

Town of Westmoreland
Local Law No. 2 of 2013

**A LOCAL LAW TO PROVIDE FOR THE CODIFICATION OF THE LOCAL LAWS,
ORDINANCES AND CERTAIN RESOLUTIONS OF THE TOWN OF WESTMORELAND INTO
A MUNICIPAL CODE TO BE DESIGNATED THE "CODE OF THE TOWN OF
WESTMORELAND"**

ARTICLE I
Adoption of Code

§ 1-1. Legislative intent.

In accordance with Subdivision 3 of § 20 of the Municipal Home Rule Law, the local laws, ordinances and certain resolutions of the Town of Westmoreland, as codified by General Code, and consisting of Chapters 1 through 180, together with an Appendix, shall be known collectively as the "Code of the Town of Westmoreland," hereafter termed the "Code." Wherever reference is made in any of the local laws, ordinances and resolutions contained in the "Code of the Town of Westmoreland" to any other local law, ordinance or resolution appearing in said Code, such reference shall be changed to the appropriate chapter title, chapter number, article number or section number appearing in the Code as if such local law, ordinance or resolution had been formally amended to so read.

§ 1-2. Continuation of existing provisions.

The provisions of the Code, insofar as they are substantively the same as those of local laws, ordinances and resolutions in force immediately prior to the enactment of the Code by this local law, are intended as a continuation of such local laws, ordinances and resolutions and not as new enactments, and the effectiveness of such provisions shall date from the date of adoption of the prior local law, ordinance or resolution. All such provisions are hereby continued in full force and effect and are hereby reaffirmed as to their adoption by the Town Board of the Town of Westmoreland, and it is the intention of said Board that each such provision contained within the Code is hereby reaffirmed as it appears in said Code. Only such provisions of former local laws and ordinances as are omitted from this Code shall be deemed repealed or abrogated by the provisions of § 1-3 below.

§ 1-3. Inconsistent enactments repealed.

Except as provided in § 1-4, Enactments saved from repeal; matters not affected, below, all local laws and ordinances or parts of local laws and ordinances inconsistent with the provisions contained in the Code adopted by this local law are hereby repealed; provided, however, that such repeal shall only be to the extent of such inconsistency, and any valid legislation of the Town of Westmoreland which is not in conflict with the provisions of the Code shall be deemed to remain in full force and effect.

§ 1-4. Enactments saved from repeal; matters not affected.

The repeal of local laws and ordinances provided for in § 1-3 of this local law shall not affect the following classes of local laws, ordinances, rights and obligations, which are hereby expressly saved from repeal:

- A. Any right or liability established, accrued or incurred under any legislative provision of the Town of Westmoreland prior to the effective date of this local law or any action or proceeding brought for the enforcement of such right or liability.
- B. Any offense or act committed or done before the effective date of this local law in violation of any legislative provision of the Town of Westmoreland or any penalty, punishment or forfeiture which may result therefrom.
- C. Any prosecution, indictment, action, suit or other proceeding pending or any judgment rendered prior to the effective date of this local law brought pursuant to any legislative provision of the Town of Westmoreland.
- D. Any agreement entered into or any franchise, license, right, easement or privilege heretofore granted or conferred by the Town of Westmoreland.
- E. Any local law or ordinance of the Town of Westmoreland providing for the laying out, opening, altering, widening, relocating, straightening, establishing grade, changing name, improvement, acceptance or vacation of any right-of-way, easement, street, road, highway, park or other public place within the Town of Westmoreland or any portion thereof.
- F. Any local law or ordinance of the Town of Westmoreland appropriating money or transferring funds, promising or guaranteeing the payment of money or authorizing the issuance and delivery of any bond of the Town of Westmoreland or other instruments or evidence of the Town's indebtedness.
- G. Local laws or ordinances authorizing the purchase, sale, lease or transfer of property or any lawful contract, agreement or obligation.
- H. The levy or imposition of special assessments or charges.
- I. The annexation or dedication of property.
- J. Any local law or ordinance relating to salaries and compensation.
- K. Any local law or ordinance amending the Zoning Map.
- L. Any local law or ordinance relating to or establishing a pension plan or pension fund for Town employees.
- M. Any local law or ordinance or portion of a local law or ordinance establishing a specific fee amount for any license, permit or service obtained from the Town.
- N. Any local law adopted subsequent to 2-13-2012.

§ 1-5. Severability.

If any clause, sentence, paragraph, section, article, chapter or part of this local law or of any local law, ordinance or resolution included in this Code now or through supplementation shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the

remainder thereof but shall be confined in its operation to the clause, sentence, paragraph, section, article, chapter or part thereof directly involved in the controversy in which such judgment shall have been rendered.

§ 1-6. Copy of Code on file.

A copy of the Code, in loose-leaf form, has been filed in the office of the Town Clerk of the Town of Westmoreland and shall remain there for use and examination by the public until final action is taken on this local law; and, if this local law shall be adopted, such copy shall be certified by the Town Clerk of the Town of Westmoreland by impressing thereon the Seal of the Town, and such certified copy shall remain on file in the office of said Town Clerk to be made available to persons desiring to examine the same during all times while said Code is in effect. The enactment and publication of this local law, coupled with the availability of a copy of the Code for inspection by the public, shall be deemed, held and considered to be due and legal publication of all provisions of the Code for all purposes.

§ 1-7. Amendments to Code.

Any and all additions, deletions, amendments or supplements to any of the local laws, ordinances and resolutions known collectively as the "Code of the Town of Westmoreland" or any new local laws, ordinances or resolutions, when enacted or adopted in such form as to indicate the intention of the Town Board to be a part thereof, shall be deemed to be incorporated into such Code so that reference to the Code shall be understood and intended to include such additions, deletions, amendments or supplements. Whenever such additions, deletions, amendments or supplements to the Code shall be enacted or adopted, they shall thereafter be printed and, as provided hereunder, inserted in the loose-leaf book containing said Code as amendments and supplements thereto. Nothing contained in this local law shall affect the status of any local law, ordinance or resolution contained herein, and such local laws, ordinances or resolutions may be amended, deleted or changed from time to time as the Town Board deems desirable.

§ 1-8. Code book to be kept up-to-date.

It shall be the duty of the Town Clerk to keep up-to-date the certified copy of the book containing the Code of the Town of Westmoreland required to be filed in the office of the Town Clerk for use by the public. All changes in said Code and all local laws, ordinances and resolutions adopted by the Town Board subsequent to the enactment of this local law in such form as to indicate the intention of said Board to be a part of said Code shall, when finally enacted or adopted, be included therein by temporary attachment of copies of such changes, local laws, ordinances or resolutions until such changes, local laws, ordinances or resolutions are printed as supplements to said Code book, at which time such supplements shall be inserted therein.

§ 1-9. Sale of Code book; supplementation.

Copies of the Code, or any chapter or portion of it, may be purchased from the Town Clerk, or an authorized agent of the Clerk, upon the payment of a fee to be set by resolution of the Town Board. The Clerk may also arrange for procedures for the periodic supplementation of the Code.

§ 1-10. Penalties for tampering with Code.

Any person who alters or tampers with the Code of the Town of Westmoreland in any manner whatsoever which will cause the legislation of the Town of Westmoreland to be misrepresented thereby, or who violates any other provision of this local law, shall be guilty of an offense and shall, upon conviction thereof, be subject to a fine of not more than \$250 or imprisonment for a term of not more than 15 days, or both.

§ 1-11. Changes in previously adopted legislation; new provisions.

- A. In compiling and preparing the local laws, ordinances and resolutions for publication as the Code of the Town of Westmoreland, no changes in the meaning or intent of such local laws, ordinances and resolutions have been made, except as provided for in Subsection B hereof. In addition, certain grammatical changes and other minor nonsubstantive changes were made in one or more of said pieces of legislation. It is the intention of the Town Board that all such changes be adopted as part of the Code as if the local laws, ordinances and resolutions had been previously formally amended to read as such.
- B. In addition, the amendments and/or additions as set forth in Schedule A attached hereto and made a part hereof are made herewith, to become effective upon the effective date of this local law. (Chapter and section number references are to the local laws, ordinances and resolutions as they have been renumbered and appear in the Code.)
- C. Nomenclature. Throughout the Code the following terms are updated as indicated:
 - (1) "Soil Conservation Service (SCS)" is changed to "Natural Resources Conservation Service (NRCS)."
 - (2) "State Board of Equalization and Assessment" is changed to "Commissioner of Taxation and Finance."

§ 1-12. Incorporation of provisions into Code.

The provisions of this local law are hereby made Article I of Chapter 1 of the Code of the Town of Westmoreland, such local law to be entitled "General Provisions, Article I, Adoption of Code," and the sections of this local law shall be numbered §§ 1-1 to 1-13, inclusive.

§ 1-13. When effective.

This local law shall take effect immediately upon filing with the Secretary of State of the State of New York.

Town of Westmoreland Code Adoption Local Law

Schedule A Specific Revisions at Time of Adoption of Code

[Underlined material is added. Strikethrough indicates material deleted.]

Chapter 21, Ethics, Code of.

A. Section 21-3:

(1) The definition of “interest” is added to read as follows:

INTEREST — A direct or indirect pecuniary or material benefit accruing to a municipal officer or employee as the result of a contract with the municipality which such officer or employee serves. For the purposes of this chapter, a municipal officer or employee shall be deemed to have an interest in the contract of:

A. His spouse, minor children and dependents, except a contract of employment with the municipality which such officer or employee serves;

B. A firm, partnership or association of which such officer or employee is a member or employee;

C. A corporation of which such officer or employee is an officer, director or employee; and

D. A corporation any stock of which is owned or controlled directly or indirectly by such officer or employee.

(2) The definition of “Town employee” is amended to read as follows:

TOWN OFFICER OR EMPLOYEE — An officer or employee of the Town of Westmoreland, whether paid or unpaid, including members of any administrative board, commission or other agency thereof. No person shall be deemed to be a Town officer or employee solely by reason of being a volunteer fireman or civil defense volunteer, except a Fire Chief or Assistant Fire Chief.

B. Section 21-5K is added to read as follows:

K. No Town officer or employee shall, directly or indirectly, solicit any gift, or accept or receive any gift having a value of \$75 or more, whether in the form of money, service, loan, travel, entertainment, hospitality, thing or promise, or in

any other form, under circumstances in which it could reasonably be inferred that the gift was intended to influence him, or could reasonably be expected to influence him, in the performance of his official duties or was intended as a reward for any official action on his part.

Chapter 34, Legislation, Adoption of.

Section 34-3 is amended to add the following sentence at the end of the paragraph:

“...Such ordinance or amendment shall take effect 10 days after publication of same; but such ordinance or amendment shall take effect from the date of its service as against a person served personally with a copy thereof, certified by the Town Clerk under corporate seal of the Town; and showing the date of its passage and entry in the minutes.”

Chapter 75, Adult Uses.

A. In § 75-2 the definitions of “adult bookstore,” “adult video store” and “adult theater” are amended to include the following wording:

“...distinguished or characterized by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas....”

B. The penalty in § 75-5 is standardized to \$250/15 days.

Chapter 79, Alcoholic Beverages.

Article I, Open Containers.

A. Section 79-2 is added to read as follows:

§ 79-2. Definitions.

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

INTENT TO CONSUME — Includes any of the following: drinking from the container; possession with movement of the container to the mouth; and any circumstances evidencing an intent to ultimately consume in any public place.

OPEN CONTAINER — Any bottle, can, glass or other receptacle suitable for or used to hold any liquid, which has been uncapped, uncorked, the tab removed or the top sliced, cut or broken, or its original condition altered in such a way that the liquid can flow out of it.

B. Section 79-3 is amended to read as follows:

§ 79-3. Open alcoholic beverage containers.

It shall be unlawful for any person to carry with intent to consume an open container of any alcoholic beverage, or to consume any alcoholic beverage, on any street or public area within the Town of Westmoreland, at any time, except in certain areas as designated by the Town Board of the Town of Westmoreland, and such areas are designated as such by the placement of signs thereon.

C. Section 79-4 is added to read as follows:

§ 79-4. Applicability.

This article shall apply to all persons on public land in the Town, except as hereinbefore provided, but shall not apply to any person drinking an alcoholic beverage or in the possession of an open container containing an alcoholic beverage while operating a motor vehicle upon any public highway within the Town in violation of § 1227 of the Vehicle and Traffic Law of the State of New York.

Chapter 90, Buildings, Unsafe.

A. Section 90-2 is added to read as follows:

§ 90-2. Fire Prevention and Building Code.

The provisions of this chapter shall be in addition to, and in furtherance of, the New York State Uniform Fire Prevention and Building Code, including, but not limited to, Sections 107 and 108 of the Property Maintenance Code of New York State.

B. In § 90-4 the definition of “unsafe building” is added to read as follows:

UNSAFE BUILDING — Any building or other structure which has any of the following defects:

- A. Those whose interior walls or other vertical structural members list, lean or buckle to such an extent that a plumb line passing through the center of gravity falls outside of the middle third of its base.*
- B. Those which, exclusive of the foundation, show 33% or more of damage or deterioration of the supporting member or members or 50% of damage or deterioration of nonsupporting enclosing or outside walls or covering.*
- C. Those which have improperly distributed loads upon the floors or roofs or in which the same are overloaded, or which have insufficient strength to be reasonably safe for the purpose used.*
- D. Those which have been damaged by fire, wind, snow load or other causes so as to have become dangerous to the life, safety and general welfare of the residents of the Town of Westmoreland.*

E. Those which have become or are so dilapidated, decayed, unsafe or unsanitary that they are unfit for occupation by humans or animals or for use for storage.

F. Those buildings intended or used for human occupation that are inadequate to protect the health, safety and general welfare of human residents living therein.

G. Those buildings that lack adequate facilities for ingress and egress in case of fire or other emergency or those having insufficient stairways, elevators, fire escapes or other means of escape.

H. Those which have parts thereof which are so attached that they may fall and injure persons on the property or members of the general public or cause damage to other property.

I. Those buildings which violate the provision of the New York State Uniform Fire Prevention and Building Code, Chapter 180, Zoning, of the Code of the Town of Westmoreland and any other applicable laws of the State of New York, County of Oneida or Town of Westmoreland.

J. Any building which remains vacant and unattended continuously for a period of one year or longer, without adequate safeguards to prevent unauthorized entry.

Chapter 101, Fair Housing.

Chapter 101 is adopted to read as follows:

§ 101-1. Title.

This chapter shall be known and may be cited as the "Town of Westmoreland Fair Housing Law."

§ 101-2. Purpose and enactment.

The purpose of this chapter is to provide and ensure fair housing opportunities for all persons within the Town of Westmoreland, County of Oneida, State of New York, under the applicable federal and state laws and regulations pertaining thereto, as the same may be amended from time to time, and under the authority of General Municipal and Town Law, hereby obtains, enacts and publishes this chapter.

§ 101-3. Definitions.

A. General. For the purpose of this chapter, certain words or phrases herein shall be interpreted as follows, except where the context clearly indicates the contrary: words used in the singular include the plural; words used in the present tense include the future

tense; the word "person" includes a corporation as well as an individual; and the word "shall" is always mandatory.

B. Specific words or phrases. For the purpose of this chapter, certain terms or words herein shall be interpreted as follows:

AGGRIEVED PERSON — Shall have the meaning set forth in 42 U.S.C.A. § 3602(i), as amended.

COMPLAINANT — Shall have the meaning set forth in 42 U.S.C.A. § 3602(j), as amended.

CONCILIATION — Shall have the meaning set forth in 42 U.S.C.A. § 3602(m), as amended.

CONCILIATION AGREEMENT — Shall have the meaning set forth in 42 U.S.C.A. § 3602(m), as amended.

DISCRIMINATORY HOUSING PRACTICE — Shall have the meaning set forth in 42 U.S.C.A. § 3602(f) and 24 CFR Part 100, as amended, and shall include an act that is unlawful under §§ 3604, 3605, 3606 or 3617 of Chapter 45 of Title 42 of the United States Code, as amended.

DWELLING — Shall have the meaning set forth in 42 U.S.C.A. § 3602(b), as amended.

FAMILIAL STATUS — Shall have the meaning set forth in 42 U.S.C.A. § 3602(k), as amended.

FAMILY — Shall have the meaning set forth in 42 U.S.C.A. § 3602(c), as amended.

HANDICAP — Shall have the meaning set forth in 42 U.S.C.A. § 3602(h), as amended.

PERSON — Shall have the meaning set forth in 42 U.S.C.A. § 3602(d), as amended.

PREVAILING PARTY — Shall have the meaning set forth in 42 U.S.C.A. § 1988, as amended.

RESPONDENT — Shall have the meaning set forth in 42 U.S.C.A. § 3602(n), as amended.

TO RENT — Shall have the meaning set forth in 42 U.S.C.A. § 3602(e), as amended.

§ 101-4. Discrimination in sale or rental of housing.

Except as exempted by § 101-7, it shall be unlawful within the Town of Westmoreland to:

A. Refuse to sell or rent after the making of a bona fide offer, or to refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny, a dwelling to

any person because of race, color, religion, sex, handicap, familial status, or national origin.

B. Discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection therewith, because of race, color, religion, sex, handicap, familial status, or national origin.

C. Make, print or publish, or cause to be made, printed or published, any notice, statement or advertisement with respect to the sale or rental of a dwelling that indicates any preference, limitation, or discrimination based on race, color, religion, sex, handicap, familial status, or national origin, or an intention to make any such preference, limitation or discrimination.

D. Represent to any person because of race, color, religion, sex, handicap, familial status, or national origin that any dwelling is not available for inspection, sale or rental when such dwelling is in fact so available.

E. For profit, to induce or attempt to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person of a particular race, color, religion, sex, handicap, familial status, or national origin.

F. Refuse a physically or mentally disabled person (including hearing, mobility and visual impairments, chronic alcoholism, chronic mental illness, AIDS, AIDS related complex and mental retardation), that substantially limits one or more major life activities, to let make reasonable modifications to a dwelling or common use area, at the expense of the person with the disability, if necessary for the handicapped person to use the housing.

G. Refuse to make reasonable accommodations in rules, policies, practices or services, if necessary, for the handicapped person to use the housing.

§ 101-5. Discrimination in financing of housing.

It shall be unlawful in the Town of Westmoreland for any bank, building and loan association, insurance company, or other corporation, association, firm or enterprise whose business consists in whole or in part in the making of commercial real estate loans to deny a loan or other financial assistance to a person applying therefor for the purpose of purchasing, constructing, improving, repairing, or maintaining a dwelling, or to discriminate against him in the fixing of the amount, interest rate, duration, or other terms or conditions of such loan or other financial assistance because of the race, color, religion, sex, handicap, familial status, or national origin of such person or any person associated with him in connection with such loan or other financial assistance, or the purposes of such loan or other financial assistance, or the present or prospective owner, lessee, tenant, or occupant of the dwelling in relation to which such loan or other financial assistance is to be made or given, provided that nothing contained in this section shall impair the scope or effectiveness of the exception contained in § 101-7.

§ 101-6. Discrimination in provision of brokerage services.

It shall be unlawful within the Town of Westmoreland to deny any person access to or membership or participation in any multiple-listing service, real estate brokers' organization, or other service organization or facility relating to the business of selling or renting dwellings; or to discriminate against him in the terms or conditions of such access, membership or participation on account of race, color, religion, sex, handicap, familial status, or national origin.

§ 101-7. Exemptions.

A. *Sales/rentals by owners. Nothing in § 101-4 (other than Subsection C) shall apply to the sales/rental by owners to owners' family members.*

B. *Sales/rentals by religious organizations. Nothing in this chapter shall prohibit a religious organization, association or society, or any nonprofit institution or organization operated, supervised, or controlled by or in conjunction with a religious organization, association, or society, from limiting the sale, rental, or occupancy of dwellings which it owns or operates for other than a commercial purpose to persons of the same religion, or from giving preference to such persons, unless membership in such religion is restricted on account of race, color, sex, handicap, familial status, or national origin. Nor shall anything in this chapter prohibit a private club not in fact open to the public, which as an incident to its primary purpose provides lodgings that it owns or operates for other than a commercial purpose, from limiting the rental or occupancy of such lodgings to its members or from giving preference to its members.*

§ 101-8. Administration.

A. *Any aggrieved person may file a complaint in person or by mail to:*

(1) *Office of Fair Housing and Equal Opportunity, U.S. Department of Housing and Urban Development, Washington, DC 20410-2000; or*

(2) *Any regional or field office of the U.S. Department of Housing and Urban Development; or*

(3) *The Town's Fair Housing Officer, who shall immediately file a copy thereof with the regional or field office of the U.S. Department of Housing and Urban Development, along with a request for a determination as to whether such complaint will be referred to said Officer for administrative disposition.*

B. *A complaint may be filed with the assistance of an authorized representative of an aggrieved person, including any organization acting on behalf of an aggrieved person.*

C. *No complaint shall be filed more than one year after an alleged discriminatory housing practice has occurred or terminated.*

- D. A complaint shall be made on the form prescribed by the U.S. Department of Housing and Urban Development, and shall contain all of the information required therein and thereby.*
- E. A complaint may be reasonably and fairly amended at any time as permitted by the U.S. Department of Housing and Urban Development or, upon referral, by the Town's Fair Housing Officer.*
- F. The respondent may file an answer to any complaint not later than 10 days after receipt of notice from either the U.S. Department of Housing and Urban Development or the Fair Housing Officer of the filing of such complaint.*
- G. Any complaint and any answer shall be affirmed by the person filing the same.*
- H. Upon referral by the U.S. Department of Housing and Urban Development of a complaint duly filed therewith to the Fair Housing Officer, the Fair Housing Office shall:*
- (1) Serve notice, by certified mail or personal service, upon both the complainant and the respondent containing the following:*
 - (a) Acknowledging the referral of the complaint, stating the date that the complaint was accepted for filing, and that the respondent must file an answer within 10 days;*
 - (b) Include a copy of the complaint;*
 - (c) Advise the aggrieved person and the respondent of the time limits applicable to complaint processing and disposition, and of the procedural rights and obligations of the aggrieved person, under this chapter;*
 - (d) Advise the aggrieved person and the respondent that the aggrieved person has the right to commence a civil action under Section 813 of the Fair Housing Act in an appropriate U.S. District Court not later than two years after the occurrence or termination of the alleged discriminatory housing practice, and stating that the computation of said two-year period excludes any time during which this administrative proceeding is pending, and includes the time period during which an action arising from a breach of conciliation agreement under Section 814(b)(2) of the Fair Housing Act is pending; and*
 - (e) Advise the aggrieved person and the respondent that retaliation against any person because he or she made a complaint or testified, assisted, or participated in an investigation or conciliation under this chapter is a discriminatory housing practice that is prohibited under this chapter and Section 818 of the Fair Housing Act.*
- I. The Town's Supervisor or his/her designated agent is hereby designated to be the administrative enforcement officer of this chapter, and the following powers and duties are hereby delegated to him/her:*

(1) *To investigate the allegations of any complaint, including the power to issue subpoenas in connection with such investigation, and complete the investigation in not more than 100 days after receipt of the complaint, unless it is impracticable to do so in which event he/she shall notify the complainant and the respondent, in writing, of the reasons therefor.*

(2) *Following completion of the investigation, to issue a final investigative report, which may be amended at any time if additional evidence is discovered, containing at least the following:*

(a) *The names and dates of contact with witnesses;*

(b) *A summary of each witness' statement;*

(c) *A summary and the dates of correspondence and other contacts with the aggrieved person and the respondent;*

(d) *A summary description of other pertinent records;*

(3) *To conciliate the matters set forth in any complaint and approve any conciliation agreement arising out of such conciliation efforts.*

(4) *To make a final administrative disposition of a complaint, after providing the complainant and the respondent with a copy of the final investigative report and thereafter affording the complainant and the respondent of the right to be heard and present evidence in connection with the complaint and/or said final investigative report, within one year of the date of receipt of a complaint, unless it is impracticable to do so in which event he/she shall notify the complainant and the respondent, in writing, of the reasons therefor.*

J. *In making a final administrative disposition, or in approving any conciliation agreement, the Fair Housing Officer shall have the power and authority to grant to the prevailing party actual damages, injunctive or other equitable relief, and/or assess a civil penalty not in excess of \$1,000.*

K. *Any approved conciliation agreement shall be made public unless the complainant and respondent otherwise agree and the Fair Housing Officer determines that disclosure is not required in order to further the purpose of this chapter.*

L. *A final administrative disposition shall be subject to judicial review by a proceeding commenced pursuant to Article 78 of the New York Civil Practice Law and Rules and venued in Oneida County Supreme Court, provided that such proceeding is commenced within 30 days of the receipt of such final administrative disposition by the person commencing such proceeding.*

§ 101-9. Amendment and interpretation.

A. *Amendment. The Town Council may, on its own initiative or petition, amend, supplement, or repeal the provisions of this chapter in conformity with applicable law after public notice and hearing.*

B. *Interpretation. In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements, adopted for the promotion of the public health, morals, safety or the general welfare. Whenever the requirements of this chapter are at variance with the requirements of any other lawfully adopted rules, regulations, or ordinances, the most restrictive, or that imposing the highest standards, shall govern.*

Chapter 108, Flood Damage Prevention.

Section 108-12D(1) is amended to read as follows:

(1) Notify adjacent communities and the New York State Department of Environmental Conservation prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Regional Director, Region II, Federal Emergency Management Agency, (212) 680-3600.

Chapter 122, Notification of Defects.

Section 122-3 is amended as indicated:

“...All such written notices shall be indexed according to the location of the alleged defective, unsafe, dangerous or obstructed condition, or the location of accumulated snow or ice. The record of each notice shall be preserved for a period of five years after the date it is received.”

Chapter 130, Peddling and Soliciting.

A. Section 130-3 is amended as indicated:

“Nothing in this chapter shall be held to apply to any sales conducted pursuant to statute or by order of any court, to any person selling to dealers, to farmers and truck gardeners who themselves use, vend, sell or dispose of produce as defined in this chapter, to charitable, religious or nonprofit organization, to any honorably discharged service person who has procured a license as provided by the General Business Law of the State of New York, to persons less than 18 years of age or to persons, firms or corporations selling to regular customers on established routes.”

B. In §§ 130-4 and 130-7 the references to “City” are changed to “Town.”

C. Sections 130-12 and 130-13 are added to read as follows:

§ 130-12. Nontransferability of permit.

No permit or badge issued under the provisions of this chapter may be transferred from one person to another person or from one vehicle to another vehicle, nor shall the permit so issued be used at any time by any person other than the person to whom it was issued.

§ 130-13. Hours of operation.

It shall be unlawful for any person to enter upon private property for the purpose of peddling or soliciting before the hours of 9:00 a.m. of any day or after 1/2 hour before sunset of any day or after the hour of 7:00 p.m. of any date except upon the invitation of the householder or occupant.

Chapter 138, Site Plan Review.

A. Section 138-2A(2) is amended as indicated:

“Before obtaining approval for a zoning or building permit in any zoning district mentioned above, the owner shall submit a site plan and map to the Planning Board for its review and approval. The application shall be accompanied by a nonreimbursable fee of ~~\$35~~ as shall be set by resolution of the Town Board.”

B. Section 138-3 is amended to change “Town of Westmoreland Sign Ordinance” to “§ 180-43J and K of the Code of the Town of Westmoreland.”

C. Article II, Review Procedures, is amended to read as follows:

§ 138-4. Site plan review process.

A. *Procedure for preliminary review process.*

(1) Sketch plan conference and concept review. Prior to the preparation or submission of any site plan, the Planning Board and the applicant shall hold a sketch plan conference so to enable the applicant to inform the Planning Board of said proposal prior to the preparation of same and for the Planning Board to review the general site design concept, advise the applicant of potential problems and concerns and to generally determine the information to be required on the site plan. For purposes of this concept review, the applicant shall provide to the Planning Board the following documents in triplicate:

(a) 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;

(b) Sketch or map of the area which clearly shows the location of the improvements with respect to nearby street rights-of-way, properties, easements, and other pertinent features.

(c) Map of site topography at no more than five-foot contour intervals. If general site grades exceed 5% or portions of the site have susceptibility to erosion, flooding, or ponding, a soils overlay and topographic map showing contour intervals of not more than two feet of elevation should also be provided.

(d) Statement and rough sketch showing exact locations and dimensions of principal and accessory structures, parking areas, signs, existing and proposed vegetation and other planned features; anticipated changes in the existing topography and natural features including stormwater management plans and visual impact on adjacent properties; and, where applicable, measures and features to comply with flood hazard and flood insurance regulations. Where applicable, please include:

[1] Location, design, proposed use and height of all buildings (existing and proposed), including all accessory uses and structures;

[2] Location, design and type of construction of all parking and truck loading areas, showing access and egress, including a comparison of required and provided parking spaces and loading areas;

[3] Provision of pedestrian access, including provisions for meeting requirements set forth in Americans with Disabilities Act (ADA);

[4] Location of outdoor storage, including provisions for meeting requirements set forth in Americans with Disabilities Act (ADA);

[5] Location, design and construction materials of all existing or proposed site improvements, including drains, culverts, retaining walls and fences;

[6] Description of the method of sewage disposal and location, and design and construction materials of such facilities;

[7] Description of the method of securing water and location, and design and construction materials of such facilities;

[8] Location of fire and other emergency zones, including the location of fire hydrants where available;

[9] Location and design of all energy distribution facilities, including electrical, gas and solar energy;

[10] Location, size, and design and construction materials of all proposed signs;

[11] Location and proposed development of all buffer areas, including existing vegetative coverage;

[12] Location and design of outdoor lighting facilities;

[13] *Designation of the amount of building area proposed for retail sales or similar commercial activity;*

[14] *General landscaping and planting schedule;*

[15] *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;*

[16] *Completed environmental assessment for (EAF) in compliance with the State Environmental Quality Review Act (SEQR);*

[17] *Soil erosion and sediment control plan.*

(e) Please include on all maps and sketches/drawings the following information:

[1] *Title of map, sketch/drawing.*

[2] *Name and address of preparer.*

[3] *Date of map, sketch/drawing.*

[4] *North arrow and scale not smaller than one inch equals 40 feet.*

[5] *Boundaries of the property plotted to scale.*

[6] *Existing watercourses.*

[7] *Grading and drainage plan, showing existing and proposed contours.*

(f) The application should conform to the site plan review procedures herein and keep in conformance with the Comprehensive Plan. All documents, including the application, must be submitted in triplicate.

(2) Application fees and costs for preliminary site plan approval. A fee as set by resolution of the Town Board shall accompany each application. Further, 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.

(3) Public notice. Once an application for site plan has been made, in writing, to the Chairman of the Planning Board and a copy submitted to the Town Clerk and fees paid to the Codes Enforcement Officer, a written notice shall be given to the owners of property immediately adjacent and extending 100 feet from the property at least five days prior to the initial site plan review by the Planning Board. The notice shall state the name of the applicant, the location of the subject property, the date of the initial review, and a description of the proposed use or occupancy.

B. Review of site plan.

(1) Review criteria.

(a) The Planning Board shall review all proposed site plans based upon, but not limited to, the criteria set forth herein:

[1] Location, arrangement, size and design compatibility of buildings, lighting and signs in regards to the reviewed and adjacent properties;

[2] Adequacy, arrangement and safety of vehicular traffic access and circulation, including intersections, road widths, pavement surfaces, dividers, and traffic controls;

[3] Adequacy and arrangement of pedestrian traffic access and circulation, walkway structures, control of intersections with vehicular traffic and overall pedestrian convenience and safety;

[4] Location, arrangement, appearance, and sufficiency of off-street parking and loading;

[5] Adequacy of stormwater and drainage facilities;

[6] Adequacy of water supply and sewage disposal facilities;

[7] Location, arrangement, size, design, and general site compatibility of buildings, lighting and signs;

[8] 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;

[9] Adequacy of fire lanes and other emergency zones and the provision of fire hydrants.

[10] In case of an apartment complex or other multiple dwelling, the adequacy of usable open space for play areas and informal recreation;

[11] Protection of adjacent or neighboring properties against noise, glare, unsightliness, or other objectionable features;

[12] Special attention to the adequacy of structures, roadways, and/or landscaping in areas with susceptibility to ponding, flooding, and/or erosion;

[13] Such other elements as relate to the health, general safety and welfare of the community.

(b) When reviewing site plan application for any use in all zoning districts, the Planning Board shall use the development guidelines adopted by the Town Board as a basis for rendering a decision as to approval or denial of such application.

(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 review and shall be advertised in a newspaper of general circulation in the Town at least 10 days prior to the public hearing. Where applicable, written notice shall be provided as noted above at § 138-4(A)(3).

(4) Decision timeline. Within 62 days of the public hearing, and upon compliance with the SEQRA as hereinafter defined, the Planning Board shall inform the applicant of its recommendation and/or decision. The time within which a decision must be rendered may be extended by mutual consent of the applicant and the Planning Board.

§ 138-5. Planning Board action on site plan.

A. SEQRA applicability. The proposed development in question may be subject to the provisions of the State Environmental Quality Review Act (SEQRA). The Planning Board shall identify the type of action proposed per SEQRA standards. Depending on the size, location and other factors, the development may be identifiable as a Type I or unlisted action. The Planning Board shall review the environmental assessment form (EAF) submitted with the application. The SEQRA type of action will dictate the next steps in the review process should same be applicable.

(1) Environmental impact statement. If it is determined that an environmental impact statement must 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 the draft environmental impact statement is completed, the time frame for the Planning Board review begins. 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.

(2) Compliance with SEQRA. When compliance with SEQRA is complete, the Planning Board shall act on the application within 62 days.

B. Decision on preliminary site plan review. Within 62 days of the public hearing, and upon compliance with the SEQRA, the Planning Board shall render a decision.

(1) Format.

(a) The Planning Board's decision 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.

(b) Approval may be rendered, after payment by the applicant of all fees and reimbursable costs due the Town, by the Planning Board endorsing its decision on a copy of the final site plan and forwarding a copy to the applicant and Enforcement Officer and filing same with the Town Clerk.

(c) The Planning Board's statement may include recommendations of desirable modifications to be incorporated in the final site plan, and conformance with the said modifications shall be considered a condition of approval.

(d) 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.

§ 138-6. Submission of final site plan.

A. Final site plan.

(1) After receiving Planning Board approval on the preliminary site plan, with or without modifications, the applicant shall submit a final, detailed site plan to the Planning Board for final approval. If more than six months have 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 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.

B. Supplemental information to accompany final site plan. The following additional information shall accompany the submission of the final site plan:

(1) Record of application for and status of all necessary permits from state and county officials;

(2) Detailed sizing and final material specification of all required improvements; and

(3) An estimated project construction schedule.

C. 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 the 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 boundary of any county or state owned land on which a public building or institution is situated.

D. Planning Board action on final detailed 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 said period, the final site plan shall be considered approved.

(1) Approval. Upon approval of the final site plan and payment by the applicant of all fees and reimbursable costs due 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) Disapproval. 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.

§ 138-7. Construction phase.

A. Performance guaranty.

(1) Performance bond. 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.

(2) Certificate of occupancy.

(a) No certificate of occupancy shall be issued until all improvements shown on the site plan are installed or a sufficient performance guaranty has been posted for improvements not yet completed. The sufficiency of such performance guaranty shall be determined by the Planning Board after consultations with the Town Board, Enforcement Officer, Town Attorney or other appropriate parties. Such performance guaranty may take the form of:

[1] A contract bond, which may be a performance bond, a labor and materials bond, and/or maintenance bond;

[2] A letter of credit;

[3] An escrow check;

[4] A certified check;

[5] Staged permit approval of all construction.

(b) At the conclusion of the project, all bonds will be returned to the applicant.

B. Inspection of improvements.

(1) The Code Enforcement Officer, with the assistance of the Town Engineer where applicable, shall be responsible for the overall inspection of site improvements, including coordination with the Planning Board and other officials and agencies as appropriate, and shall, periodically throughout the construction, review the work for conformance with the approved site plan.

(2) The applicant will be notified if the work does not conform to the approved site plan and shall have 30 days to remedy deficiencies. The Town may take corrective action should applicant fail to remedy any such deficiencies within 30 days. Any and all costs of such corrective action will be the responsibility of the applicant.

§ 138-8. Penalties for offenses.

A. Where a violation of this chapter occurs, the Enforcement Officer shall send written notice to the last known owner of record of the property as determined by the assessment records, informing said owner of the specific violation and stating that action must be taken by said owner to remove such violation within 30 days or proceedings to compel compliance with this chapter and/or Chapter 180, Zoning, of the Code of the Town of Westmoreland will be instituted. Any person or persons who commit or permit any acts contrary to the provisions of this chapter shall be guilty of a violation thereof and, upon conviction, shall be subject to a fine not exceeding \$250 and not less than \$50 or imprisonment not to exceed 15 days, or both fine and imprisonment. Each week a violation continues shall constitute a separate, additional violation. Any violation of this chapter may also be enjoined pursuant to law.

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 chapter, the Town Board of the Town of Westmoreland may institute any appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, 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.

§ 138-9. Termination of site plan approval.

If construction of the site plan in accordance with the approved plans and specifications has not begun within one year after the date of the Planning Board resolution approving the site plan and authorizing issuance of a building permit or if construction is not completed within the date set therefor by the Planning Board in its approval, the site plan and all building permits issued thereunder shall become null and void; the approval shall be deemed revoked and vacated by the Planning Board, unless the applicant shall obtain written extension of time from the Planning Board on such conditions as the Planning Board may require in order to ensure completion of construction.

Chapter 142, Solid Waste.

Article I, regarding Commercial Haulers, is repealed in full.

Chapter 146, Storage Devices.

Section 146-4C is amended as indicated:

“The total cost of such removal and disposition, whether by Town employees or an independent contractor, together with an \$150 administrative fee as set by resolution of the Town Board, shall be assessed...”

Chapter 156, Streets and Sidewalks.

Article I, Removal of Snow and Ice.

A. Sections 156-5, 156-6 and 156-10 are added to read as follows:

§ 156-5. Time limit for removal of snow and ice.

Snow and ice shall be removed within 24 hours after the end of a snowfall. In addition, sidewalks in front of commercial establishments shall be kept free of snow and ice at all times.

§ 156-6. Requirements in case of severe icing.

In case snow and ice on any sidewalk shall be frozen so hard that it cannot be removed without injury to the sidewalk, it shall, within the time specified in § 156-5, be strewn and kept with ashes, sand, sawdust or other suitable material, so as to be no longer dangerous to life and limb. As soon as practical thereafter, the sidewalk shall be completely cleared of snow, ice and other materials strewn thereon, as provided in this article.

§ 156-10. Collection of costs for removal by Town.

The Town Clerk shall promptly present to the owner or occupant of each parcel a bill for the removal of snow and ice as certified by the Superintendent of Public Works. If not paid within 30 days, the cost thereof shall be assessed against the

property, added to the property tax bill and become a lien thereon, collectible in the same manner as delinquent Town taxes.

B. The penalty in § 156-11 is standardized to \$250/15 days.

Chapter 170, Vehicles and Traffic.

Article II, Operation of Motor Vehicles, All-Terrain Vehicles and Snowmobiles on Sidewalks.

A. Section 170-8 is amended as indicated:

“It shall be unlawful for any person to operate any motor vehicle, snowmobile, or all-terrain vehicle upon any sidewalk, easement or any other area dedicated or commonly used for pedestrian traffic located within the Town of Westmoreland, except as provided by Vehicle and Traffic Law § 1225-a.”

B. Section 170-9 is amended as indicated:

“This article shall not apply to the operation of motor vehicles used in the construction, repair, maintenance or removal of a sidewalk or otherwise in contravention of the provisions of Vehicle and Traffic Law § 1225-a.”

Chapter 180, Zoning.

(1) In § 180-2:

(1) The definition of “junkyard” is amended to read as follows:

***JUNKYARD** — A lot, land or structure, or part thereof, used for the collecting, storage and sale of wastepaper, 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 junkyard" 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 in condition for legal use on the public highways, are held, whether for purpose of resale of used parts therefrom, 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 junkyard 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.

- (2) The definition of “nonconforming use” is amended as indicated:

“NONCONFORMING USE — A building or structure, or a use of land lawfully existing at the time of enactment of this chapter or an amendment hereto but which does not conform to the regulations of the district or zone in which it is situated by reason of such adoption or amendment. A use which constitutes a violation of the Town of Westmoreland Zoning Ordinance of 1958 shall not be deemed a nonconforming use, but shall be a violation of this chapter.”

- (2) Section 180-14C is amended to read as follows:

Maximum height of accessory building shall be one story or 20 feet, whichever is less.

- (3) Section 180-14G is amended to read as follows:

No accessory building shall have a floor area in excess of 1,200 square feet at ground level.

- (4) Section 180-40 is amended to read as follows:

§ 180-40. Miscellaneous regulations.

No permits granted under § 180-36 shall be transferable, and all septic systems must be approved by the Building Inspector as set forth in § 180-81. No more than one mobile home shall be allowed under a permit.

- (5) Section 180-62 is amended to read as follows:

Site plan review procedures for planned unit developments shall comply with the site plan review procedures contained in Chapter 138, specifically §§ 138-4 through 138-9.

- (6) Section 180-69A(3) is amended as indicated:

“Restaurant or other eating place: at least one parking space for each five seats, except when it is in a building which provides parking space, in which case the number of places already provided may be taken to be available for the restaurant or other eating place.”

- (7) Section 180-70 is added to read as follows:

§ 180-70. Off-street loading space requirement.

Every building occupied for the purpose of business or industry shall provide adequate space for off-street loading and unloading vehicles as determined by the Planning Board.

(8) Section 180-82 is amended to read as follows:

§ 180-82. Certificate of occupancy.

A. Certificates of occupancy required. A certificate of occupancy shall be required for any work which is the subject of a building permit and for all structures, buildings, or portions thereof, which are converted from one use or occupancy classification or subclassification to another. Permission to use or occupy a building or structure, or portion thereof, for which a building permit was previously issued shall be granted only by issuance of a certificate of occupancy.

B. Issuance of certificates of occupancy. The Code Enforcement Officer shall issue a certificate of occupancy if the work which was the subject of the building permit was completed in accordance with all applicable provisions of the Uniform Code and Energy Code and, if applicable, that the structure, building or portion thereof that was converted from one use or occupancy classification or subclassification to another complies with all applicable provisions of the Uniform Code and Energy Code. The Code Enforcement Officer or an inspector authorized by the Code Enforcement Officer shall inspect the building, structure or work prior to the issuance of a certificate of occupancy. In addition, where applicable, the following documents, prepared in accordance with the provisions of the Uniform Code by such person or persons as may be designated by or otherwise acceptable to the Code Enforcement Officer, at the expense of the applicant for the certificate of occupancy, shall be provided to the Code Enforcement Officer prior to the issuance of the certificate of occupancy:

(1) A written statement of structural observations and/or a final report of special inspections; and

(2) Flood hazard certifications.

C. Contents of certificates of occupancy. A certificate of occupancy shall contain the following information:

(1) The building permit number, if any;

(2) The date of issuance of the building permit, if any;

(3) The name, address and Tax Map number of the property;

(4) If the certificate of occupancy is not applicable to an entire structure, a description of that portion of the structure for which the certificate of occupancy is issued;

- (5) *The use and occupancy classification of the structure;*
- (6) *The type of construction of the structure;*
- (7) *The assembly occupant load of the structure, if any;*
- (8) *If an automatic sprinkler system is provided, a notation as to whether the sprinkler system is required;*
- (9) *Any special conditions imposed in connection with the issuance of the building permit; and*
- (10) *The signature of the Code Enforcement Officer issuing the certificate of occupancy and the date of issuance.*

D. Temporary certificate.

(1) The Code Enforcement Officer shall be permitted to issue a temporary certificate allowing the temporary occupancy of a building or structure, or a portion thereof, prior to completion of the work which is the subject of a building permit. However, in no event shall the Code Enforcement Officer issue a temporary certificate unless the Code Enforcement Officer determines:

- (a) That the building or structure, or the portion thereof covered by the temporary certificate, may be occupied safely;*
- (b) That any fire- and smoke-detecting or fire protection equipment which has been installed is operational; and*
- (c) That all required means of egress from the building or structure have been provided.*

(2) The Code Enforcement Officer may include in a temporary certificate such terms and conditions as he or she deems necessary or appropriate to ensure safety or to further the purposes and intent of the Uniform Code. A temporary certificate shall be effective for a period of time, not to exceed six months, which shall be determined by the Code Enforcement Officer and specified in the temporary certificate. During the specified period of effectiveness of the temporary certificate, the permit holder shall undertake to bring the building or structure into full compliance with all applicable provisions of the Uniform Code and the Energy Code.

E. Revocation or suspension of certificates. If the Code Enforcement Officer determines that a certificate of occupancy or a temporary certificate was issued in error because of incorrect, inaccurate or incomplete information, and if the relevant deficiencies are not corrected to the satisfaction of the Code Enforcement Officer within such period of time as shall be specified by the Code

Enforcement Officer, the Code Enforcement Officer shall revoke or suspend such certificate.

F. Fee. The fee specified in or determined in accordance with the provisions set forth in § 86-16, Fees, of the Code of the Town of Westmoreland must be paid at the time of submission of an application for a certificate of occupancy or for temporary certificate.

- (9) Section 180-83 is amended to read as follows:

Building permits shall expire 12 months after the date of issuance. A building permit which has become invalid or which has expired pursuant to this section may be renewed upon application by the permit holder, payment of the applicable fee, and approval of the application by the Code Enforcement Officer.

- (10) Section 180-84 is amended as indicated:

“...Wherever the requirements of this chapter are at variance with any other lawfully adopted regulations, rules, ordinances or statutes, the most restrictive, or that imposing the higher standard, shall govern.”

- (11) Section 180-85B(2) is amended to the reference from Town Law “§ 267” to “§ 274-b.”

- (12) Section 180-85B(3) is amended to read as follows:

Use variances and area variances. To vary or adapt the strict application of any of the requirements of this chapter by the granting of use variances or area variances as provided in Town Law § 267-b.

- (13) Section 180-85D is amended as indicated:

“Fees. Applications for a special permit or variance shall be accompanied by a fee ~~(\$35)~~ as set by resolution of the Town Board.”

- (14) Section 180-86C is amended to the reference from Town Law “§ 281” to “§ 278.”

- (15) Section 180-86 D is amended as indicated:

“Every petition for an amendment of this chapter shall be accompanied by a fee as set forth by resolution of the Town Board.”

- (16) Section 180-87B is amended as indicated:

“...as such Town Board of the Town of Westmoreland is authorized to do by the authority granted in Town Law § 268(2).”

- (17) Section 180-87C is amended to read as follows:

C. Penalties. A violation of this chapter is hereby declared to be an offense, punishable by a fine not exceeding \$350 or imprisonment for a period not to exceed six months, or both for conviction of a first offense; for conviction of a second offense, both of which were committed within a period of five years, punishable by a fine not less than \$350 nor more than \$700 or imprisonment for a period not to exceed six months, or both; and, upon conviction for a third or subsequent offense, all of which were committed within a period of five years, punishable by a fine not less than \$700 nor more than \$1,000 or imprisonment for a period not to exceed six months, or both. However, for the purpose of conferring jurisdiction upon courts and judicial officers generally, violations of this chapter shall be deemed misdemeanors and for such purpose only all provisions of law relating to misdemeanors shall apply to such violations. Each week's continued violation shall constitute a separate additional violation.

(18) Original & Copy