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

County  
City of Westerlo  
Town  
Village  
Local Law No. 1 of the year 19 89

A local law Town of Westerlo Zoning Law  
(Insert title)

Be it enacted by the Town Board of the  
(Name of Legislative Body)

County  
City of Westerlo as follows:  
Town  
Village

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ARTICLE 1. PREAMBLE:

Pursuant to the authority conferred by Article 16 of the Town Law of the State of New York, the Town Board of the Town of Westerlo does hereby enact the Town of Westerlo Zoning Law.

ARTICLE 2. SHORT TITLE:

This Local Law may be known and cited as the Town of Westerlo Zoning Law.

ARTICLE 3. PURPOSES OF THE LOCAL LAW:

The general and overall intent of this Local Law is to promote the health, safety and welfare of the community. Further purposes of this Local Law are:

To establish a variety of use districts within the Town to accommodate a diversity of residential densities and types.

To encourage the most appropriate use of land based on its natural characteristics.

To minimize conflicts from incompatible uses.

To prevent undue concentration of population and resultant overcrowding of the land.

To insure adequate and efficient transportation, water, sewerage, schools, parks and other services.

To lessen congestion in the streets.

To secure against fire, flood, panic and other hazards.

To provide adequate light and air.

To protect important natural and scenic resources such as lakes, streams, watersheds, wetlands, aquifers, historic sites and agricultural areas.

To preserve the quality of natural resources including air, water, soil, vegetation and wildlife.

To maintain and enhance the rural character of the Town.

#### ARTICLE 4. APPLICATION OF REGULATIONS:

1. Except as hereinafter provided, no building or structure shall be erected, constructed, reconstructed, moved, altered, or extended, and no land, building or structure or part thereof, shall be occupied or used unless in conformity with this Local Law and with the regulations specified for the district in which it is located.

#### ARTICLE 5. USAGE:

Except where specifically defined herein all words used in this Local Law 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; "occupied" or "used" shall be considered as though followed by "or intended", "arranged", or "designed to be used or occupied"; "person" includes individual, partnership, association, corporation, company, or organization. Doubt as to the precise meaning of any word used in the Local Law shall be clarified by the Zoning Board of Appeals under its power of INTERPRETATION by appeal.

#### ARTICLE 6. DEFINITIONS:

ACCESSORY BUILDING - see "BUILDING, ACCESSORY"

ACCESSORY USE - A use customarily incidental and subordinate to the principle use, and which is located on the same lot with such principle use.

AGRICULTURAL USE - Land used for the raising of crops, cows, horses, poultry and other livestock, (exception: No more than four (4) pigs, hogs, swines, boars, etc. may be raised/kept) horticulture or orchards; including the sale of products grown or raised directly on such land, and including the construction, alteration, or maintenance of fences, agricultural roads, agricultural drainage systems and farm ponds.

AIRPORT - A piece of land that is maintained for the horizontal or vertical landing and takeoff of aircraft used for receiving and discharging passengers and/or cargo that usually has facilities for the shelter, supply, and repair of aircraft.

AIRSTRIP - A runway without normal airport facilities.

ALTERATIONS - Structural change, rearrangement, change of location, or addition to a building, other than repairs and modifications in building equipment.

AUTOMOBILE SERVICE, GASOLINE OR FILLING STATION - A building or place of business where gasoline, oil and greases, batteries,

tires and automobile accessories are supplied and dispensed directly to the motor vehicle trade, at retail, and where minor automobile repairs may be made.

**BUILDING** - Any structure having a roof supported by columns or walls, used or intended to be used for the shelter or enclosure of persons, animals or property. When such a structure is divided into separate parts by one or more unpierced walls extending from the ground up, each part is deemed a separate building, except as regards minimum side yard requirements.

**BUILDING, ACCESSORY** - A detached building which is of secondary importance to the principal building, the use of which is customarily incidental and subordinate to that of a principal building and located on the same lot therewith.

**BUILDING, FRONT LINE OF** - The line of that face of the building nearest the front lot line. This face shall include bay windows, covered porches, whether enclosed or unenclosed.

**BUILDING, HEIGHT OF** - The vertical distance from the mean finished grade to the highest point of the building measured from a point on the ground along the front wall of the building.

**BUILDING, PRINCIPAL** - A building in which the principal use of the lot on which it is located is conducted.

**CERTIFICATE OF OCCUPANCY** - A written permission issued by the Enforcement Officer indicating that following examination, the building, dwelling unit, mobile home park or travel trailer park and the lot upon which the same is to be placed, is approved in compliance with all the provisions of this Local Law.

**COMMERCIAL USE** - Any use involving the sale, rental, or distribution of goods and/or services, either retail or wholesale.

**CONSTRUCTION AND DEMOLITION DEBRIS** - Means wastes resulting from construction, remodeling, repair and demolition of structures, road building and land clearing. Such wastes include but are not limited to bricks, road spoils and paving material.

**DEVELOPMENT** - Any activity other than agriculture or conservation activity which materially affects the existing condition of land or improvements, including but not limited to:

- a. Excavation or deposit of earth or other fill, including alteration of the banks of any stream or body of water.

- b. Construction, reconstruction, alteration or demolition of any improvement.
- c. Dumping or storing any objects or materials whether gaseous, liquid or solid.
- d. Commencement of any use of the land or improvements and every change in its type or intensity.
- e. Commencement of any noise, light, smoke, or other emission and every change in its intensity.

DUMP - A lot or part thereof used primarily for the storage or disposal of construction and demolition debris, garbage, sewage, trash, refuse, used materials, waste, junk, discarded machinery, vehicles, or parts of vehicles, by abandonment, dumping, burying, or by any other means.

DWELLING, MULTIPLE - A building or portion thereof containing three but no more than four dwelling units.

DWELLING, ONE FAMILY - A building containing one dwelling unit.

DWELLING, TWO FAMILY - A building or portion thereof containing two dwelling units.

DWELLING, UNIT - A building or portion thereof providing complete housekeeping for one family.

ENFORCEMENT OFFICER - An individual designated by the town board to represent them in matters pertaining to this Local Law.

ENGINEER OR LICENSED PROFESSIONAL ENGINEER - A person licensed as a professional engineer by the State of New York.

ESSENTIAL SERVICES - The construction, alteration or maintenance by public utilities or municipal or other governmental agencies of underground or overhead gas, electrical, steam or water transmission or distribution systems, including poles, wires, mains, drains, sewers, pipes, conduit cables, fire alarm boxes, police call boxes, traffic signals, hydrants, street signs, and similar equipment and accessories in connection herewith, but not including essential service buildings unless granted by special permit and reasonably necessary for the furnishing of adequate service by such public utilities or municipal or other governmental agencies or for the public health, safety or general welfare.



FACTORY MANUFACTURED HOME - Any structure or component thereof designed primarily for residential occupancy which is wholly or in substantial part manufactured in manufacturing facilities located away from the building site for installation, or assembly and installation, on the building site.

FAMILY - One or more persons occupying a dwelling unit and living as a single housekeeping unit.

FLOOD HAZARD AREA - Maximum area of a flood plain that is likely to be flooded once every 100 years.

FLOOD PLAIN - A land area adjoining a river, stream, watercourse, bay or lake, which is likely to be flooded.

FORESTRY USE - Any management, including logging, of a forest, woodland or plantation, including the construction, alteration, or maintenance of wood roads, skidways, landing, fences, and forest drainage systems.

FRONT LOT LINE - The lot line which abuts upon a street or highway right-of-way boundary. For a "Keyhole" lot, the line nearest and most parallel to the existing street or highway right of way boundary.

HAMLET - A small unincorporated village.

HAZARDOUS WASTES - As defined in 6 NYCRR Part 371, Identification and Listing of Hazardous Wastes, Article 27, Title 9 of the Environmental Conservation Law, Section 371.1, (c) and (d), as they presently exist or may be hereafter amended or as otherwise defined in the laws and regulations of the State of New York.

HELIPORT - A place for helicopters to land and take off.

HOME OCCUPATION - An accessory use of a commercial or professional character customarily conducted within the dwelling by the residents thereof and not more than two additional employees. It must be clearly secondary to the primary residential use and must not change the character of the area from residential. Examples include professional offices, homemade product sales, and minor franchise sales.

LIGHT INDUSTRIAL USE - Any assemblage of manufactured components to a finished product.

LOT - A defined parcel of land considered as a unit, occupied or capable of being occupied by a building and for accessory buildings and/or uses.

LOT, KEYHOLE - A lot which has limited road frontage, but is accessed by a right-of-way or narrow strip of land.

LOT, CORNER - Lot which has an interior angle of less than 135 degrees at the intersection of two street lines. A lot abutting upon a curved street shall be considered a corner lot if tangents to the curve at point of intersection of side lot lines intersect at an interior angle of less than 155 degrees.

LOT DEPTH - The mean horizontal distance between the front and rear lot lines measured along the median between the two (2) side lot lines.

LOT LINE - A boundary defining ownership of land as found in maps, deeds, and similar title documents.

LOT LINE, SIDE - Any lot line other than a front or rear lot line. A side lot line separating a lot from a street, road or highway is called a side street, road or highway lot line.

LOT OF RECORD - A lot which is a parcel of land or which is part of a subdivision approved and recorded in the office of the County Clerk.

LOT WIDTH - The horizontal distance measured at right angles along the front lot line.

MOBILE HOME - A movable or portable unit designed and constructed to be towed on its own chassis, comprised of frame and wheels, connected to utilities, and designed and constructed without a permanent foundation for year-round living. A unit may contain parts that may be folded, collapsed, or telescoped when being towed and expanded later to provide additional cubic capacity as well as two or more separately towable components designed to be joined into one integral unit capable of being again separated into the components for repeated towing. "Mobile Home" shall mean units designed to be used exclusively for residential purposes, excluding travel trailers.

MOBILE HOME PARK - Land on which two or more mobile homes are parked, or which is used for the purpose of supplying to the public a parking space for two or more mobile homes.

MODULAR HOME - See Factory Manufactured Homes.

MOTOR VEHICLES - All vehicles propelled or drawn by power other than muscular power.

NON-CONFORMING STRUCTURE - A building or structure existing at the time of enactment or amendment of this law which does not conform to the regulation of this law.

NON-CONFORMING USE - Use of land which does not comply with all regulations for the district in which it is located, where such use conformed to all applicable laws, ordinances and regulations prior to the enactment or amendment of the law.

PERMIT - Written approval issued by the enforcement officer for the establishment of any land use other than accessory structures.

PERSON - Any individual, corporation, partnership, association, trustee, or other legal non-government entity.

REAL PROPERTY - See Lot.

REAR LOT LINE - A lot line generally parallel to or directly opposite a front lot line.

RESIDENTIAL USE - One-family dwelling, two family dwelling, multiple family dwelling, professional residence - office and mobile home.

RESORT - A building or group of buildings providing rental sleeping rooms and which may also include dining rooms, kitchens, ballrooms, and other facilities and services intended primarily for the accommodation of the personal needs of the motoring public, and including facilities for the parking of patron's motor vehicles. Auto courts, motor hotels, motels, motor courts, motor inns, motor lodges, tourist courts, tourist cabins, and roadside hotels are included in this definition.

RETAIL - The sale of goods or commodities in small quantities to the consumer. Pertaining to, or engaged in the sale of goods or commodities at retail.

SIDE LOT LINE - A lot line extending between a front and rear lot line.

SITE PLAN - A plan, to scale, showing uses and structures proposed for a parcel of land. It includes lot lines, streets, building sites, reserved open space, buildings, major landscape features, and the locations of proposed utility lines.

SOLAR ENERGY - Radiant energy (direct, diffuse, and/or reflected) received from the sun.

SOLAR ENERGY SYSTEM - An arrangement or combination of components and structures designed to provide heating, cooling, hot water, or electricity through the process of collecting, converting, storing, protecting against unnecessary dissipation, and/or distributing solar energy.

SOLID WASTE - Refuse, garbage and other discarded or used items not intended for salvage or resale.

STRUCTURE - Anything constructed or erected with a fixed location on the ground, or attached to something having a fixed location on the ground.

TRAVEL TRAILER - A vehicle or portable structure built on a chassis, designed to be used as a temporary dwelling for travel or recreational use.

TRAVEL TRAILER PARK - Any plot of ground upon which two or more travel trailers, pickup coaches or similar recreational vehicles and/or tents occupied for dwelling or sleeping purposes for transients are located.

WATERBORNE - Supported or carried by water.

WETLAND - Lands and waters of the state as defined by the New York State Freshwater Wetlands Act, as amended.

YARD - Space on a lot not occupied by a building. Porches shall be considered as part of the main building and shall not project into a required yard.

YARD, FRONT - Yard between front lot line and the front line of principal building or accessory building extended to side lot lines. Depth of front yard shall be measured from street front lot line to front line of building.

YARD, REAR - Yard between rear lot line and rear line of principal building or accessory building extended to side lot lines. Depth of rear yard shall be measured from rear lot line to rear line of building.

YARD, SIDE - Yard between principal building or accessory building and a side lot line, and extending through from front yard to rear yard.

ARTICLE 7. ADMINISTRATION AND ENFORCEMENT:

Section 7.10. AUTHORITY OF TOWN OFFICIAL AND BOARD:

The general administration of this Local Law shall be divided among the Enforcement Officer, Zoning Board of Appeals, Planning Board, and Town Board as set forth in this Local Law. Such parties may adopt regulations designed to govern the procedures to be followed for the submission of all applications within their respective authority, including the development of administration forms, submission documents and filing fees, and such regulations and fees upon adoption by the governing body of this municipality shall be incorporated into and become a part of this Local Law and subject to all the enforcement powers hereinafter provided.

Section 7.20. THE TOWN BOARD:

The Town Board shall appoint an Enforcement Officer who shall issue permits only on strict compliance with this law, and shall have no authority to vary the requirements of this law.

Section 7.30. ENFORCEMENT OFFICER:

The Enforcement Officer shall be responsible for the issuance of certifications that any activity or use complies with the provisions of this Local Law, including the terms and conditions of any special authorization. Where there is a disagreement with any determination made by the enforcement officer under the provisions of this Local Law, an application may be filed by either the Enforcement Officer or any other interested party with the Zoning Board of Appeals requesting a review of the Enforcement Officer's determination. The Enforcement Officer shall be empowered to enter premises during reasonable hours to make such inspection as necessary to assure compliance with this law.

Section 7.40. ZONING PERMIT:

No land shall be used for a purpose requiring a special use permit or site plan review and no building or structure shall be erected, constructed, reconstructed, moved, relocated or added to or structurally altered until a Zoning Permit has been issued by the Enforcement Officer. The Enforcement Officer shall not issue a Zoning Permit where the proposed erection, construction, reconstruction, moving, relocation, addition or alteration or use thereof would be in violation of this Local Law. For a use requiring a special use permit and/or site plan review by this Local Law, the Enforcement Officer shall issue a Zoning Permit

only after the special use permit and/or site plan has been approved by the Planning Board.

Exceptions:

- a. No permit is required for deck, patio, or porch that does not have a roof and is attached to a residence.
- b. No permit is required for any accessory building which does not exceed 120 sq. ft. (see sideline and rearyard setback requirements).

Section 7.50. VIOLATIONS:

Whenever, in the opinion of the Enforcement Officer after proper examination and inspection, there appears to exist a violation of any provision of this Local Law, or of any rule or regulation adopted pursuant thereto, he shall serve a written notice of violation upon the owner, tenant or occupant of the premises.

- a. Notice of Violation: Such notice of violation shall inform the recipient of:
  1. The nature and details of such violations;
  2. Recommend remedial action which if taken will effect compliance with the provisions of this Local Law and with rules and regulations adopted pursuant thereto; and
  3. The date of compliance by which the violation must be remedied or removed.
- b. Extension: The Enforcement Officer may extend the date of compliance for a reasonable period of time after written application, if in his opinion there is reasonable evidence of intent to comply and that reasonable conditions exist which prevent compliance by the specified date.
- c. Certificate of Zoning Compliance: On reinspection following the expiration of the date for compliance as specified in the notice of violation, if the violation has been corrected or removed in accordance with the specified remedial action and there is no longer a violation of any provision of this Local Law, then a Certificate of Zoning Compliance shall be issued by the Enforcement Officer.

- d. Legal Action by the Town for Non-Compliance: On reinspection following the expiration of the date of compliance as specified in the notice of violation or as extended as provided herein, if the remedial action specified has not been carried out and there is still in existence in the opinion of the Enforcement Officer, a violation of a provision of this Local Law, then the Enforcement Officer shall immediately refer the matter to the Town Attorney who shall thereupon institute appropriate legal action to restrain, prevent, enjoin, abate, remedy or remove such violation and take whatever other legal action is necessary to compel compliance with this Local Law.
- e. Failure to Apply for Zoning Permit or Certificate of Occupancy is a violation. Any person who fails to apply for a Zoning Permit or Certificate of Occupancy as required by, and in accordance with this Local Law and who proceeds to construct, erect, relocate, move, alter, extend or structurally change a building or part thereof, or who proceeds to occupy or use or change the use of land without first obtaining any Zoning Permit, any Certificate of occupancy, any site plan review, or any other permit required by this Law shall be guilty of a violation of this Local Law.
- f. The failure of the Enforcement Officer or the Town of Westerlo to notify any person of a violation of this Local Law shall in no way be deemed or interpreted to be approval, forgiveness or a waiver of any violation of this Law.

Section 7.60. CERTIFICATE OF OCCUPANCY:

No building hereafter constructed, erected, relocated, moved, altered, extended or structurally changed shall be used or changed in use until a Certificate of Occupancy has been issued by the enforcement officer in accordance with the provisions of this Local Law. The Enforcement Officer will respond to the owner in writing within ten calendar days after building has been inspected.

Section 7.70. FEES:

Fees may be charged for permits issued, and for processing of applications, as established by the Town Board.

#### Section 7.80. NONCONFORMING USES:

The lawful use of any building or land existing at the time of the enactment of this Local Law may be continued although such use does not conform with the provisions of this Local Law subject to the following:

- a. Extensions: A nonconforming use shall not be expanded/extended, except upon approval of the Town Board after a public hearing.
- b. Abandonment: Whenever a nonconforming use has been discontinued for a period of one year, such use shall not thereafter be re-established, and any future use shall be required to be in conformity.
- c. Changes: Once changed to a conforming use, no building or land shall be allowed to revert to a nonconforming use.

#### Section 7.90. PENALTIES FOR VIOLATIONS:

A violation of this Local Law is punishable by a fine not exceeding two hundred fifty (\$250.00) dollars or imprisonment for up to fifteen (15) days or both fine and imprisonment. Each week a violation shall continue or be permitted to exist shall constitute a separate violation hereof.

The owner, tenant, occupant and licensee of any land or place of business who commits or permits any acts of violation of any of the provisions of this Local Law shall be deemed to have committed a violation of this Local Law and shall be liable for such violation. Any person who shall commit an act on land located in the Town of Westerlo in violation of this Law, whether with or without the permission of the owner, tenant, occupant or licensee, shall have committed a violation of this Law.

Conviction for a violation of this Local Law shall, wherever appropriate and directed by the Court, constitute and effect immediate forfeiture of any permit, certificate or license held by said violator.

Any person or corporation violating this Local Law shall be liable in addition for the penalties provided above for a violation for damages and civil penalties enforceable and collectible by the Town. Such damages and penalties shall be collected by and in the name of the Town for each week that such violation shall continue. Damages shall include any costs or



expenses in correcting or curing any violation of this Local Law, including reasonable attorneys' fees. The Town shall not be required to use its own employees and equipment to cure or correct any violation but may retain, employ and contract for any required services and any cost and expense thereof shall be includable as damages hereunder.

In addition, the Town Board may also maintain an action or proceeding in the name of the Town in a Court of competent jurisdiction to compel compliance with or to restrain by injunction any violation of this Local Law.

In addition to the penalties for a general violation of this Local Law, a violation of Local Law in connection with hazardous waste in compliance with Section 71-2705 of the Environmental Conservation Law shall be punishable as follows:

In the case of a first violation, the fine shall not exceed twenty five thousand (\$25,000.00) dollars. Each week a violation shall continue or be permitted to exist shall constitute a separate violation hereof.

#### Section 7.100. COMPLAINTS:

Any person may file a signed complaint when a violation of this Local Law is suspected. All complaints must be in writing and shall be filed with the Town Clerk, who shall immediately notify the Enforcement Officer. If a violation is found to exist, the Enforcement Officer shall order the violation to cease. Where uncertainty exists, an interpretation from the Board of Appeals shall determine if a violation exists.

#### ARTICLE 8. ZONING DISTRICTS:

##### Section 8.10. ESTABLISHMENT OF DISTRICTS:

For the purpose of this Local Law, the Town of Westerlo is hereby divided into the following districts:

- LI - Light Industrial
- RD/A - Rural Development/Agricultural
- RH - Residential Hamlet

##### Section 8.20. DISTRICT MAP:

The land use districts are shown, defined and bounded on the district map accompanying this Local Law. The district map is hereby made a part of this Local Law, and shall be on file in the Office of the Town Clerk.

Section 8.30. INTERPRETATION OF DISTRICT BOUNDARIES:

Questions concerned with the exact location of district boundary lines as shown on the district map shall be resolved by the Zoning Board of Appeals.

Where a district boundary line divides a lot of record at the time such line is adopted, the regulations for the less restricted part of such lot shall extend not more than fifty (50) feet into the more restricted part, provided the lot has frontage on a street or road in the less restricted district.

Section 8.40. RURAL DEVELOPMENT/AGRICULTURAL DISTRICT:

1. Purpose and Intent: The purpose and intent of this zone is to encourage the development of residential, agricultural and commercial land uses at densities compatible with the ability of the land to absorb such uses and to establish minimum site development standards for certain specified uses.

2. Uses Permitted by Right:

- a. one family dwelling
- b. home occupations
- c. single mobile homes
- d. solar energy systems
- e. full or part-time agricultural or forestry uses
- f. any educational or religious activity involving less than 50 people

3. Uses Permitted Upon Obtaining Site Plan Approval and Special Use Permit:

- a. travel trailer parks and camp grounds
- b. mobile home parks
- c. all commercial uses
- d. two-family and multiple family dwellings including homes for the aged
- e. essential services and government buildings.

- f. airport strips, airports, heliports
  - g. recreational
  - h. excavation
  - i. any medical, educational, religious, or research activity
  - j. excavating and construction contractors
4. All other uses are hereby expressly prohibited, except upon amendment of this Zoning Law by the Town Board.

MINIMUM LOT STANDARDS:

A. SINGLE DWELLING: Minimum lot acres per single family dwelling units or single mobile home shall be three (3) acres, and a minimum road frontage of two hundred (200') feet or fifty (50') feet right of way to parcel which has no existing road frontage. No more than one new dwelling unit or mobile home shall be constructed or placed upon one lot, nor shall any such dwelling unit or mobile home be located closer than fifty (50') feet from front lot line of any street or road. No building shall be more than two and one-half (2½) stories, not to exceed thirty-five (35) feet in height.

MINIMUM SET BACK AND FRONT LOT LINE ("FRONTAGE"):

Minimum Frontage:	200 ft.
Front Yard Minimum:	50 ft.
Side Yard Minimum:	50 ft.
Rear Yard Minimum:	50 ft.

B. TWO-FAMILY AND MULTIPLE DWELLING: A two-family dwelling shall be constructed on a minimum of five (5) acres. For each additional dwelling units the minimum lot size over and above five (5) acres shall be increased by a ratio of forty (40) sq. ft. of land for each sq. foot of finished living area, excluding specifically cellars and garage area. No building shall be more than two and one-half (2½) stories, not to exceed thirty-five (35) feet in height and shall provide two and one-half (2½) parking spaces per dwelling unit. A minimum road frontage of two hundred (200') feet or fifty (50') feet right of way to any parcel which has no existing road frontage. No building shall be located closer than fifty (50') feet from front lot line of any street or road.

MINIMUM SET BACK AND FRONT LOT LINE ("FRONTAGE"):

Minimum Frontage:	200 ft.
Front Yard Minimum:	50 ft.
Side Yard Minimum:	50 ft.
Rear Yard Minimum:	50 ft.

C. ALL OTHER PERMITTED USES: Any other permitted uses shall be constructed on a minimum of five (5) acres. The maximum building coverage for all development, excluding parking area shall not exceed thirty (30%) percent of the gross land area of any single lot or other development site as a whole and twenty (20%) percent of gross land area shall remain forever green or natural. No building shall be more than a two and one-half (2½) stories, not to exceed thirty-five (35') feet in height. A minimum road frontage of three hundred (300') feet or fifty (50') feet right of way to any parcel which has no existing road frontage. No building shall be located closer than one hundred (100') feet from front lot line of any street or road.

MINIMUM SET BACK AND FRONT LOT LINE ("FRONTAGE"):

Minimum Frontage:	300 ft.
Front Yard Minimum:	100 ft.
Side Yard Minimum:	100 ft.
Rear Yard Minimum:	100 ft.

Section 8.50. RESIDENTIAL HAMLET DISTRICT:

1. Purpose and Intent: The purpose and intent of this zone is to recognize established areas where residential and commercial uses are intermixed and lots are small.

2. Uses Permitted by Right:

- a. One family dwelling excluding however, mobile home
- b. solar energy systems
- c. home occupations
- d. any education or religious activities involving less than 50 people

3. Uses Permitted Upon Obtaining Site Plan Approval and Special Use Permit:

- a. retail commercial uses  
(example: retail businesses, auto service station, banks, restaurants, inns and motels)
  - b. two family dwelling
  - c. essential services and government buildings
  - d. medical, educational and religious activities
4. All other uses are hereby expressly prohibited, except upon amendment of this Zoning Law by the Town Board.

MINIMUM LOT STANDARDS:

A. SINGLE-FAMILY DWELLING:

Minimum lot size for residential use shall be 32,670 square feet and a minimum road frontage of one hundred (100') feet or fifty (50') feet right of way to parcel which has no existing road frontage. Depending on soil conditions and well location, minimum lot size may have to be increased in order to comply with Health and Sanitary Regulations. No building shall be located closer than fifty (50') feet from front lot line of any street or road. No structure shall be more than two and one-half (2½) stories, not to exceed thirty-five (35) feet in height.

MINIMUM SET BACK AND FRONT LOT LINE ("FRONTAGE"):

Minimum Frontage:	100 ft.
Front Yard Minimum:	50 ft.
Side Yard Minimum:	30 ft.
Rear Yard Minimum:	30 ft.

B. ALL OTHER PERMITTED USES:

All other permitted uses in a residential hamlet district shall have a minimum lot size of 32,670 square feet and a minimum road frontage of one hundred fifty (150') feet or fifty (50') feet right of way to any parcel which has no existing road frontage. No structure shall be located closer than fifty (50') feet from front lot line of any street or road. No building shall be more than a two and one-half (2 1/2) stories, not to exceed thirty-five (35') feet in height.

MINIMUM SET BACK AND FRONT LOT LINE ("FRONTAGE"):

Minimum Frontage:	150 ft.
Front Yard Minimum:	50 ft.
Side Yard Minimum:	30 ft.
Rear Yard Minimum:	30 ft.

Section 8.60. LIGHT INDUSTRIAL DISTRICT:

1. Purpose and Intent: This district provides for the establishment of facilities, warehousing and related activities of an industrial nature whose activities do not, in their normal use, constitute a fire hazard or emit smoke, glare, noise, odor or dust, which does not extend or impact beyond the lot lines or boundaries of the premises, or impact negatively on the aquifer or on the environment in general or impact in any other ways which constitute a nuisance or detriment to neighboring properties and to public health, safety or the general welfare.

2. Uses Permitted By Right: NONE.

3. Uses Permitted Upon Obtaining Site Plan Approval and Special Use Permit:

a. Any assemblage of manufactured components to a finished product.

MINIMUM LOT STANDARDS:

Minimum lot size shall be five (5) acres and a minimum road frontage of five hundred (500') feet or fifty (50') feet right of way to any parcel which has no existing road frontage. No structure shall be located closer than one hundred (100') feet from front lot line of any street or road. No structure shall be more than a two and one-half (2 1/2) story structure and a maximum height of thirty-five (35') feet.

MINIMUM SET BACK AND FRONT LOT LINE ("FRONTAGE"):

Minimum Frontage:	500 ft.
Front Yard Minimum:	100 ft.
Side Yard Minimum:	100 ft.
Rear Yard Minimum:	100 ft.

ARTICLE 9. SITE PLAN REVIEW:

Section 9.10. AUTHORITY:

Pursuant to authority delegated in accordance with Article 16, Section 274-a of the Town Law of the State of New York, the Town Board hereby authorizes the Town Planning Board to review and approve, approve with modifications or disapprove site plans.

No zoning permit shall be issued by the enforcement officer before site plan review has been completed in accordance with this Local Law and a final site plan approved by the Town Planning Board with or without modifications. The Enforcement Officer shall revoke said zoning permit if the provisions of the site plan are not complied with.

Section 9.20. APPLICATION:

An application for site plan review shall be made in writing addressed to the Planning Board Chairman and delivered or mailed to the Town Hall. Three (3) copies of the application and required information as set forth below shall be submitted. The application shall be accompanied by all of the following information, as required by the Planning Board, and prepared by a licensed engineer, architect, landscape architect, or surveyor, as certified by the seal and signature of such professional.

The Chairman of the Planning Board may, in his or her sole discretion, waive any of the information or requirements hereinafter set forth for a completed application where the circumstances in his or her judgment warrant such waiver and the Chairman obtains the concurrence of two other members of the Planning Board.

A site plan to be submitted to the Town Planning Board shall include the name and address of applicant and owner, north point, scale, date, boundaries of the property plotted to scale:

In addition, the site plan shall show the following:

- a. arrangement, layout and design of the proposed improvements or changes to the existing site.
- b. location and dimensions of all buildings, structures and signs
- c. parking facilities

- d. means of access
- e. screening or buffer zones
- f. signs
- g. landscaping
- h. architectural features of buildings and improvements
- i. lighting including any sign illumination
- j. such other elements as may reasonably be related to the health, safety and general welfare of the community

Said application shall include an area map showing that portion of the applicant's property under consideration, the applicant's entire adjacent holdings, and all properties, subdivisions, streets and easements within five hundred (500') feet of the applicant's property.

The Planning Board may require the showing of existing contour intervals of not more than five (5) feet of elevation, including those within two hundred (200) feet of any boundary of applicant's property.

The Planning Board may require the showing of proposed finished contour intervals of not more than five (5) feet of elevation and direction of drainage with arrows.

The site plan shall include the following information: title of drawing, include name and address of applicant, north point, scale and date, boundaries of the property plotted to scale, and existing buildings.

The Planning Board may also require architectural plans and elevations and/or engineering drawings, traffic studies, and engineering soil tests showing architectural features of buildings and improvements, lighting including any sign illumination, and such other elements as may reasonably be related to the health, safety and general welfare of the community and surrounding property.

#### Section 9.30. PLANNING BOARD REVIEW AND APPROVAL:

1. General Procedures: All applications for site plan approval shall be filed with the Town Clerk. A public hearing shall be held within forty-five (45) days from the date a



completed application is filed. Public notice of all such hearings shall be published in the official newspaper of the Town at least five (5) days prior to the hearing date. A final decision shall be made within forty-five (45) days after the hearing unless extended by mutual consent of the applicant and the Planning Board. All decisions shall be filed in the office of the Town Clerk and a copy mailed to the applicant. Appeals from any determination of the Planning Board under this section shall be made in accordance with the provisions of ARTICLE 78 OF THE CIVIL PRACTICE LAW AND RULES OF THE STATE OF NEW YORK.

2. The Planning Board shall in its review consider the following matters:

- a. Applicant complies with all provisions contained in this Local Law.
- b. There will be no undue adverse impact upon the natural environment or upon the character or integrity of any land use having unique cultural, historical, architectural or similar significance.
- c. Adequately designed open space, drainage facility, landscaping and other features considered appropriate to the function of the development shall be provided.
- d. Traffic controls for vehicular and pedestrian movement are designed to protect the safety of the general public and the occupants, employees, attendants, and other persons for whose benefit the use is intended. In making this determination, the Planning Board shall review, but need not be limited to the following considerations:
  1. Location and adequacy of parking and loading facilities.
  2. Pedestrian right-of-way.
  3. Traffic regulatory devices.
  4. Location, number and design of points of entrance and exit.
  5. Accessibility for emergency vehicles.
  6. Storage facilities for snow.

7. Age and mobility of all persons for whose benefit the use is intended.
8. Speed limits upon and general character of public highways in close proximity.

Compliance with the provisions of this Local Law relating to parking shall not preclude a determination that the foregoing requirement has been met.

- e. The proposed use will be provided with adequate supporting services such as fire and police protection, public and private utilities, and all other supporting government services and appropriate to the proposed use.
- f. The architectural design elements of the site shall be in harmony with the natural environment and in keeping with the character of the surrounding neighborhood.

3. Criteria: In making a determination as to the compliance with any one or more of the findings and conditions specified in Section 9.30(2), consideration shall be given but not limited to the following elements:

- a. Geometric characteristics of all structures and related improvements.
- b. Aesthetic characteristics, including design, texture, materials, colors and illuminations.
- c. Physical attributes of the site, including size, shape, elevations, topography and natural vegetation.

The Planning Board may impose such conditions on the approval of any application which in their opinion are necessary and reasonably implement the provisions of Section 9.30.

4. Distance from Property Lines: The minimum distance between any point on a building and the property line shall not be less than the height of the building.

5. Lot Coverage: Maximum building coverage for all development, excluding parking area shall not exceed 30% of gross land area of any single lot of the development site as a whole, and 20% of gross land area shall remain forever green or natural.

ARTICLE 10: SPECIAL USE PERMIT REVIEW PROCEDURES:

Section 10.10. PURPOSE

The purpose of special use approval is to allow the proper integration of uses into the community and zoning districts which are only suitable in such areas given certain conditions, and at appropriate locations. Because of their characteristics, or the special characteristics of the area in which they are to be located, special uses require special consideration so that they may be properly located with respect to the objectives of the law and their effect on surrounding properties.

Section 10.20. AUTHORIZATION TO GRANT OR DENY SPECIAL USES:

The special uses listed in this Local Law may be permitted, enlarged or otherwise altered upon authorization by the Planning Board. In permitting a special use or the modification of a special use, the Planning Board may impose, in addition to those standards and requirements expressly specified by the law, any additional conditions which the board considers necessary to protect the best interests of the surrounding property, the neighborhood or the town as a whole. These conditions may include but are not limited to increasing the required lot size or yard dimensions; limiting the height or size of buildings; controlling the location and number of vehicle access points; increasing the street widths; increasing the number of off-street parking and loading spaces required; limiting the number, size and location of signs; and required fencing, screening, landscaping, or other facilities to protect adjacent or nearby property. In the case of a use existing prior to the effective date of this law and classified in this law as a special use, any change in use or in lot area or an alteration of structure shall conform with the requirements dealing with special uses.

Section 10.30. APPLICATION FOR SPECIAL USE:

Any application for a special use permit shall be made in writing addressed to the Planning Board Chairman and delivered or mailed to the Town Hall. Three (3) copies of the application and required information as set forth below shall be submitted. The application shall be accompanied by all of the following information, as required by the Planning Board and prepared by a licensed engineer, architect, landscape architect or surveyor, and certified by the seal and signature of such professions. The Chairman of the Planning Board may in his or her discretion waive any of the information or requirements hereinafter set forth for a completed application wherein the Chairman's

judgment of the circumstances warrant such waiver and he obtains the concurrence of at least two (2) other members of the Planning Board.

- a. An area map showing that portion of the applicant's property under consideration, the applicant's entire adjacent holdings, and all properties, subdivisions, streets, and easements within five hundred (500) feet of applicant's property.
- b. A grading plan showing existing contour intervals of not more than five (5) feet of elevation shall be provided, and shall include two hundred (200) feet of adjacent property.
- c. A grading plan showing proposed finished contour intervals of not more than five (5) feet of elevation and direction of drainage with arrows. Data required here may be placed on the same tracing as required in (b) above, provided that the proposed finished contours are illustrated by solid lines.
- d. A site plan including the following information:
  1. title of drawing, including name and address of applicant, north point, sale and date, boundaries of the property plotted to scale, existing watercourses, and
  2. a plan showing
    - (a) location and size of buildings
    - (b) location and size of off-street loading facilities, with access and egress drives thereto
    - (c) location and size of outdoor storage if any and the method of screening the storage area from public view
    - (d) location of all existing or proposed site improvements, including drains, culverts, retaining walls and fences
    - (e) description of method of sewage disposal and location of such facilities, and any proposed changes in existing stream channels

- (f) location and size of all signs
  - (g) location and proposed development of buffer areas
  - (h) location and design of lighting facilities
  - (i) any existing and proposed easements and the location, if any, of waste storage and the method of screening from public view, air conditioning units and other facilities located on roof tops of buildings, and location of exhaust fans for use in relationship to adjacent residential areas
3. A soil map showing all soils areas and their classification, and those areas, if any, with moderate to high susceptibility to flooding, and moderate to high susceptibility to erosion. For areas with potential erosion problems the overlay shall also include an outline and description of existing vegetation.

Section 10.40. FACTORS FOR CONSIDERATION:

The Planning Board's review of an application for special use permit shall include, but is not limited to, the following considerations:

- a. The appropriateness of the proposed site including such matters as the following:
  - 1. the physical features and the general character, present use of the land in the neighborhood
  - 2. the density of the land uses in the vicinity such as to warrant the proposed use
  - 3. the adaptability of the site for the proposed use, in addition to, topography, natural buffers, screening and fencing
  - 4. the location of the site in relation to transportation, water and sewerage requirements of this Local Law, or where not specifically required, that such facilities are otherwise adequate to accommodate anticipated use

- b. Whether the project conforms to accepted design and aesthetic principles in the proposed functional roadway system, land use configuration, open space system, and drainage system.
- c. The effect of the proposed use on the other properties in the neighborhood and the enjoyment by the inhabitants of their properties, and whether it will materially affect the value of such properties and the use and enjoyment of such properties by the occupants and any other effect of such use on the health, welfare and safety of the occupants of such properties.
- d. The Planning Board may consider the following specific criteria:
  - 1. full conformance of the permit request with the provisions of this law,
  - 2. adequacy and arrangement of vehicular traffic access and circulation, including intersections, road widths, drainage channelization structures, and traffic controls; consideration will also be given to the project's impact on the overall traffic circulation system of the neighborhood of the town,
  - 3. adequacy of fire lanes and other emergency zones, traffic circulation and system of fire hydrants,
  - 4. adequacy and arrangement of pedestrian traffic access and circulation, including, but not solely limited to: separation of pedestrians from vehicular traffic, control of intersections and overall pedestrian convenience; where appropriate, consideration of access and facilities for bicycles.
  - 5. location, arrangement, size, design and general site compatibility of buildings, lighting and signs; as much as it is possible, consideration should be given to noise sources, privacy, prevailing wind directions and seasonal sun movements when locating structures, patios and open spaces on parcels, exhaust fans and outdoor waste disposal locations,

6. location, arrangement and setting of off-street parking and loading areas,
7. adequacy, type and arrangement of trees, shrubs and other landscaping constituting a visual and/or noise deterring buffer between the project and adjoining properties,
8. in the case of an apartment house or multiple dwelling complex, the adequacy of useable open space for playgrounds and informal recreation,
9. adequacy of provisions for the disposal of storm water and drainage, sanitary waste and sewage, water supply for both fire protection and general consumption, solid waste disposal, and snow removal storage areas,
10. adequacy of structures, roadways and landscaping in areas with moderate to high susceptibility to flooding and ponding and/or erosion,
11. protection of adjacent properties against noise, glare, unsightliness, or other objectionable features,
12. retention of existing trees and vegetation for protection and control of soil erosion, drainage, natural beauty and unusual or valuable ecology,
13. such use is reasonably necessary or convenient to the public health, welfare or the economic or social benefit of the community,
14. such use is suitably located in relation to transportation, water and sewerage requirements of this Local Law, or where not specifically required, that such facilities are otherwise adequate to accommodate anticipated use,
15. no undue traffic congestion or hazard will be created,
16. the character of the neighborhood and values of surrounding property are reasonably safeguarded.

In its review the Planning Board is encouraged to consult with the Town Engineer and other town and county officials and boards, as well as with

representatives of federal and state agencies including the Soil and Water Conservation District, the U.S. Army Corps of Engineers or the New York State Department of Environmental Conservation. The Planning Board may require that interior design of all structures be made by, or under the direction of a registered architect whose seal shall be affixed to the plans.

Section 10.50. PUBLIC HEARING ON SPECIAL USE PERMIT:

Within forty-five (45) days after receipt of a completed application, a public hearing will be held on such application. Before a special use permit is granted, the proposed special use shall be considered by the Planning Board at a public hearing. Notice of said hearing shall be given as provided in Section 274-a of the Town Law (publication in the official newspapers at least five (5) days prior to the date thereof).

Section 10.60. DECISION AND NOTIFICATION OF ACTION:

Within forty-five (45) days after the holding of said public hearing, unless extended by the mutual consent of the applicant and the Planning Board, the Planning Board shall vote and file its decision in writing with the office of the Town Clerk. A copy thereof shall be mailed to the Town Clerk to the Applicant as of the date of filing with the Town Clerk.

Section 10.70. MISCELLANEOUS:

A special use permit shall become void one (1) year after approval unless construction has begun within such time or by conditions of the use permit, greater or lesser time is specified as a condition of approval, or unless prior to the expiration of one (1) year the permit is extended for a period of no more than one (1) year.

The Planning Board on its own motion, may revoke any special use permit for noncompliance with conditions set forth in the granting of said permit after first holding a public hearing and giving notice of such hearing. The foregoing shall not be the exclusive remedy, and it shall be unlawful and punishable hereunder for any person to violate any condition imposed by a special use permit.



ARTICLE 11: OFF-STREET PARKING AND LOADING:

Section 11.10. NEW LAND USE ACTIVITIES:

Uses established after the effective date of this Local Law shall provide off-street parking and loading spaces in accordance with the following standards:

1. One parking space for ever three seats in a place of public assembly.
2. One parking space for every employee at places of employment.
3. One parking space for every 250 square feet of floor space in a commercial establishment, except that a commercial use as part of a home occupation is exempt from this requirement.
4. One parking space for each one hundred (100) square feet of floor space devoted to home occupation uses as defined in Article 6 of this Local Law.

Section 11.20. LOCATION:

Parking spaces accessory to a principal use shall be located on the same lot as the principal use, unless a special permit is granted under ARTICLE 9.

Section 11.30. YARD DEPTH:

No parking shall be located within twenty (20) feet of any side or rear lot line, except in driveways.

Section 11.40. JOINT USE OF PARKING FACILITIES:

The Planning Board may approve as part of its site plan approval procedure the use of joint parking facilities by one or more applicants, upon a finding that:

- a. no substantial conflict will exist during principal hours or periods of peak demand of the uses for which the joint space is provided.
- b. such spaces shall not be located further than 500 feet from any of the principal uses which they serve.
- c. a parking covenant is executed.

Section 11.50. OFF-STREET LOADING REQUIREMENTS:

- a. Each loading berth shall be at least ten (10) feet by fifty (50) feet in size and have a minimum clear height providing access to the street of fourteen (14) feet.
- b. Off-street loading facilities shall otherwise be subject to the provisions applicable to parking spaces.

ARTICLE 12. SUPPLEMENTARY REGULATIONS:

Section 12.10. FLOOD HAZARD AREAS:

These areas are shown on the Flood Hazard Boundary Map for the Town of Westerlo Federal Insurance Administration, Federal Emergency Management Agency. All activity in such areas shall conform to the Town of Westerlo Flood Hazard Regulations.

Section 12.20. WETLAND AREAS:

All activities occurring in the areas shown on the Department of Environmental Conservation's Freshwater Wetlands Map for the Town of Westerlo shall conform to the Town freshwater wetlands regulations.

Section 12.30. STATE ENVIRONMENTAL QUALITY REVIEW (SEQR):

All activities occurring within the town shall conform to the requirements and guidelines of Article 8 of the Environmental Conservation Law, "STATE ENVIRONMENTAL QUALITY REVIEW ACT (SEQR)", Part 617 of Title 6.

If it is determined that an Environmental Impact Statement will be prepared for any proposal or project governed by this Local Law, all time frames and deadlines are delayed until a draft Environmental Impact Statement is filed. An application is not complete, and therefore the review clock 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 Planning Board review begins (forty-five (45) 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.

#### Section 12.40. SEWAGE DISPOSAL:

The applicant shall be responsible for meeting the requirements of the Public Health Law and in conjunction with New York State Department of Health.

#### Section 12.50. WATER SUPPLY:

No zoning permit shall be issued until applicant has conclusively established and had certified by competent experts that a supply of water is adequately available for all domestic purposes and meets commercial and industrial requirements if related to a non-domestic project. In quality, the water must meet the New York State Drinking Water Standards of the Public Health Law.

#### Section 12.60. STORM WATER DRAINAGE:

For any use requiring planning board site plan approval, a storm water drainage plan shall be prepared by the applicant. A surface channel system shall be designed to convey through the peak storm run-off from a 100-year storm. Controlled release and storage of excess storm water run-off shall be required in combination for all commercial and industrial projects and for residential projects larger than three (3) acres whenever the capacity of the natural downstream outlet channel is inadequate. No habitable structures shall be constructed within this floodway, but street, parking and playground areas and utility easements may be considered. Outlet control structures shall be of ample design requiring little or no alteration for proper operation. Each storm water storage area shall be provided with an emergency overflow facility designed for a storm of 100-year intensity. An adequate easement over the land within the project shall be dedicated for the purpose of improving and maintaining any drainageways and facilities.

#### Section 12.70. ROAD STANDARDS:

Before any road can be accepted by the Town of Westerlo, it must be approved by the highway superintendent and comply with any design and construction standards adopted by the Town Board.

#### Section 12.80. MINING:

No person shall mine more than one thousand (1,000) tons of minerals from the earth within one calendar year without applying for a permit from the Department of Environmental Conservation, as required by Title 27, Article 23 of the Environmental Conservation Law.

Section 12.90. STORAGE, TREATMENT, RECLAMATION OR RECYCLING OF  
TOXIC OR HAZARDOUS WASTE OR MATERIALS:

Storage, treatment, reclamation or recycling of hazardous or toxic waste or materials is hereby prohibited in any district.

Section 12.100. DUMPS AND RECYCLING OPERATIONS:

All dumps, land fills and solid waste transfer stations are prohibited in all zoning districts, except those run by the Town of Westerlo.

All recycling operations involving non-hazardous or non-toxic materials are permitted in any district upon receipt of site plan approval and a special use permit pursuant to this Local Law. This is a Type I action under SEQR.

ARTICLE 13. JUNK AND AUTO PARTS:

The purpose and intent of this article is to regulate, and control the activities of businesses known as auto "graveyards", junk yards, second-hand parts collection areas, the processing recycling or reclaiming of metals for resale and the dumping, storage and disposal of waste, second-hand or used materials of whatever composition. Such activities or businesses can constitute a hazard to property and persons and be a public nuisance. Such materials may be highly inflammable, toxic, hazardous and sometimes explosive. Gasoline tanks and old autos often contain, in some quantity, combustible gasoline; the engine and other parts of such autos are frequently covered with grease and oil which is also inflammable. The tires, plastic seats, tops and other elements of such autos are also inflammable. Batteries and other elements of such motor vehicle can contain acids and other matter potentially harmful to humans. These motor vehicles frequently contain sharp metal or glass edges or points upon which a human could receive serious cuts and abrasions. These motor vehicles can constitute attractive nuisances to children. The presence of junk yards is unsightly and tends to detract from value of surrounding land and property unless such areas are properly maintained and operated. In addition, two (2) auto dismantling or junk car businesses currently are in operation in the Town of Westerlo. These two businesses adequately serve the needs of the community and provide authorized facilities for the disposal of unwanted or abandoned motor vehicles.

Section 13.10. PROHIBITED:

No person shall use, permit, engage in or conduct on real property activities or businesses known as auto dismantling, auto "graveyards", junk yards, second-hand parts collection areas, the processing, recycling or reclaiming of hazardous or toxic metals and the dumping, storage and disposal of waste, second-hand or used materials of whatever composition within the Town of Westerlo either for himself/herself or for and on behalf of any other person directly or indirectly as agent, employee or otherwise. No person shall engage in any use, activity or business whether or not for profit, which involves the collection, storage, burning, dumping, disassembling, dismantling, salvaging, sorting or otherwise handling or arranging for sale, resale, storage, burial or disposal of motor vehicle parts or of any other second-hand or used property of whatever material or any waste material.

The possession or storage of three or more unregistered, used or second-hand motor vehicles whether held for the purpose of resale of used parts therefrom, for the purpose of reclaiming for use some or all of the materials therein, for the purpose of disposing of the same, or for the purpose of storage or for any other purpose is hereby prohibited. The storage or deposit of used parts or waste materials from motor vehicles, which taken together in bulk equal two motor vehicles is hereby prohibited.

EXCEPTIONS:

a. Farm equipment and motor vehicles not licensed but being considered useful to the operation of a working farm shall not be considered junk or in violation of the prohibition against three (3) or more unregistered used or secondhand motor vehicles

b. The possession for private and personal use of secondhand or used motor vehicles, or used or secondhand materials other than of a toxic, hazardous or dangerous material when stored or contained in a fully enclosed and lockable building shall not constitute a violation of this Local Law unless deemed to constitute a hazard to property or persons or be a public nuisance or constitute a violation of the New York State Building Code as in effect from time to time or State and local Public Health Laws.

c. When expressly permitted by this Local Law in a specific zoning district.

ARTICLE 14: MOBILE HOME AND TRAVEL TRAILER PARKS:

Section 14.10. GENERAL:

After the effective date of this law, it shall be unlawful for any person to construct, maintain, operate, or alter any mobile home park or travel trailer park without obtaining site plan approval and license to construct and maintain such part as herein provided in Article 9 and Article 13 of this Local Law. No person, firm or corporation being the owner or occupant of any land or premises within the town shall use or permit the use of such land as a mobile home park or travel trailer park contrary to the provisions of the New York State Sanitary Code and a violation of such sanitary code shall be a violation of this Local Law.

Section 14.20. APPLICATION AND LEGAL DATA FOR A PARK PERMIT

a. The applicant for a mobile home park or travel trailer park permit shall be responsible for furnishing all percolation tests, plans, engineering, land surveying services, environmental studies, and all other information required to determine compliance with the provisions of this Local Law. All applications shall be in triplicate and in writing and signed by the applicant and filed with the Town Clerk.

b. Each application shall be accompanied by a site plan as required in Article 9 at a scale of 1 inch equals 100 feet, and shall show location of proposed lots, interior roadways and walkways, parking spaces, power and telephone lines, water and sewer systems, service buildings, park property boundary lines and dimensions, significant natural features such as woods, watercourses, rock outcrops, etc., and the names of adjacent property owners. This site plan shall be submitted to the Albany County Health Department for approval prior to submitting the site plan to the Town Planning Board for its approval. Materials to be submitted to the health department shall also include a detailed refuse removal plan in accordance with paragraph 7, Section 13.30 of this Local Law.

c. Any modification or expansion to the original park site shown on the application shall require a permit following

the same procedure noted herein. Expansion or modification of a park existing prior to the effective date of this law shall also require a permit. Violation of this section may result in the revocation of any existing park permit.

d. Each application shall be accompanied by a complete set of plans which are prepared by a surveyor or engineer and shall bear the seal of a "duly Licensed Professional Engineer".

e. The name and address of the applicant; or the name and address of each partner is needed if the applicant is a partnership; or the name and address of each officer and director if the applicant is an association or corporation.

#### Section 14.30. PARK DESIGN STANDARDS:

In addition to the general requirements as herein provided in the Local Law, the following standards shall apply to all mobile homes and travel trailer parks:

1. GRADING AND DRAINAGE: Lands used as a mobile home or travel trailer park shall be well-drained, of ample size, and free from heavy or dense growth of brush and weeds. The land shall be properly graded to insure proper drainage during and following a rainfall and shall at all times be drained so as to be free from stagnant pools of water. No lots shall be laid out in areas designated as wetlands on State Wetland maps or subject to flooding as shown on Federal Flood Hazard Maps.

2. ACCESS: Each park shall have at least two hundred (200) feet of frontage on a public road. Internal roads shall be such that access to the public road is no more than one in five hundred (500) feet of frontage.

3. LOTS: Each park shall be marked off into lots numbered consecutively, and the number shall be conspicuously posted on each lot with such number to correspond to the lot shown on the site plan submitted. All lots shall face interior roadways.

4. SEPARATION DISTANCE: No service buildings, mobile homes or travel trailers shall be closer than one hundred (100) feet from the front lot line of any public road. Such areas shall be seeded and adequately landscaped to provide screening from road.

5. INTERIOR ROADS: All roads shall be at least twenty (20) feet wide and shall be designed, surfaced and lighted in a manner to facilitate the movement of emergency vehicles at all

times. The owner or operator shall be responsible for constructing, maintaining, and plowing such roads.

6. UTILITIES: Water supply, sewage disposal and other distributions systems for electricity, fuel oil, gas, etc., shall be provided in accordance with the requirements of the New York State Sanitary Code of this Local Law.

7. GARBAGE: Each park shall provide equipment sufficient to prevent littering and shall provide metal depositories with tight fitting covers. Depositories shall be placed at convenient locations, emptied regularly and kept at all times in a sanitary condition.

8. FIRE INSPECTION: Each park owner or manager shall cooperate with the fire chief of the district in which the park is located in arranging an annual inspection of the premises and conditions within the park. The fire chief shall submit his findings and recommendations to the Planning Board prior to license renewal.

9. PARK OFFICE: The owner or manager of a park shall maintain an office in the immediate vicinity of the park and shall maintain accurate records of the names of park residents, home addresses, make, description, year, and license or identification number of the mobile home or travel trailer. These records shall be available to any law enforcement official, the town enforcement officer and the town assessor.

#### Section 14.40. MOBILE HOME PARK REQUIREMENTS:

1. LOT SIZE: Each mobile home lot shall contain at least ten thousand, eight hundred ninety (10,890) square feet and no more than one mobile home shall be permitted to occupy one lot. The total number of mobile home lots in a mobile home park shall not exceed four (4) per gross acre.

2. STAND: Each mobile home lot shall have a mobile home stand which will provide for the practical placement on and removal from the lot of both the mobile home and its appurtenant structures and the retention of the home on the lot in a stable condition. The stand shall be of sufficient size to fit the dimensions of the anticipated mobile homes and their appurtenant structures or appendages. Mobile homes shall be supported on masonry piers, and the space between the underside of such structure and the ground shall be completely enclosed by a skirting consisting of a fire retarding material. The stand shall be suitably graded to permit rapid surface drainage.



3. YARDS: Each mobile home lot shall have a minimum front yard of fifteen (15) feet from interior streets and there shall be a minimum of fifty (50) feet between any mobile home in any direction.

4. BOUNDARY: All mobile homes shall be at least one hundred (100) feet from any public street and/or highway, and at least one hundred (100) feet from an adjacent property line.

5. PARKING: Each mobile home lot shall provide off-street parking spaces for two (2) motor vehicles, which shall be covered with a hard surface to eliminate mud and dust. Guest parking shall also be provided reasonably nearby in the amount of two (2) spaces for every ten (10) lots.

Section 14.50. INDIVIDUAL MOBILE HOME OUTSIDE MOBILE HOME PARK.

The owner of land must file an application for a permit with the enforcement officer together with a fee determined by the Town Board. Any mobile home parked or placed outside a duly licensed mobile home park shall have an adequate supply of pure water for drinking and domestic purposes, and a septic system. Both systems shall satisfy the requirements of the New York State Department of Health.

No occupied mobile home outside a duly licensed mobile home park shall be parked or placed upon a lot unless the following are adhered to:

- a. Lot dimensions: see Article 8. Section 8.40 (a) Single Dwelling.
- b. Stand: see Article 14. Section 14.40(2).
- c. No mobile home shall be used as a storage shed.
- d. No mobile home shall be placed on a lot which is occupied by another mobile home.

No mobile home shall be parked or allowed to remain upon any street, highway or other public place, except that emergency stopping or parking, when caused by mechanical failure, shall be permitted upon the shoulder of any street or highway for a period of not more than forty-eight (48) hours, subject however to any prohibition or limitation imposed by other regulations or laws.

Section 14.60. TRAVEL TRAILER PARK REQUIREMENTS.

1. LOT SIZE: Each lot in a travel trailer park shall be a minimum of twenty five hundred (2,500) square feet in size.

2. SLOPE: Lots shall be located on generally level ground, not to exceed an 8% slope, that is well-drained, free of flood hazard and clear of dense brush. Where terrain is adequate, pull-through sites should be provided.

3. MOBILE HOMES: Mobile homes "SHALL NOT BE" parked permanently or temporarily in any travel trailer site.

4. OCCUPANCY: Travel trailers shall not be parked for occupancy in a travel trailer park for more than one hundred eighty (180) days in any one year, unless a winterized service building is provided. However, the travel trailer operator may designate an area of the park site to be used to store unoccupied travel trailers for periods longer than one hundred eighty (180) days.

5. RECREATION: A minimum of five (5) percent of the total area of the travel trailer park shall be dedicated to a recreation area by the operator.

6. SERVICE BUILDING: Any park containing five (5) or more lots shall provide a building(s) containing at least one automatic washer and dryer, a dump station, and a public telephone, and unless admission to the park is restricted to units equipped with these facilities, one toilet, lavatory and shower for each sex for each five (5) lots. All service buildings shall be of substantial construction and shall be maintained in a clean, sanitary and sightly condition.

Section 14.70. INSPECTION:

Upon completion of final inspection, issuance of a certificate of completion and payment of the license fee as required in Section 14.90, a license to operate the mobile home park or travel trailer park shall be issued by the Town Clerk, authorizing the operation of the park for the period of one year from the date thereof. The Town Board may revoke any license to maintain and operate a park when the licensee has been found guilty by a court of competent jurisdiction of violating any provision of this law. The license certificate shall be conspicuously posted in the office of or on the premises of the park at all times.

Section 14.80. LICENSE RENEWAL:

The park license shall be renewed every year on the anniversary of the original date of approval. It shall be the park owner's responsibility to initiate the renewal procedure by completing the renewal application form and submitting it to the Town Clerk thirty (30) days prior to the expiration date of the current license. After the fire inspector and enforcement officer, in coordination with the Albany County Health Department, has investigated the park for health and safety irregularities and design modifications, the enforcement officer and fire inspector shall approve or disapprove the application in writing.

Section 14.90. LICENSE FEE:

The license fee or the license renewal fee, in such amount as the Town Board may establish by resolution, shall be submitted with the completed renewal application. The license fee shall not be returned if the renewal application is disapproved. An applicant whose renewal application has been disapproved shall be granted a thirty (30) day grace period in which to correct any deficiencies noted by enforcement officer, fire inspector, or by the Albany County Health Department. The original or renewal license fee shall include the original inspection and up to two (2) reinspections.

Section 14.100. EXISTING MOBILE HOME PARKS OR TRAVEL TRAILER PARKS:

All mobile home parks or travel trailer parks built prior to the enactment of this Local Law which do not meet the standards of this Local Law shall be considered as nonconforming to the mobile home or travel trailer park site development standards of this Local Law. All future changes or additions to such parks shall be made in accordance with this Local Law and reviewed and approved by the Planning Board.

Section 14.110. TRAVEL TRAILERS OUTSIDE TRAVEL TRAILER PARKS:

No unoccupied trailer shall be left on a vacant lot, without a special permit approved by the Town Board.

No occupied travel trailer shall be used as a year round occupancy.

## ARTICLE 15. AIRPORTS, AIRSTRIPS AND HELIPORTS

### Section 15.10. REGULATION

All Federal, State, and Local government rules and regulations shall be fully complied with. There shall be special use and site plan approval by the Town Planning Board, including but not limited to, that such airport, airstrip, or heliport shall not cause a hazard to or be detrimental to nearby properties and buildings, both in the town and adjacent municipalities considering the location of buildings accessory to the airport, airstrip or heliport, approach and take-off patterns and lights.

## ARTICLE 16. ZONING BOARD OF APPEALS:

### Section 16.10. CREATION AND ORGANIZATION:

A Zoning Board of Appeals is hereby created pursuant to the authority granted in Section 267 of the Town Law. The Zoning Board of Appeals shall consist of seven (7) members and they shall be appointed by the Town Board in accordance with the provision of Section 267(1) of the Town Law. The board shall appoint a secretary and shall prescribe rules subject to the approval of the Town Board, for the conduct of its affairs.

The Town Board shall designate annually the Chairman of the Zoning Board of Appeals. The Town Board shall provide for compensation to be paid to said members, experts, clerks and their secretary and provide for such other expenses as may be necessary and proper, not exceeding in all the appropriations that may be made by the Town Board for such Board of Appeals. No person who is presently a member of the Town Board shall be eligible for membership on such Board of Appeals.

Of the members of the Board first appointed, one shall hold office for the term of one (1) year, two for the term of two (2) years, one for the term of three (3) years, two for the term of four (4) years, one for the term of five (5) years from and after his or her appointment. Their successors, shall be appointed for the term of five (5) years from and after the expiration of the terms of their predecessors in office. If a vacancy shall occur otherwise than by expiration of term, it shall be filled by the Town Board by appointment for the unexpired term. The Town Board shall have the power to remove any member of the Board for cause and after public hearing.

#### Section 16.20. MEETINGS:

All meetings of the Zoning Board of Appeals shall be held at the call of the Chairman and at such other times as the board may determine. The Chairman, or in his absence the acting Chairman, may administer oaths and compel the attendance of witnesses. All meetings of the board shall be open to the public to the extent provided in Article Seven of the Public Officers Law. The board shall keep minutes of its proceedings showing the vote of each member upon every question, or if absent or failing to vote indicating such fact, and shall also keep records of its examinations and other official actions.

#### Section 16.30. RECORDS:

All decisions of the board shall be in writing, and a copy of each decision shall be sent to the Enforcement Officer. Every rule, regulation, amendment or repeal thereof and every order, requirement, decision or determination of the board shall immediately be filed in the Office of the Town Clerk and shall be a public record. Each decision shall set forth fully the reason for the decision of the board and the findings of fact on which the decision was based. Such findings and reasons shall include references to the standards of Section 16.40 where the appeal is for a variance.

#### Section 16.40. POWERS AND DUTIES:

##### A. Appeals

The Board of Appeals shall hear and decide appeals from and review any order, requirement, decision or determination made by an administrative official charged with the enforcement of this zoning law. It shall also hear and decide all matter referred to it or upon which it is required to pass under the terms of said zoning law. The concurring vote of a majority of the members of the Board shall be necessary to reverse any order, requirement, decision or determination of any such administrative official, or to decide in favor of the applicant any matter upon which it is required to pass under the zoning law or to effect any variation in such zoning law. Such appeal may be taken by any person agreed, or by an officer, department, board or bureau of the Town.

1. Notice of Appeal shall be filed with the Enforcement Officer and the Secretary to the Board of Appeals in writing, in a form required by such Board, within thirty (30) days of the date of the action appealed from, specifying the grounds thereof. Every appeal or application shall refer to the

specific provisions of the zoning law involved and shall exactly set forth the interpretation that is claimed, or the use for which the special use permit is sought or the grounds on which it is claimed that a variance should be granted.

2. Upon filing of a Notice of Appeal and payment of a filing fee in accordance with the schedule of fees as promulgated from time to time by the Town Board by the appellant, the Enforcement Officer shall forthwith transmit to the Board of Appeals all the papers constituting the record upon which the action appealed from was taken.

3. The Board of Appeals shall set a reasonable date for the hearing of each appeal, of which hearing date the appellant shall be given notice and at which hearing he shall appear in person or by agent or attorney.

4. An appeal stays all proceedings in furtherance of the action appealed from, unless the Enforcement Officer certified to the Board of Appeals, after Notice of Appeal shall have been filed with him, that by reason of facts stated in the certificate, a stay, would in his opinion, cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board of Appeals or by a court of record on application, on notice to the Enforcement Officer.

5. Following public notice and hearing, the Board of Appeals may reverse or affirm, wholly or partly, or may modify the order, requirements, decision, or determination, appealed from and shall make such order, requirements, decision, or determination, as in its opinion ought to be made in the premises and to that end shall have all the power of the Enforcement Officer. If the action by the Board of Appeals is to reverse the action of the Enforcement Officer, in whole, the filing fee shall be refunded to the appellant.

#### B. Variances

1. Where there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of this Law, the Board of Appeals shall have the power, after public notice and hearing, to vary or modify the application of any of the regulations or provisions of the Law relating to the use, construction, or alteration of buildings or structures, or the use of land, so that the spirit of the Law shall be observed, public safety and welfare secured and substantial justice done.

2. All applications for variances shall be filed with the Secretary to the Board of Appeals in writing, shall be made in a form required by the Board of Appeals, and shall be accompanied by payment of a filing fee in accordance with the schedule of fees as promulgated from time to time by the Town Board, and a plot plan, drawn to scale and accurately dimensioned, showing the location of all existing and proposed buildings and structures on the lot.

3. Any variance which is not exercised within one year from the date of issuance is hereby declared to be revoked without further hearing by the Board of Appeals.

4. Criteria for granting variances:

a. A variance to the provisions of this Law shall be granted by the Board of Appeals in order to vary or adapt the strict application of any of the requirements of this Law in the case of exceptionally irregular, narrow, shallow, or steep lots, or other exceptional physical conditions where 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 provision of this Law shall be granted by the Board of Appeals except by the adoption of a resolution fully setting forth the reasons for the following findings:

1. That there are special circumstances or conditions applying to such land or buildings and not applying generally to land or buildings in the vicinity and under identical district classification, and that said circumstances or conditions are such that strict application of the provisions of this Law would deprive the applicant of the reasonable use of such land or buildings or privileges enjoyed by other properties in the vicinity and under identical district classification.

2. That the granting of the variance is necessary for the reasonable use of the land or building and that the variance as granted by the Board of Appeals is the minimum variance that will accomplish this purpose.

3. That the granting of the variance will be in harmony with the general purpose and intent of this Law, and will not be injurious to the vicinity or otherwise detrimental to the public welfare.

4. That any variance shall be subject to such conditions as will assure that the adjustment thereby authorized shall not constitute a grant of special privilege inconsistent with the limitations upon other properties in the vicinity and district in which subject property is situated.

b. In no case shall a variance be granted solely for reason of additional financial gain on the part of the owner of the land or building involved.

The Zoning Board of Appeals shall notify the Town Board, Enforcement Officer, and the Planning Board of each interpretation or variance granted under the provisions of this Local Law.

ARTICLE 17. RESERVED FOR FUTURE USE

ARTICLE 18. PLANNED UNIT DEVELOPMENT

The Planned Unit Development regulations are intended to provide for new residential, commercial or manufacturing uses in which economies of scale, or creative architectural or planning concepts may be utilized by the developer without departing from the spirit and intent of this Law. In no case shall the regulations of this section be so interpreted as to circumvent the benefits of this Law for the owners or residents of such development, or the owners or residents of adjacent properties.

The purpose of Planned Unit Development shall be to encourage development which will result in:

a. A choice in the types of environment and living units available to the public and quality in residential land uses so that development will be a permanent and long-term asset to the Town.

b. Open space and recreation areas.

c. A pattern of development which preserves unique natural features such as but not limited to outstanding natural topography and geologic features and prevents soil erosion.



d. An efficient use of land resulting in smaller networks of utilities and streets.

e. An environment in harmony with surrounding development.

f. A more desirable environment than would be possible through the strict application of other sections of the Law.

g. Creation of new hamlets when needed to prevent the sprawl of the residential area.

h. Encourage energy efficiency.

#### Section 18.10 ESTABLISHMENT OF A PLANNED UNIT DEVELOPMENT DISTRICT.

Application for the establishment of a Planned Unit Development District by amendment of the Town Zoning Law shall be made in writing to the Town Board. Application shall be made by the owner(s) of the Land(s) to be included in the district, or by a person or persons holding an option to purchase the lands contingent only upon approval of the application for the change of zone.

The Town Board shall refer the application to the Planning Board. The applicant shall submit a site plan to the Planning Board and the Planning Board shall conduct a site plan review as set for in this Local Law. The Planning Board may require such changes in the preliminary plans as are found to be necessary or desirable to meet the requirements of this Local Law to protect the established or permitted uses in the vicinity, and to promote the orderly growth and sound development of the community. The Planning Board shall notify the applicant of such changes and may discuss the changes with the applicant.

The Planning Board shall approve, approve with modification, or disapprove the application and shall report its findings to the Town Board. Planning Board approval of the preliminary plans shall not constitute nor imply approval of a building project for the area included in the application.

Following receipt of the report of the Planning Board, the Town Board shall hold a public hearing on the application. The Town Board shall then either amend the ordinance to establish the Planned Unit Development District or reject the application.

Section 18.20. PLANNED UNIT DEVELOPMENT STANDARDS:

In all Planned Unit Developments the following standards shall apply:

A. The area of land to be developed shall not be less than one hundred (100) acres.

b. All Planned Unit Developments shall comply with the Town Comprehensive Plan, if such plan exists.

c. All Planned Unit Developments shall have a maximum density of one family per 20,000 square feet.

d. At least twenty-five (25) percent of the area of the Planned Unit Development shall be retained in usable open space for common usage.

Section 18.30. REQUIRED DATA:

The applicant shall furnish with the petition for the desired zoning change basic data, including a map at scale sufficient to show the boundaries of the proposed Planned Unit Development District, existing zoning, topography, drainage and soil conditions, and such preliminary plans as may be required for an understanding of the proposed development and such additional information as may be required by the Board.

ARTICLE 19. CLUSTER DEVELOPMENT:

Proposals for Cluster Projects shall be submitted to the Enforcement Officer who shall submit copies to the Planning Board. The Planning Board shall have sixty (60) days to review such plans. The material accompanying the proposal shall contain the following:

A required site plan shall show, among other things, all buildings, parking areas, and landscaping at the scale sufficient to permit the study of all elements in the plan. All utilities shall also be shown and described. Typical elevations and floor plans of all buildings may also be required. In addition, the site plans shall show the adjacent building outlines and other outstanding features within two hundred (200) feet, and surrounding property should be identified.

The Planning Board possesses the power to approve or deny any proposal for a Cluster Development. This power is

commensurate with subdivision plat approval, also the responsibility of the Planning Board. By reviewing Cluster Development in the form of a subdivision plat, the Planning Board is able to modify provisions of the zoning law subject to the following conditions:

1. The proposal is of benefit to the Town.
2. The proposed density does not exceed that permitted in the district where such development is to be located.
3. Any proposed uses are permitted in the districts where such development is to be located.

After reviewing the project, the Planning Board must then hold a public hearing (the same hearing required under subdivision review). If the subdivision plat incorporating the Cluster Project is approved and filed, the Town Clerk then must note the necessary changes on the Zoning Ordinance and zoning map.

The purpose of Cluster Development shall be to encourage a development which will result in:

- a. A choice in the types of environment and living units available to the public and quality in residential land uses so that development will be a permanent and long-term asset to the Town.
- b. Open spaces and recreation areas.
- c. A pattern of development which preserves unique natural features such as, but not limited, to trees, outstanding natural topography and geologic features and prevents soil erosion.
- d. An efficient use of land resulting in smaller networks of utilities and streets.
- e. An environment in harmony with surrounding development.
- f. A more desirable environment than would be possible through the strict application of other sections of the ordinance.

The area of the land to be developed shall not be less than six contiguous acres. Lot size, width, front yard depth and

side yard requirements may be waived; however, these will be evaluated by the Planning Board on their individual merit.

A Cluster Development shall consist of land, seventy (70%) percent of which is developable space. Ravenes, wetlands, swamps, ponds and other areas which would not normally be considered suitable for the construction of buildings shall not be considered developable space as required hereby.

ARTICLE 20. AMENDMENT:

Section 20.10. AMENDMENTS BY THE TOWN BOARD:

The Town Board may, from time to time on its own motion or by recommendation or petition of the Planning Board, amend, supplement, change, modify or repeal the requirements of this Local Law following a public hearing.

Section 20.20. ADVISORY REPORT BY THE PLANNING BOARD:

If the Town Board directs, each such proposed amendment or change may be referred to the Planning Board for report thereon before the public hearing provided for in the above. The Planning Board shall submit to the Town Board its advisory report within thirty (30) days after receiving notice from the Town Clerk of the proposed change. Failure to make such a report within thirty (30) days shall be deemed as no recommendation.

Section 20.30. PUBLIC NOTICE AND HEARING:

1. PUBLIC HEARING: No such change in text or zoning district boundary of this law shall become effective until after a public hearing is held in relation thereto at which the general public shall have an opportunity to be heard.

2. NEWSPAPER NOTICE OF HEARING: At least ten (10) days prior to the date of such public hearing, a notice of the time and place shall appear in a newspaper of general circulation in the Town.

3. WRITTEN NOTICE OF CHANGE OR AMENDMENT: At least ten (10) days prior to the date of said public hearing, written notice of any proposed change or amendment affecting property within the protectively zoned area of a housing project authorized under housing law, as such area is shown on approved zoning map filed with the town officer charged with enforcement of zoning regulations, or property within five hundred (500) feet of boundaries of any city, village, town, county, state

park, or parkways shall be given in the case of a housing project to the housing authority erecting or owning the project and to the government providing aid or assistance thereto, in the case of any state park or parkway, to the regional state park commission having jurisdiction over such state park or parkway, in the case of a city, village, or town to the clerk of such city, village, or town, and in the case of a county, to the clerk of the board of supervisors or other person performing like duties, at least ten (10) days prior to the date of such public hearing. Such city, village, town, or county shall have the right to appear and to be heard at such public hearing with respect to any proposed change or amendment, but shall not have the right of review by a court as hereinafter provided.

4. The Town Clerk shall promptly transmit to the Albany County Planning Board any matters required to be referred pursuant to the provision of section 239-1 and 239-m of the General Municipal Law.

#### Section 20.40. PROTEST:

In the case of a protest by more than 20% of the land owners in the area affected by the change, or adverse recommendation by the County Planning Board, the vote of the Town Board shall be a majority plus one in favor in order to adopt the amendment.

#### ARTICLE 21. INTERPRETATION:

##### Section 21.10. CONFLICT:

A conflict between the requirements of this law and those of any other law, ordinance, regulation, statute or other provision of law shall be resolved by giving effect to the provision imposing the more restrictive requirement or higher standard.

##### Section 21.20. SEVERABILITY:

The provisions of this law are severable and the invalidity of a particular provision shall not invalidate any other provision.

If any clause, sentence, paragraph, section or part of this Local Law 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 or part directly involved in the controversy in which such judgment shall have been rendered.

Section 21.30. REPEAL:

The Zoning Law known as the Westerlo Zoning Law conditionally adopted on April 4, 1988 is hereby repealed and all ordinances or parts of ordinances or other laws in conflict with the provisions of this Law are repealed, rescinded and annulled.

Section 21.40. SAVINGS CLAUSE:

The adoption of this Local Law shall not affect or impair any act done, offense committed or right occurred or acquired or liability, penalty, forfeiture or punishment incurred prior to the time this Law takes effect.

ARTICLE 22: PERMITS:

Section 22.10. APPLICATIONS:

Application for a Zoning Permit shall be made to the Enforcement Officer on forms provided by him and shall contain the following information:

1. A description of the land on which the proposed work is to be done;
2. A statement of the use or occupancy of all parts of the land and of the building or structure;
3. The valuation of the proposed work;
4. The full name and address of the owner and of the applicant, the names and addresses of their responsible officers if any of them are corporations;
5. A brief description of the nature of the proposed work;
6. A duplicate set of plans and specifications as set forth in the section below entitled "Plans and Specifications"; and
7. Such other information as may reasonably be required by the Enforcement Officer to establish compliance of the proposed work with the requirements of the applicable Zoning Laws, ordinances and regulations.

Application shall be made by the owner or lessee, or agent of either, or by the architect, engineer or builder employed in connection with the proposed work. Where such application is made by a person other than the owner, it shall be accompanied by an affidavit of the owner or applicant that the proposed work is authorized by the owner and that the applicant is authorized to make such application.

#### Section 22.20. PLANS AND SPECIFICATIONS:

Each application for a Zoning Permit shall be accompanied by duplicate copies of plans and specifications, including a plot plan, drawn to scale, showing the location and size of all proposed new construction and all existing structures on the site, the nature and character of the work to be performed and the materials to be incorporated, distance from lot lines, the relationship of structures on adjoining property, widths and grades of adjoining streets, walks and alleys and where required by the Enforcement Officer, details of structural, mechanical and electrical work, including computations, stress diagrams and other essential technical data.

Plans and specifications shall bear the signature of the person responsible for the design and drawings.

The Enforcement Officer may waive the requirement for filing plans and specifications.

Amendments to the application or to the plans and specifications accompanying the same may be filed at any time prior to the completion of the work, subject to the approval of the Enforcement Officer.

#### Section 22.30. ISSUANCE OF ZONING PERMIT:

The Enforcement Officer shall examine or cause to be examined all applications for permits and the plans, specifications and documents filed therewith. He shall approve or disapprove the application within a reasonable time.

Upon approval of the application and upon receipt of the fees therefore, the Enforcement Officer shall issue a Zoning Permit to the applicant upon the form prescribed by him and shall affix his signature or cause his signature to be affixed thereto.

Upon approval of the application, both sets of plans and specifications shall be endorsed with the word "approved". One set of such approved plans and specifications shall be retained

in the files of the Enforcement Officer and the other set shall be returned to the applicant together with the Zoning Permit and shall be kept at the building site open to inspection by the Enforcement Officer or his authorized representative at all reasonable times.

If the application together with plans, specifications and other documents filed therewith describe proposed work which does not conform to all of the requirements of the applicable zoning regulations, the Enforcement Officer shall disapprove the same and shall return the plans and specifications to the applicant. Upon the request of the applicant, the Enforcement Officer shall cause such refusal, together with the reasons therefor, to be transmitted to the applicant in writing.

#### Section 22.40. PERFORMANCE OF WORK UNDER ZONING PERMIT:

A Zoning Permit shall be effective to authorize the commencing of work in accordance with the application, plans and specifications on which it is based for a period of one year after the date of its issuance. For good cause, the Enforcement Officer may allow a maximum of two extensions for periods not exceeding three months each.

The issuance of a Zoning Permit shall constitute authority to the applicant to proceed with the work in accordance with the approved plans and specifications and in accordance with the applicable Zoning Laws, ordinances, or regulations. All work shall conform to the approved application, plans and specifications, except that no Zoning Permit shall be valid insofar as it authorizes the performance of work or the use of materials which are not in accordance with the requirements of the applicable zoning regulations.

Approval is personal and cannot be transferred or assigned without the permission of the Enforcement Officer.

#### Section 22.50. REVOCATION OF ZONING PERMIT:

The Enforcement Officer may revoke a Zoning Permit theretofore issued and approved in the following instances:

1. Where he finds that there has been any false statement or misrepresentations as to a material fact in the applications, plans or specifications on which the Zoning Permit was based;



2. Where he finds that the Zoning Permit was issued in error and should not have been issued in accordance with the applicable law;
3. Where he finds that the work performed under the Permit is not being prosecuted in accordance with the provisions of the application, plans or specifications; or
4. Where the person to whom a Zoning Permit has been issued fails or refuses to comply with a stop order issued by the Enforcement Officer.

Section 22.60. STOP ORDERS:

Whenever the Enforcement Officer has reasonable grounds to believe that work on any building or structure is being prosecuted in violation of the provisions of the applicable zoning laws, ordinances or regulations, or not in conformity with the provisions of an application, plans or specifications on the basis of which a Zoning Permit was issued, or in an unsafe and dangerous manner, he shall notify the owner of the property, or the owner's agent, or the persons performing the work, to suspend all work, and any such persons shall forthwith stop such work and suspend all building activities until the stop order has been rescinded. Such order and notice shall be in writing, shall state the conditions under which the work may be resumed and may be served upon a person to whom it is directed either by delivering it personally to him, or by posting the same upon a conspicuous portion of the building under construction and sending a copy of the same by certified mail, return receipt requested.

Section 22.70. UNSAFE BUILDINGS:

All buildings or structures which are structurally unsafe, unsanitary, or not provided with adequate egress, or which constitute a fire hazard, or otherwise dangerous to human life, or which in relation to existing uses constitute a hazard to safety or health by reason of inadequate maintenance, dilapidation, obsolescence, or abandonment are, severally, for the purpose of this Section, unsafe buildings. All such unsafe buildings are hereby declared to be illegal and shall be abated by repair and rehabilitation or by demolition.

Section 22.80 NOTICE OF DEFECTS:

Whenever the Enforcement Officer shall find any building, or structure, or portion thereof, to be an unsafe building as

defined in this Section, he shall, in the same manner as provided for the service of stop orders under Section 22.60 of this Law, give to the owner, agent or person in control of such building or structure written notice stating the defects.

#### ARTICLE 23. CERTIFICATE OF OCCUPANCY:

##### Section 23.10. GENERAL:

No building hereafter erected shall be used or occupied in whole or in part until a Certificate of Occupancy shall have been issued by the Enforcement Officer. No building hereafter enlarged, extended, or altered, or upon which work has been performed which required the issuance of a Zoning Permit shall continue to be occupied or used for more than 30 days after the completion of the alteration or work unless a Certificate of Occupancy shall have been issued by the Enforcement Officer. No change shall be made in the use or type of occupancy of an existing building unless a Certificate of Occupancy shall have been issued by the Enforcement Officer.

##### Section 23.20. INSPECTION PRIOR TO ISSUANCE OF CERTIFICATE:

Before issuing the Certificate of Occupancy, the Enforcement Officer shall examine or cause to be examined all buildings, structures and sites for which an application has been filed for a Zoning Permit to construct, enlarge, alter, repair, remove, demolish, or change the use or occupancy; and he may conduct such inspections as he deems appropriate from time to time during and upon completion of the work for which a Zoning Permit has been issued.

There shall be maintained by the Enforcement Officer a record of all such examinations and inspections together with a record of findings of violations of the law.

##### Section 23.30. ISSUANCE OF CERTIFICATE OF OCCUPANCY:

When, after final inspection, it is found that the proposed work has been completed in accordance with the applicable zonings laws, ordinance and regulations and also in accordance with the application, plans and specifications filed in connection with the issuance of the Zoning Permit, the Enforcement Officer shall issue a Certificate of Occupancy upon the form provided by him. If it is found that the proposed work has not been properly completed, the Enforcement Officer shall refuse to issue a Certificate of Occupancy and shall order the

work completed in conformity with the Zoning permit and in conformity with the applicable zoning regulations.

The Certificate of Occupancy shall certify that the work has been completed, and that the proposed use and occupancy is in conformity with the provisions of the applicable zoning laws, ordinances and regulations, and shall specify the use or uses and the extent thereof to which the building or structure or its several parts may be put.

Section 23.40. TEMPORARY CERTIFICATE OF OCCUPANCY:

Upon request, the Enforcement Officer may issue a temporary Certificate of Occupancy for a building or structure, or part thereof, before the entire work covered by the Zoning Permit shall have been completed provided such portion or portions as have been completed may be occupied safely without endangering the life or the public welfare.

ARTICLE 24. EFFECTIVE DATE:

This Local Law shall be effective immediately upon filing with the Office of the Secretary of State.

WESTER/a

TOWN OF

RENSSELAERVILLE

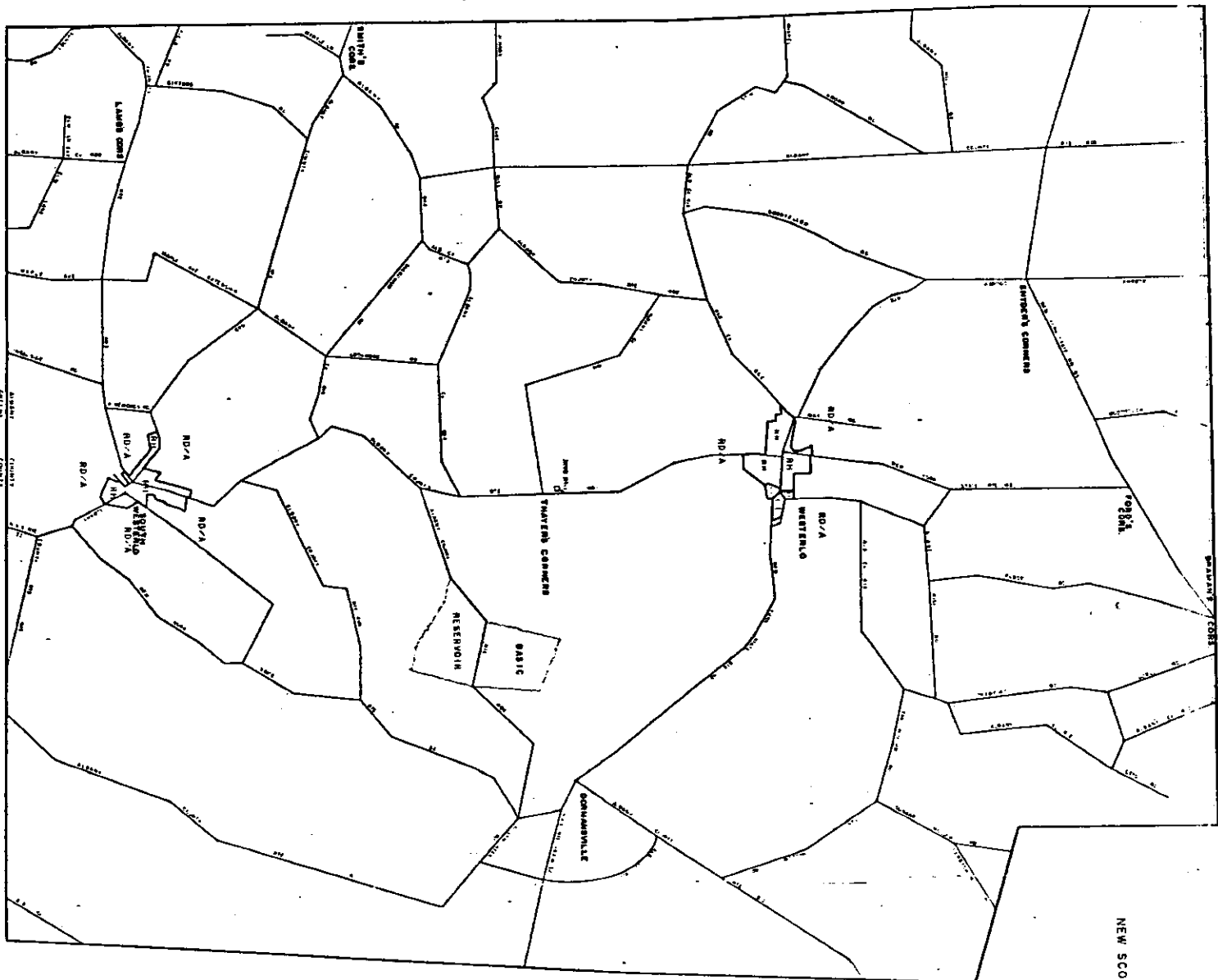
DURHAM

ALBANY

GREENVILLE

COUNTY

NEW BALTIMORE



WESTERLO

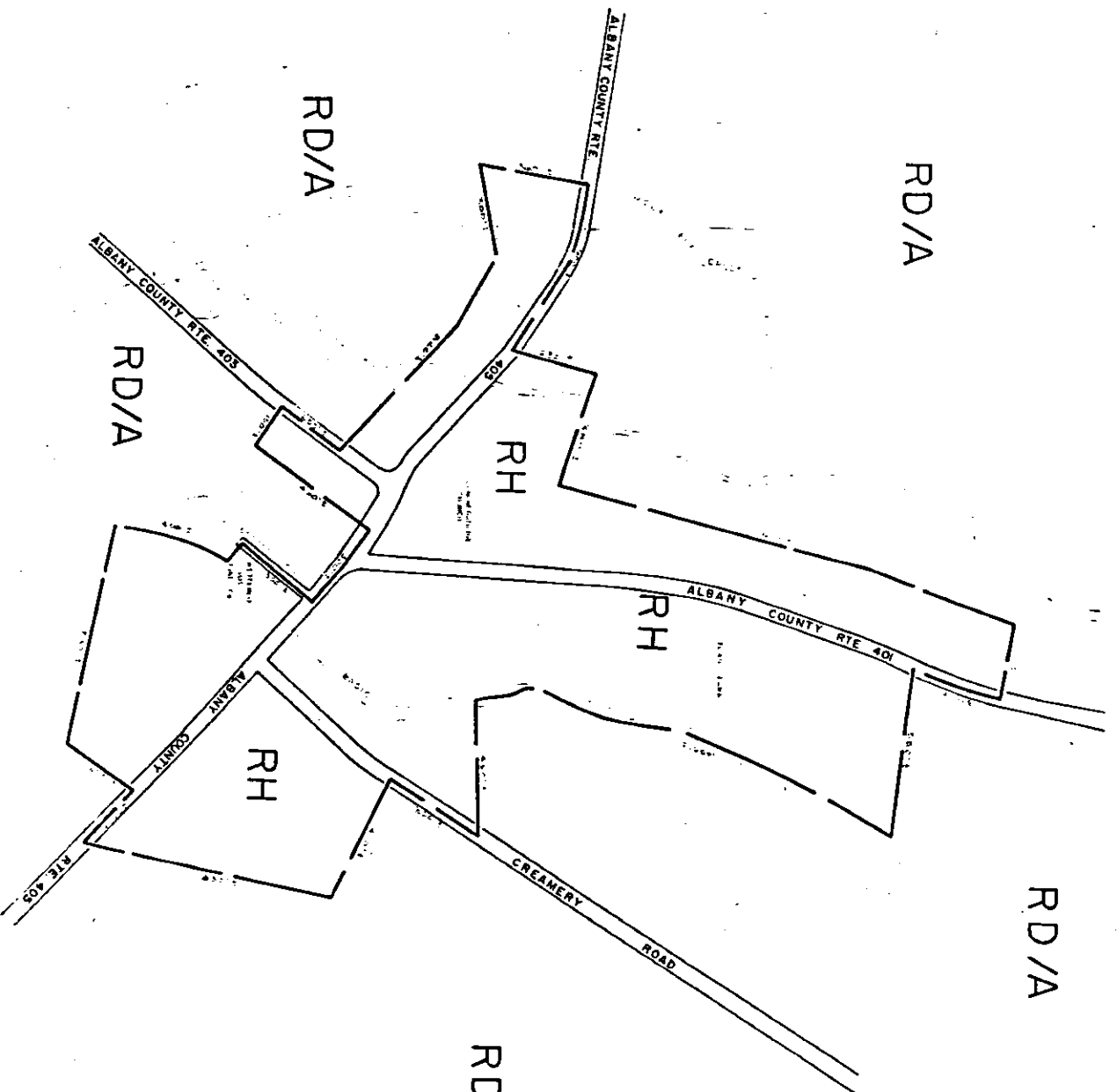
COETMANS

OFFICIAL ZONING MAP

- RH - RESIDENTIAL HAMLET
- RD/A - RURAL DEVELOPMENT / AGRICULTURAL
- LI - LIGHT INDUSTRIAL



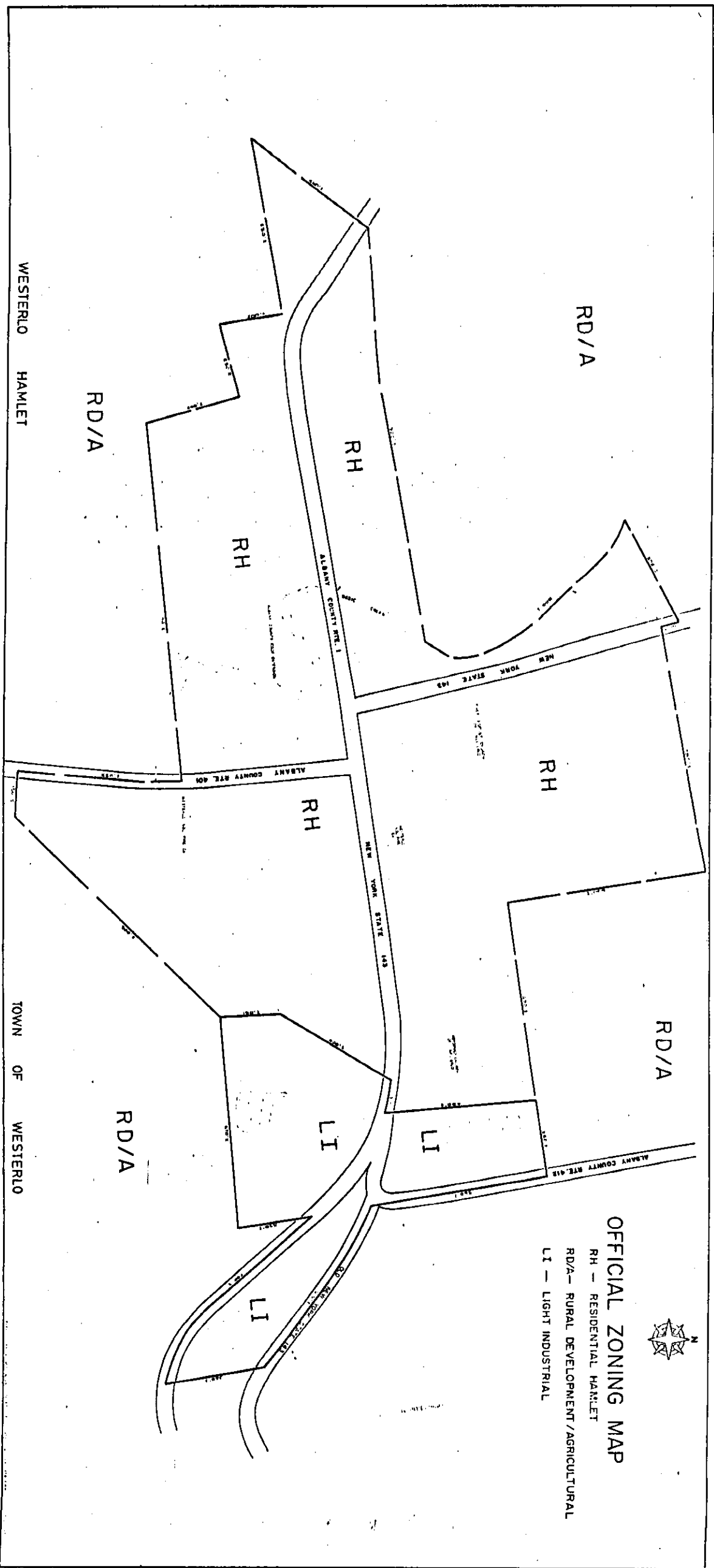
OFFICIAL ZONING MAP  
RH - RESIDENTIAL HAMLET  
RD/A - RURAL DEVELOPMENT /  
AGRICULTURAL





OFFICIAL ZONING MAP

- RH - RESIDENTIAL HAMLET
- RD/A - RURAL DEVELOPMENT/AGRICULTURAL
- LI - LIGHT INDUSTRIAL



WESTERLO HAMLET

TOWN OF WESTERLO

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

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

I hereby certify that the local law annexed hereto, designated as local law No. ....1..... of 19.89..  
County  
City-  
of the Town of Westerlo..... was duly passed by the Town Board.....  
Village (Name of Legislative Body)  
on February 15 19.89 in accordance with the applicable provisions of law.

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

I hereby certify that the local law annexed hereto, designated as local law No. .... of 19.....  
County  
City  
of the Town of ..... was duly passed by the .....  
Village (Name of Legislative Body)  
on ..... 19..... not disapproved  
and was approved by the .....  
repassed after disapproval Elective Chief Executive Officer \*  
and was deemed duly adopted on ..... 19....., in accordance with the applicable provisions of law.

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. .... of 19.....  
County  
City  
of the Town of ..... was duly passed by the .....  
Village (Name of Legislative Body)  
on ..... 19..... not disapproved  
and was approved by the .....  
repassed after disapproval Elective Chief Executive Officer \*  
on ..... 19..... Such local law was submitted to the people by reason of a  
mandatory referendum, and received the affirmative vote of a majority of the qualified electors voting  
permissive general  
thereon at the special election held on ..... 19....., in accordance with the appli-  
annual  
cable provisions of law.

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

I hereby certify that the local law annexed hereto, designated as local law No. .... of 19.....  
County  
City  
of the Town of ..... was duly passed by the ..... on  
Village (Name of Legislative Body)  
..... 19..... not disapproved  
and was approved by the ..... on  
repassed after disapproval Elective Chief Executive Officer \*  
..... 19..... Such local law being subject to a permissive referendum and no  
valid petition requesting such referendum having been filed, said local law was deemed duly adopted on  
..... 19....., in accordance with the applicable provisions of law.

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

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

I hereby certify that the local law annexed hereto, designated as local law No. .... of 19..... of the City of..... having been submitted to referendum pursuant to the provisions of § 36 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the special election held on ..... 19 ..... became operative.

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

I hereby certify that the local law annexed hereto, designated as Local Law No. .... of 19..... of the County of ....., State of New York, having been submitted to the Electors at the General Election of November ....., 19 ....., pursuant to subdivisions 5 and 7 of Section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and of a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

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

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

Gertrude A. Smith  
Clerk of the County legislative body, City, Town or Village Clerk or  
officer designated by local legislative body

Date: Feb. 16, 1989

(Seal)

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

STATE OF NEW YORK

COUNTY OF ALBANY

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

John J. Dolan  
Signature

.. Town Attorney .....  
Title

Date: Feb. 16, 1989

County-  
City of Westerlo  
Town  
Village