland hereby declares that it would have enacted this Ordinance, or the remainder thereof, had the validity of such provision or application thereof been apparent.

SECTION 21 VIOLATIONS AND PENALTIES

- A. **COMPLAINTS OF VIOLATIONS:** Whenever a violation of this Ordinance occurs, any person may file a complaint in regard thereto. All such complaints must be in writing and shall be filed with the Building Superintendent of the Town of Westmoreland, who shall properly record such complaint and immediately investigate and report thereon to the Town Board.

- B.** In case any building or structure is erected, constructed, reconstructed, altered, converted or maintained or any building, structure or land is used in violation of this Ordinance, the Town Board of the Town of Westmoreland may institute any appropriate action or proceedings to prevent such unlawful erection, construction, alteration, conversion, maintenance or use to restrain, correct or abate such violation, to prevent the occupancy of said building, structure or land or to prevent any illegal act, conduct, business or use in or about such premises, and upon failure or refusal of the Town Board of the Town of Westmoreland to institute any such appropriate action or proceeding for a period of ten (10) days after written request by a resident taxpayer of the Town so to proceed, any three taxpayers of the Town residing in the district wherein such violation exists, who are jointly or severally aggrieved by such violation, may institute such appropriate action or proceeding in like manner as such Town Board of the Town of Westmoreland is authorized to do.
- C. PENALTIES:** A violation of this Ordinance is hereby declared to be an offense, punishable by a fine not exceeding Fifty Dollars (\$50.00), or imprisonment for a period not to exceed six (6) months, or both such fine and imprisonment. Each week's continued violation shall constitute a separate additional violation.

REGULATION OF AUTOMOBILE JUNK YARDS

- A. Intent of Ordinance.** A clean, wholesome, attractive environment is declared to be of importance to the health and safety of the inhabitants of the Town of Westmoreland and the safeguarding of their material rights against unwarrantable invasion and, in addition, such an environment is deemed essential to the maintenance and continued development of the economy of the Town and the general welfare of its citizens. It is further declared that the unrestrained accumulation of junk motor vehicles is a hazard to such health, safety and welfare of citizens of the town necessitating the regulation, restraint and elimination thereof. At the same time, it is recognized that the maintenance of junk yards as hereinafter defined, is a useful and necessary business and ought to be encouraged when not in conflict with the express purpose of this Ordinance.
- B. Definitions.** For the purposes of this Ordinance "junk yard" shall mean a lot, land or structure, or part thereof, used for the collecting, storage and sale of waste paper, rags, scrap metal or discarded materials; or for the collecting, dismantling, storage and salvaging of machinery or vehicles, and for the sale of the parts thereof. Automobile junk yards shall mean any place of storage or deposit, whether in connection with another business or not, where two or more unregistered, old, or secondhand motor vehicles, no longer intended or on condition for legal use on the public highways, are held, whether for

purpose of resale of used parts there from, for the purpose of reclaiming for use some or all of the materials therein, whether metal, glass, fabric or otherwise, for the purpose of disposing of the same or for any other purpose. Such term shall include any place of storage or deposit for any such purposes of used parts or waste materials from motor vehicles which, taken together, equal in bulk two or more such vehicles provided, however, the term junk yard shall not be construed to mean an establishment having facilities for processing iron, steel or nonferrous scrap whose principal produce is scrap iron steel or nonferrous scrap for sale for remitting purposes only. "Motor Vehicle" shall mean all vehicles propelled or drawn by power other than muscular power originally intended for use on public highways.

- C. Requirements for Operation or Maintenance.** No person shall operate, establish or maintain a junk yard until he: (1) has obtained a license to operate a junk yard business and (2) has obtained a certificate of approval for the location of such junk yard.
- D. Application for License and Certificate of Approval.** Application for license and the certificate of approved location shall be made in writing to the Town Board and the application shall be accompanied by a certificate from the Planning Board that the proposed location is not within an established district restricted against such uses or otherwise contrary to the prohibitions of such zoning ordinance. The application shall contain a description of the land to be included within the junk yard.
- E. Hearing.** A hearing on the application shall be held within the Town not less than two nor more than four weeks from the date of receipt of the application by the legislative body. Notice of the hearing shall be given to the applicant by mail, postage prepaid, to the address given in the application and shall be published once in the official newspaper of the Town, which publication shall be not less than seven days before the date of the hearing.
- F. License Requirements.** At the time and place set for hearing, the Town Board shall hear the applicant and all other person wishing to be heard on the application for a license to operate, establish or maintain the junk yard. In considering such application, it shall take into account the suitability of the applicant with reference to his ability to comply with the fencing requirements or other reasonable regulations concerning the proposed junkyard, to any record of convictions for any type of larceny or receiving stolen goods, and to any other matter within the purpose of this ordinance.
- G. Location Requirements.** At the time and place set for hearing, the Town Board shall hear the applicant and all other persons wishing to be heard on the application for certificate of approval for the location of the junk yard. In passing upon same, it shall take account, after proof of legal ownership or right to such use of the property for the license period by the applicant, the

nature and development of surrounding property, such as the proximity of churches, schools, hospitals, public buildings or other places of public gatherings, and whether or not the proposed location can be reasonably protected from affecting the public health and safety by reason of offensive or unhealthy odors or smoke, or of other causes.

- H. Aesthetic Considerations.** At the hearing regarding location of the junk yard, the Town Board may also take into account the clean, wholesome and attractive environment, which has been declared to be of vital importance to the continued welfare of its citizens, by considering whether or not the proposed location can be reasonably protected from having an unfavorable effect thereon. In this connection, the Town Board may consider collectively the type of road servicing the junk yard or from which the junk yard may be seen, the natural or artificial barriers protecting the junk yard from view, the proximity of the proposed junk yard to established residential and recreational areas or main access routes thereto, as well as the reasonable availability of other suitable sites for the junk yard.
- I. Grant or Denial of Application; Appeal.** After hearing the Town Board shall, within two weeks, make a finding as to whether or not the application should be granted, giving notice of their findings to the applicant by mail, postage prepaid, to the address given on the application. If approved, the license, including the certificate of approved location, shall be forthwith issued to remain in effect until the following April 1st. Approval shall be personal to the applicant and not assignable. Licenses shall be renewed thereafter upon payment of the annual license fee without hearing providing all provisions of this chapter are complied with during the license period, the junk yard does not become a public nuisance under the common law and the applicant is not convicted of any type of larceny or the receiving of stolen goods. The determination of the Town Board may be reviewed under Article 78 of the Civil Practice Law and Rules.
- J. License Fees.** The annual license fee shall be twenty-five dollars to be paid at the time the application is made and annually thereafter in the event of renewal. In the event the application is not granted, the fee shall be returned to the applicant. In addition to the license fee, the Town may assess the applicant with the costs of advertising such application and such other reasonable costs incident to the hearing as are clearly attributable thereto and may make the license conditional upon payment of same.
- K. Fencing.** Before use, a new junk yard shall be completely surrounded with a fence, at least eight feet in height, which substantially screens and with a suitable gate which shall be closed and locked except during the working hours of such junk yard or when the applicant or his agent shall be within. Such fence shall be erected not nearer than fifty feet from a public highway. All motor vehicles and parts thereof stored or deposited by the applicant shall

be kept within the enclosure of the junk yard except as removal shall be necessary for the transportation of same in the reasonable course of the business. All wrecking or other work on such motor vehicles and parts and all burning of same within the vicinity of the junk yard shall be accomplished within the enclosure. Where the topography, natural growth of timber or other considerations accomplish the purposes of this chapter in whole or in part, the fencing requirements hereunder may be reduced by the Town Board upon granting the license, provided however, that such natural barrier conforms with the purposes of this chapter.

- L. Establish Junk Yards.** For the purpose of this Ordinance, the location of junk yards already established shall be considered approved by the Town Board where located and the owner thereof deemed suitable for the issuance of a license. Within sixty days from the passage of this Ordinance however, the owner shall furnish the Board the information as to location which is required in an application, together with the license fee and the Town Board shall issue him a license valid until next April 1st, at which time such owner may apply for renewal as herein provided. Such owner shall comply with all other provisions of this Ordinance including the fencing requirements set forth herein.
- M.** Notwithstanding any of the foregoing provisions of this Ordinance, no junk yard, hereafter established, shall be licensed to operate as such yard or any part thereof, shall be within five hundred feet of a church, school, public building or place of public assembly. All applications for a permit may be obtained from the Town Clerk.

A violation of this Ordinance shall be punishable by a fine not exceeding one hundred dollars (\$100.00) per week for each week of violation.

Revised 8/9/2010

SUPPLEMENTS

SECTION 22 SUBSEQUENT AMENDMENTS

Subsequent amendments, clarification of existing sections, pertinent legal interpretations, opinions or comments, and any and all other supplemental information to be included in this Zoning Ordinance shall be duly noted hereafter and a copy of same attached hereto. Upon receiving the required approval, such supplements shall be read into and deemed a part the Zoning Ordinance of The Town of Westmoreland herein.

APPENDIX

A

DRAFT

CITY OF
ROME

TOWN OF
WHITESTOWN

TOWN OF
VERONA

TOWN OF
VERNON

TOWN OF
WESTMORELAND

TOWN OF
KIRKLAND

CLINTON

Legend

Zones

General Business

B-1 B-2

Residential

R-1 R-2

R-3 R-4

Industrial

IN-1

Municipal Boundaries

Roads

Parcels

Water Bodies

Creeks, Streams & Rivers



Scale: 1 inch = 1,500 feet

TOWN OF WESTMORELAND ZONING MAP

DRAFT

UPDATE: 3/4/2010

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APPENDIX

B

**A LOCAL LAW AMENDING THE ZONING LAW OF THE TOWN OF
WESTMORELAND, NEW YORK, TO PROVIDE FOR THE ESTABLISHMENT
OF PLANNED DEVELOPMENT DISTRICTS.**

Be it enacted by the Town Board of the Town of Westmoreland as follows:

Section 1.

The Zoning Law of the Town of Westmoreland is hereby amended by adding to Section 3. Establishment of Districts as follows:

- (I) PD-R Districts - Planned Development-Residential
- (J) PD-C Districts - Planned Development-Commercial
- (K) PD-E Districts - Planned Development-Extraordinary

Section 2.

The Zoning Law of the Town of Westmoreland is hereby amended by adding thereto a new SECTION 13A to read as follows:

SECTION 13A. Planned Development Districts.
PD-R, PD-C and PD-E Districts.

(A) PURPOSE

The purpose of the Planned Development District is to provide a means of developing those land areas within the Town considered appropriate for new residential or business use, or a satisfactory combination of these uses, in an economic and compatible manner, while encouraging the utilization of innovative planning and design concepts or techniques in these areas without departing from the spirit and intent of this Ordinance. In no case shall the regulations of this Article be so interpreted as to circumvent the protection and benefits of this Ordinance to the residents or occupants of such development or the residents or occupants of adjoining properties.

(B) CLASSIFICATIONS OF PLANNED DEVELOPMENT

A proposal for development of a planned development district shall be identified by the general character or dominant use of the development, although the uses need not necessarily be exclusive of all other types of use. Such proposal shall be classified by the designations set out below:

1. PD-R (Planned Development – Residential)

A development a minimum of seven and one-half (7 ½) acres in size in which more than eighty (80) percent of the interior floor area of all buildings to be

included in the development are used for residential purposes or those purposes customarily relating to residential use.

Permitted uses include:

- (a) One-family, two-family, and multiple –family dwellings or a combination thereof.
- (b) Cluster Development.
- (c) Neighborhood park, playground, recreation area, swimming pool, or golf course.
- (d) Such accessory uses as are customarily incidental to the foregoing uses.

2. PD-C (Planned Development – Commercial)

A development a minimum of seven and one-half (7 ½) acres in size in which all of the interior floor area of all buildings to be included in the development is to be used for commercial purposes as defined by this Ordinance

Permitted Uses include:

- (a) Retail store
- (b) Shopping center
- (c) Professional or business office
- (d) Sales office or agency
- (e) Development, research or data processing center
- (f) Motel, restaurant
- (g) Bank, savings and loan institution
- (h) Light manufacturing or assembly processes
- (i) Such accessory uses as are customarily incidental to the foregoing uses.

3. PD-E (Planned Development – Extraordinary)

A development not otherwise distinguishable under either previous classification, occupying a district of a minimum of seven and one-half (7 ½) acres in area and containing less than the stated minimum proportions of any single or dominant use or function, and in which the proposed uses of interior and exterior spaces, although diverse or mixed, bear extraordinary design qualities resulting in a completely logical and complimentary conjunction of uses and functions not ordinarily encountered in normal development.

Permitted Uses include:

- (a) Any permitted use in a PD-R or PD-C district, as well as a combination of such uses. Additionally, any use determined by the Planning Board and Town Board to be in harmony with the goals of the Town of Westmoreland Comprehensive Master Plan may be permitted in a PD-E district.

(C) PROCEDURES

1. Procedures for PD District zone change designation.

- (a) Preapplication conference.** Before submission of a petition for a zone change to a PD District, the applicant is encouraged to meet with the Town Board to determine the feasibility and suitability of the application. A meeting shall also be conducted with the Town Planning Board to monitor application procedure and requirements.
- (b) Application procedure.**
 - (1) Application for the establishment of a PD District shall be made to the Town Board. Each application shall be accompanied by but not necessarily limited to the following:**
 - (i) A petition for the zoning change.**
 - (ii) The applicant must provide proof of full legal and beneficial ownership of the property or proof of an option or contractual right to purchase the property.**
 - (iii) A payment in accordance with the adopted fee schedule.**
 - (iv) A completed environmental assessment form (EAF) [or draft environmental impact statement (DEIS)] complying with the provisions of the state environmental quality review process (SEQR).**
 - (v) A conceptual land use, circulation and utility plan of the property in question. Such a plan shall include:**
 - [a] All existing and proposed structures, lots, roads, parking areas and other improvements and shall indicate facilities for public transit and pedestrian circulation, the general site location of all proposed land use areas, building densities within areas, the approximate acreage in each type of use, the proposed numbers of dwelling units and proposed square footage of nonresidential buildings and the amount, proposed use and location of all open space and recreation areas.**
 - [b] Primary vehicular and pedestrian routes and linkages must be shown.**
 - [c] An indication of the conceptual source and arrangement of all utilities and proposed expansions and/or any alternative concepts for dealing with water supply, sewage disposal, storm water drainage, gas and electric service.**
 - [d] An indication of the use and location of existing structures on adjoining parcels.**
 - (vi) A Preliminary engineering report which shall include but not necessarily be limited to:**

- [a] A written description of the proposal, including the major planning assumptions and objectives, schedule and project phases, the probable effect on adjoining properties and the extent to which the plan achieves the objective of the overall town development plan.
 - [b] A written description of the probable impacts on the resources and the utility systems of the town.
 - [c] A written description of the probable fiscal impacts, including a summary of new costs and revenues to the town due to the development.
- (2) It is expected that the Town Board will serve as lead agency under most circumstances; however, the Town Board may refer the role of SEQR lead agency to the Planning Board. The Town Board shall refer the zone change application and all application materials to the Town Planning Board upon receipt of the application. The lead agency will distribute the application materials to all other involved agencies.
- (c) Planning Board review.
 - (1) Within 62 days of the date that the application is determined to be complete, the Planning Board shall recommend approval, approval with modifications or disapproval of the application to the Town Board. Failure of the Planning Board to act within 62 days or such longer period as may be consented to shall be deemed to be a recommendation for approval of the plan as submitted.
 - (2) Review criteria.
 - (i) In considering the application for the zone change to a PD District, the Planning Board may request such changes in the conceptual plans and specify such additional requirements as are deemed reasonably necessary to protect the established or permitted uses in the vicinity and to promote and protect the orderly growth and sound development of the community. In reaching its recommendation on the proposed development and changes, if any, in the conceptual plans, the Planning Board shall consider, among other things, the following:
 - [a] The public benefit of the proposed PD District.
 - [b] The existing character of the neighborhood.
 - [c] The location of principal buildings on the site in relation to one another and in relation to buildings and uses on properties adjoining the proposed district.
 - [d] The general circulation and open space pattern relative to the structures.

- [e] The traffic circulation features within the site and the amount, location and access to automobile parking areas.
 - [f] The environmental factors on the environmental assessment form (EAF).
 - (ii) In the event that approval subject to modifications is granted, the applicant may, within 10 days after receiving a copy of the Planning Board's decision, notify the Town Board, in writing, of acceptance or refusal of all such modifications. If modifications are refused, the Planning Board shall be deemed to have recommended disapproval of the application. In the event that the applicant does not notify the Town Board within said period of acceptance or refusal of all said modifications, the recommendation of approval of the application, subject to such modifications, shall stand.
- (3) Establishment of a PD District is a rezoning action and is subject to the state environmental quality review process (SEQR). It is expected that the Town Board will initially serve as lead agency. Under SEQR provisions, it is expected the Town Board will refer lead agency status to the Planning Board. The lead agency may hold a public hearing pursuant to SEQR status. ~~If it is determined that an environmental impact statement will be prepared for the proposal in question,~~ all time periods and deadlines are delayed until a draft environmental impact statement has been filed. An application is not complete, and therefore, the review process does not start, until a determination of no significance has been made or until a draft environmental impact statement (EIS) or generic EIS has been completed and the SEQR process concluded.
- (4) The recommendations of the Planning Board shall be in the form of a written resolution which shall include findings of fact and shall set forth the reasons for granting or denying tentative approval, specifying with particularity in what respects the proposal contained in the application would or would not be in the public interest and factors considered under the review. The resolution shall be filed with the Town Clerk and shall be available during regular office hours for inspection by any interested person.
- (d) Town Board SEQR review (if not referred to the Planning Board). The Town Board will perform the SEQR investigations and reviews described in the preceding subsection. SEQR requirements for the PD plans will have been met during the zoning change/conceptual plan approval phase of the process, provided that the thresholds established under the DEIS/GEIS have not been exceeded.

2. Period of eligibility.

In the event that construction has not commenced within 180 days from the date that the Zoning Map amendment establishing the PD District became effective, the Planning Board may so notify the Town Board and the Town Board may, on its own motion, institute a Zoning Map amendment to return the PD District to its former classification, unless the applicant shall obtain written extension of time from the Planning Board.

(D) SITE PLAN REVIEW PROCESS

1. Procedure for preliminary site plan review and action.

- (a) Prior to the issuance of a building permit for any site plan, review uses, the Code Enforcement Officer shall refer the application and all application materials as specified herein to the Planning Board for its review and approval in accordance with the provisions set forth in this section with set schedule fee.
- (b) Within 62 days of the receipt of a preliminary site plan the Planning Board shall inform the applicant of its recommendation and/or decision.
- (c) **Concept review.** A meeting between the Planning Board and applicant to review the basic site design concept and generally determine the information to be required on the preliminary site plan which is unique to itself. The applicant shall provide the data discussed below, in addition to a statement or rough sketch describing what is proposed.
 - (1) An area map showing the parcel under consideration for site plan review and all properties, subdivisions, streets and easements within 200 feet of the boundaries thereof.
 - (2) A map of site topography at no more than five feet contour intervals. If general site grades exceed 5% of portions of the site have susceptibility to erosion, flooding or ponding, a soils overlay and a topographic map showing contour intervals of not more than two feet of elevation should also be provided.
- (d) **Application for preliminary site plan approval.**
 - (1) Anticipated costs which the Planning Board expects to incur due to consulting services or other review costs shall be paid by the applicant and placed in an escrow account. Any unspent funds shall be returned to the applicant within five days of Planning Board action on the final site plan.
 - (2) An application for preliminary site plan approval shall be made, in writing, to the Code Enforcement Officer and shall be accompanied by information drawn from the following checklist, as determined necessary by the Planning Board at the concept review meeting.

- (3) — Preliminary site plan checklist. The following information, unless it is not applicable, shall be furnished by the applicant in the preliminary site plan:
- (i) The title of drawing, including the name and address of the applicant and person responsible for preparation of such drawing;
 - (ii) North arrow, scale and date;
 - (iii) The boundaries of the property plotted to scale;
 - (iv) Existing watercourses;
 - (v) A grading and drainage plan, showing existing and proposed contours;
 - (vi) The location, proposed use and height of all buildings;
 - (vii) The location design and construction materials of all parking and truck loading areas, showing access and egress, including a comparison of required and provided parking spaces and loading areas;
 - (viii) Provision for pedestrian access, including provisions for meeting provisions of the Americans with Disabilities Act (ADA).
 - (ix) The location of outdoor storage, if any, including provisions for meeting provisions of the Americans with Disabilities Act (ADA).
 - (x) ~~The location, design and construction materials of all existing or proposed site improvements, including drains, culverts, retaining walls and fences;~~
 - (xi) A description of the method of sewage disposal and location, design and construction materials of such facilities;
 - (xii) A description of the method of securing public water and location, design and construction materials of such facilities;
 - (xiii) The location of fire and other emergency zones, including the location of fire hydrants;
 - (xiv) The location, design and construction materials of all energy distribution facilities, including electrical, gas and solar energy;
 - (xv) The location, size and design and construction materials of all proposed signs;
 - (xvi) The location and proposed development of all buffer areas, including existing vegetative coverage;
 - (xvii) The location and design of outdoor lighting facilities;
 - (xviii) Designation of the amount of building area proposed for retail sales or similar commercial activity;
 - (xix) A general landscaping plan and planting schedule;
 - (xx) Other elements integral to the proposed development as considered necessary by the Planning Board,

- including identification of any state or county permits required for the project's execution; and
- (xxi) Completed environmental assessment form (EAF) in compliance with the State Environmental Quality Review Act (SEQR).
 - (xxii) A soil erosion and sediment control plan.
- (e) Review criteria.
- (1) The following criteria for the Planning Board review may include, but shall not be limited to the following;
 - (i) Adequacy and arrangement of vehicular traffic access and circulation, including intersections, road widths, pavement surfaces, dividers and traffic controls.
 - (ii) Adequacy and arrangement of pedestrian traffic access and circulation, walkway structures, control of intersections with vehicular traffic and overall pedestrian convenience.
 - (iii) Location, arrangement, appearance and sufficiency of off-street parking and loading.
 - (iv) Location, arrangement, size, design and general site compatibility of buildings, lighting and signs.
 - (v) Adequacy of storm water and drainage facilities.
 - (vi) Adequacy of water supply and sewage disposal facilities.
 - (vii) ~~Adequacy, type and arrangement of trees, shrubs and other landscaping constituting a visual and/or noise buffer between the applicant's and adjoining lands, including the maximum retention of existing vegetation.~~
 - (viii) In case of an apartment complex or other multiple dwelling, the adequacy of useable open space for play areas and informal recreation.
 - (ix) Protection of adjacent or neighboring properties against noise, glare, unsightliness or other objectionable features.
 - (x) Adequacy of fire lanes and other emergency zones and the provision of fire hydrants.
 - (xi) Special attention to the adequacy of structures, roadways and landscaping in areas with susceptibility to ponding, flooding and/or erosion.
 - (2) Consultant review. The Planning Board may consult with the Code Enforcement Officer, Fire Commissioners, Superintendent of Highways, other local and county officials and its designated private consultants, in addition to representatives of federal and state agencies, including but not limited to the Soil Conservation Service, the State Department of Transportation and the State Department of Environmental Conservation.

- (3) Public hearing. The Planning Board will conduct a public hearing on the preliminary site plan. Such public hearing shall be conducted within 62 days of the receipt of the application for preliminary site plan approval and shall be advertised in a newspaper of general circulation in the town at least ten days before the public hearing.
- (f) Planning Board action on preliminary site plan.
- (1) The proposed development in question may be subject to the provisions of the State Environmental Quality Act Review (SEQR). First, the Planning Board should identify the type of action the proposed development is according to the SEQR. Depending on the size, location and other factors it may be a Type 1 or an unlisted action. The planning Board shall review the environmental assessment form (EAF) submitted as part of the application. The action type and related procedure will dictate the next steps, if any, to be taken to comply with the SEQR regulations.
- (2) If it is determined that an environmental impact statement will be prepared for the proposal in question, all time periods and deadlines are stayed until a draft environmental impact statement is filed. ~~An application is not complete and therefore the review period does not start until a determination of no significance has been made or until a draft environmental~~ impact statement has been completed. When a draft environmental impact statement is completed, the time period for Planning Board review begins (62 days). If another agency has determined that the proposal in question may have a significant effect on the environment, the Planning Board shall not issue a decision until a final environmental impact statement has been filed.
- (3) When compliance with SEQR is complete, the Planning Board shall act on the application within 62 days. If no decision is made within said 62 day period, the preliminary site plan shall be considered approved. The Planning Board's action shall be in the form of a written statement to the applicant stating whether or not the preliminary site plan is approved, disapproved or approved with modifications.
- (4) The Planning Board's statement may include recommendations of desirable modifications to be incorporated in the final site plan, and conformance with said modifications shall be considered a condition of approval. If the preliminary site plan is disapproved, the Planning Board's statement will contain the reasons for such findings. In such a case, the Planning Board may recommend further study of the site plan and resubmission to the planning board after it has been revised or redesigned.

2. **Procedure for final site plan review and action.**

(a) **Submission.**

- (1) After receiving approval, with or without modifications, from the Planning Board on a preliminary site plan, the applicant shall submit a final, detailed site plan to the Planning Board for approval. If more than six months has elapsed since the time of the Planning Board's action on the preliminary site plan and if the Planning Board finds that conditions may have changed significantly in the interim, the Planning Board may require a resubmission of the preliminary site plan for further review and possible revision prior to accepting the proposed final site plan for review.
- (2) The final site plan shall conform substantially to the approved preliminary site plan. It shall incorporate any modifications that may have been recommended by the Planning Board in its preliminary review. All such compliances shall be clearly indicated by the applicant on the appropriate submission.
- (3) The following additional information shall accompany an application for final site plan approval:
 - (i) Record of application for and status of all necessary permits from state and county officials;
 - (ii) Detailed sizing and final material specification of all required improvements; and
 - (iii) An estimated project construction schedule.

(b) **Required referral.** Prior to taking action on the final site plan, the Planning Board shall refer the plan to the County Planning Department for advisory review and a report in accordance with §§239-1 and 239-m of the General Municipal Law, where the proposed action is within a distance of 500 feet from the boundary of any city, village or town or from the boundary of any existing or proposed county or state park or other recreation area or from the right-of-way of any existing or proposed county or state parkway, thruway, expressway, road or highway or from the existing or proposed right-of-way of any stream or drainage channel owned by the county or for which the county has established channel lines or from the existing or proposed boundary of any county or state owned land on which a public building or institution is situated.

(c) **Planning Board action on final detailed site plan.** Within 62 days of receipt of the application for final site approval, the Planning Board shall render a decision to the Code Enforcement Officer. If no decision is made within the 62 day period, the final site plan shall be considered approved.

- (1) Upon approval of the final site plan and payment by the applicant of all fees and reimbursable costs due to the town, the Planning Board shall endorse its approval on a copy of the

final site plan and shall forward such copy to the Code Enforcement Officer.

- (2) Upon disapproval of the final site plan. The Planning Board shall so inform the Code Enforcement Officer and the Code Enforcement Officer shall deny a building permit to the applicant. The Planning Board shall also notify the applicant in writing, of its decision and its reasons for disapproval

3. Construction phase.

- (a) Concurrent with the filing of an application for a building permit with the Code Enforcement Officer, the applicant shall place on file with the Code Enforcement Officer a performance bond to the town in the amount of 75% of the estimated cost of construction of the site work.
- (b) During Construction, the work shall be periodically reviewed by the Code Enforcement Officer and/or Town Engineer for conformance with the approved site plan.
- (c) The applicant will be notified if the work does not conform with the approved site plan. If the applicant fails to remedy deficiencies within 30 days, the town may proceed to have corrective action taken. Any and all costs of such corrective action will be the responsibility of the applicant.
- (d) ~~At the conclusion of the project, the bonds will be returned to the applicant.~~

(E) EFFECTIVE DATE.

This local law shall take effect immediately upon filing in the office of the Secretary of State in accordance with section twenty-seven of the Municipal Home Rule Law.