

STATE OF NEW YORK
 DEPARTMENT OF STATE
FILED
 APR 16 1999
Alyson F. DiMarco
 Secretary of State

(Please Use this Form for Filing your Local Law with the Secretary of State)

Text of law should be given as amended. Do not use brackets for matter to be eliminated and do not use italics for new matter.

County
 City of Westville
 Town
 Village

Local Law No. of the year 19 99

A local law Planning board Rules and Regulations
 (Insert title)

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

County
 City of Westville as follows:
 Town
 Village

PLANNING BOARD RULES AND REGULATIONS

TOWN OF WESTVILLE

SECTION 1. General Governing Rules

1.1.1 The Planning Board of the Town of Westville shall be governed by the provisions of all applicable state statutes, local laws, ordinances and these rules.

1.1.2 The term "Board" as used in these rules shall mean the duly appointed Planning Board of the Town of Westville, which shall consist of five (5) members, duly appointed by the Westville Town Board.

1.2.1 The Board shall become familiar with all the duly enacted ordinances and laws of the Town of Westville under which it may be expected to act as well as with the applicable state statutes.

SECTION 2. Officers and Duties

2.1.1 The officers of the Board shall consist of a Chairman, Acting Chairman and Secretary.

2.2.1 **Chairman.** The Chairman shall be designated by the Town of Westville, or on failure to do so, shall be elected by the Board from its own members. He/she shall perform all duties required by law, ordinance and these rules. He/she shall preside at all meetings of the Board. The Chairman shall decide on all points of order, procedure and these rules, unless directed otherwise by a majority of the Board. The Chairman shall appoint any committees found necessary to carry out the business of the Board. The Chairman may administer oaths and compel the attendance of witnesses as necessary to carry out the business of the Board. The Chairman's signature shall be the official signature of the Board and shall appear on all decisions as directed by the Board.

2.3.1 **Acting Chairman.** An Acting Chairman shall be designated by the Board to serve in the absence of the Chairman. He/she shall have all the powers of the Chairman during his/her absence, disability or disqualification.

2.4.1 **Secretary.** A Secretary shall be designated by the Board. The Secretary, subject to the direction of the Board and the Chairman, shall keep minutes of all Board proceedings, showing the vote of each member upon every question, or indicating absence or failure to vote, and shall keep records of all Board official actions.

2.5.1 **Vacancies.** Should any vacancy on the Board occur for any reason, the Secretary shall give immediate notice thereof to the Town of Westville Clerk for the Town of Westville for the designation of a replacement.

2.5.2 Should such a vacancy occur among the officers of the Board subject to election by the Board, the office shall be filled by election, for the unexpired term, at the next meeting of the Board.

2.5.3 Should the office of Chairman become vacant, the Secretary shall add this fact to the notice required in Section 2.5.1 of these rules. The Acting Chairman shall handle the duties of the Chairman until such time as the Town of Westville shall appoint a new Chairman.

SECTION 3. Meetings

3.1.1 Regular Meetings. The regular meetings of the Board shall be held on the ___ day of each month at _____ am/pm at _____, New York.

3.1.2 Annual Meeting. The annual organizational meeting of the Board shall be the first regular meeting of the year.

3.2.1 Special Meetings. Special meetings of the Board may be called by the Chairman. At least forty eight (48) hours written notice of the time, place and business of the meeting shall be given to each member of the Board.

3.2.2 The Chairman shall call a special meeting within ten (10) days of receiving a written request from any three members of the Board, specifying the matters to be considered at the special meetings.

3.3.1 Cancellations of Meetings. Whenever there is no business to be conducted at a regular meeting, the Chairman may dispense with the meeting by written notice to all members not less than forty eight (48) hours prior to the time set for such meeting.

3.4.1 Proceeding. The order of business at regular meetings shall be as follows: (A) roll call; (B) reading and approval of minutes of preceding meeting; (C) public hearing (when scheduled); (D) action on held-over matters; (E) new business; (F) adjournment.

3.5.1 New Business. No new matter will be considered unless the completed appropriate application for the mater is received by the Enforcement Officer on behalf of the Planning Board on the form provided for that purpose at least 14 days prior to the date of the meeting at which it is to be considered.

3.6.1 Meeting Agenda. The Enforcement Officer shall be responsible, at the direction of the Board, for providing any application with the proper forms and for instructing the parties concerned on the proper manner for completing and filing the forms. All information required thereon shall be complete before an application is considered filed. The Chairman shall review all applications received by the Enforcement Officer for completeness. If the application is in proper form for consideration, the Chairman shall place it upon the next meeting agenda, which he/she

shall mail to all Planning Board members at least 7 days prior to the meeting. The Chairman also shall notify the applicant that the matter has been placed on the agenda. If the application is incomplete, the Chairman shall return it to the applicant within five (5) days of receipt with instructions for remedying it. The Chairman then shall report to the Board, at the next meeting, as to all incomplete applications not on the agenda.

3.7.1 **Enforcement Officer.** At each meeting of the Planning Board, the Enforcement Officer shall be present to report, if the Chairman deems necessary, on the nature of any matter on the agenda.

3.8.1 **Fees.** The applicant shall pay the charge for the publication of the notice of public hearing in the official newspaper of the Town of Westville for any application requiring a public hearing.

3.9.1 **Executive Meetings.** All meetings will comply with the requirements of the Open Meetings Law, Section 105 of the Public Officers Law.

SECTION 4. Voting

4.1.1 **Quorum.** A quorum shall consist of a majority of the members of the Board.

4.1.2 **No hearing or meeting of the Board shall be held, nor any action taken, in the absence of a quorum; however, those members present shall be entitled to request the Chairman to call a special meeting for the subsequent date. All subsequent hearings shall be republished in accordance with the requirements of the applicable law.**

4.2.1 **Voting.** All matters shall be decided by roll call vote. Decisions on any matter before the Board shall require the affirmative vote of a majority of the Board unless otherwise specified herein.

4.2.2 **A tie vote or favorable vote by a lesser number than the required majority shall be considered a rejection of the application under consideration.**

4.2.3 **No member of the Board shall sit in hearing or vote on any matter in which he/she is personally or financially interested. That member shall not be counted by the Board in establishing the quorum for the matter.**

4.2.4 **No member shall vote on the determination of any matter requiring public hearing unless he/she has attended the public hearing thereon; however, where the member has familiarized himself/herself with the matter by reading the record, he/she shall be qualified to vote.**

SECTION 5. Referrals

5.1.1 Zoning Referrals. All matters requiring referral as specified by any Ordinance or Local Law shall be referred to the Board for its recommendations. Within thirty (30) days or as specified by the Town of Westville or other party making the referral after receipt of a full statement of the referred matter, the Board shall report its recommendations thereon, with a full statement of the reasons for the recommendations. If the Board fails to respond within the prescribed time, the referring board or agency may act without the report.

5.1.2 Report on Referred Matters: General Reports. The Town Board may by resolution, provide the reference of any matter or class of matters, to the Planning Board before final action is taken thereon by the Town Board or other officer or officers of said Town having final authority over said matter. The Town Board may further stipulate that final action thereon shall not be taken until the Planning Board has submitted its report thereon, or has had a reasonable time, to be fixed by the Town Board in said resolution, to submit the report.

5.1.3 The Town Code Officer, with Town Board approval (by Resolution) may refer any matters submitted to the Town Code Officer, including but not limited to Building Permit Applications, to the Planning Board for its review and recommendation, before final action is taken thereon by the Code Officer.

11.3.1 Basis for Determination. In reaching a determination, the Board shall be guided by standards specified in the applicable ordinance, law or regulation as well as by the community goals and policies.

11.4.1 Findings. The findings of the Board may be based on evidence submitted or on the personal knowledge of the Board to show that:

1. It has made an intelligent review of the question.
2. It has considered all of the information or evidence.
3. It has heard all parties in question.
4. Any intimate knowledge it has of the subject under question has been taken into account.
5. It has made a personal inspection of the parcel in question.

11.5.1 Conflicts with Other Laws or Regulations. In reviewing any application on any matter, the standards in any applicable Local Law or Ordinance or state statute shall take precedence over the standards of these rules whenever a conflict occurs. In all other instances, the more restrictive rule shall apply.

11.6.1 Filing of Determinations. Determinations of the Board shall be filed immediately in the office of the Town of Westville Clerk and shall be a public record. The date of filing of each decision shall be entered in the official records and minutes of the Board.

SECTION 10. Hearings

10.1.1 Time of Hearing. If a public hearing is required, the Board shall schedule a hearing of all applications within the time permitted by the applicable ordinance, law or regulation giving jurisdiction to the Board in the manner but not later than sixty (60) days of the filing of a completed application.

10.2.1 Notice of Hearing. The Board shall give notice of the hearing at least five (5) business days prior to the date thereof by publication in the official paper. The Board shall mail notices of the hearing to the parties and to the members of the Town of Westville, and if required by Section 239 of the General Municipal Law of the State of New York, to the County Planning Board.

10.3.1 Form of Notice. The notice shall state the name of the applicant, the location of the property involved, the general nature of the application involved, and the date, time and place of the hearing sought.

10.4.1 Proceedings. The order of business at a hearing shall be as follows: (A) roll call; (B) the Chairman shall give a statement of the case; (C) the Chairman shall read all correspondence and reports received thereon; (D) the applicant shall present his/her case; (E) those in favor shall present their arguments; (F) those opposed shall present their arguments; (G) rebuttal by both sides; (H) adjournment of hearings.

10.5.1 General Rules. Any party may appear in person or by agent or attorney.

10.6.1 The Chairman, or in his/her absence, the Acting Chairman, may administer oaths.

SECTION 11. Determinations.

11.1.1 Time of Determinations. Determinations by the Board shall be made within the time permitted by the applicable ordinance, law or regulation giving jurisdiction to the Board on the matter but not later than sixty (60) days from the date of receipt of the completed application, unless the applicant further extends the time period.

11.2.1 Form of Determination. The final determination on any matter before the Board shall be made by written order signed by the Chairman.

(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.)

(Final adoption by local legislative body only.)

1. I hereby certify that the local law annexed hereto, designated as local law No. 1 of 1999 of the County of Westville was duly passed by Town Board, Town of Westville on March 8, 1999 in accordance with the applicable provisions of law.

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

2. I hereby certify that the local law annexed hereto, designated as local law No. of 19... of the County of ... was duly passed by ... on ... 19... and was approved by the Elective Chief Executive Officer and was deemed duly adopted on ... 19... in accordance with the applicable provisions of law.

(Final adoption by referendum.)

3. I hereby certify that the local law annexed hereto, designated as local law No. of 19... of the County of ... was duly passed by the ... on ... 19... and was approved by the 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 thereon at the special election held on ... 19... in accordance with the applicable provisions of law.

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

4. I hereby certify that the local law annexed hereto, designated as local law No. of 19... of the County of ... was duly passed by the ... on ... 19... and was approved by the Elective Chief Executive Officer on ... 19... Such local law being subject to a permissive referendum and no

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

~~5. 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.~~

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

~~6. I hereby certify that the local law annexed hereto, designated as Local Law No. of 197 ... 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 above.

Esther Reynolds

Clerk of the Board of Supervisors, City, Town or Village Clerk or Officer designated by Local Legislative Body

ESTHER REYNOLDS-TOWN CLERK

Date: 3/22/99

(Seal)

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

STATE OF NEW YORK
COUNTY OF *Franklin*

Dated: March 22, 1999
County of Franklin
Town of Malone
Attorney for Town of Westville

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.

Lillian Anderson Duff