

ZONING

Chapter 225

ZONING

**ARTICLE I
Preliminary Provisions**

- § 225-1. Title.**
- § 225-2. Severability; conflict of provisions.**
- § 225-3. Purpose.**
- § 225-4. Filing of copies.**

**ARTICLE II
Definitions and Word Usage**

- § 225-5. Word usage.**
- § 225-6. Definitions.**

**ARTICLE III
Establishment of Districts**

- § 225-7. Designation of districts.**
- § 225-8. Interpretation of boundaries.**

**ARTICLE IV
General Provisions**

- § 225-9. Conformance required; permits and licenses.**
- § 225-10. General restrictions.**
- § 225-11. Yards.**

WESTMONT CODE

- § 225-12. Substandard dwellings.**
- § 225-13. Public utility lines.**
- § 225-14. Lots not meeting area requirements.**
- § 225-15. Mobile homes.**
- § 225-15.1. Temporary structures.**
- § 225-16. Property survey required.**

ARTICLE V Residential Districts

- § 225-17. R-1 One-Family Residential District.**
- § 225-18. R-2 Multiple-Family (Low-Density) Residential District.**
- § 225-19. R-3 Multiple-Family (Medium-Density) Residential District.**
- § 225-20. R-4 Multiple-Family (Townhouse) Residential District.**

ARTICLE VI Commercial Districts

- § 225-21. C Commercial District.**

ARTICLE VII Floodplain Districts

- § 225-22. Purpose.**
- § 225-23. Intent.**
- § 225-24. Applicability of permit requirements.**

ZONING

- § 225-25. Building permit required.**
- § 225-26. Issuance of permit.**
- § 225-27. Application procedures.**
- § 225-28. Additional permit issuance requirements.**
- § 225-29. Designation of flood-prone areas.**

(Cont'd on page 22503)

Figure 1: A diagram illustrating the structure of the \mathcal{H}^1 norm. The diagram shows a sequence of nested rectangles, each representing a different level of detail or resolution. The rectangles are labeled with their respective dimensions: 2^0 , 2^1 , 2^2 , 2^3 , 2^4 , 2^5 , 2^6 , 2^7 , 2^8 , 2^9 , 2^{10} , 2^{11} , 2^{12} , 2^{13} , 2^{14} , 2^{15} , 2^{16} , 2^{17} , 2^{18} , 2^{19} , 2^{20} , 2^{21} , 2^{22} , 2^{23} , 2^{24} , 2^{25} , 2^{26} , 2^{27} , 2^{28} , 2^{29} , 2^{30} , 2^{31} , 2^{32} , 2^{33} , 2^{34} , 2^{35} , 2^{36} , 2^{37} , 2^{38} , 2^{39} , 2^{40} , 2^{41} , 2^{42} , 2^{43} , 2^{44} , 2^{45} , 2^{46} , 2^{47} , 2^{48} , 2^{49} , 2^{50} , 2^{51} , 2^{52} , 2^{53} , 2^{54} , 2^{55} , 2^{56} , 2^{57} , 2^{58} , 2^{59} , 2^{60} , 2^{61} , 2^{62} , 2^{63} , 2^{64} , 2^{65} , 2^{66} , 2^{67} , 2^{68} , 2^{69} , 2^{70} , 2^{71} , 2^{72} , 2^{73} , 2^{74} , 2^{75} , 2^{76} , 2^{77} , 2^{78} , 2^{79} , 2^{80} , 2^{81} , 2^{82} , 2^{83} , 2^{84} , 2^{85} , 2^{86} , 2^{87} , 2^{88} , 2^{89} , 2^{90} , 2^{91} , 2^{92} , 2^{93} , 2^{94} , 2^{95} , 2^{96} , 2^{97} , 2^{98} , 2^{99} , 2^{100} . The rectangles are arranged in a grid, with the width and height of each rectangle corresponding to the powers of 2. The diagram illustrates how the \mathcal{H}^1 norm is defined as the sum of the squares of the coefficients of the functions in the basis, which are the functions defined on the rectangles.

ZONING

- § 225-30. Determination of regulatory flood elevation.**
- § 225-31. Changes in designation of flood-prone areas.**
- § 225-32. Boundary disputes.**
- § 225-33. Specific requirements.**
- § 225-34. Design and construction standards.**
- § 225-35. Prohibited activities and materials.**
- § 225-36. Existing structures.**
- § 225-37. Variances.**
- § 225-38. Word usage.**
- § 225-39. Definitions.**
- § 225-40. Warning and disclaimer of liability.**

ARTICLE VIII Conservancy Districts

- § 225-41. S Conservancy District.**

ARTICLE IX Supplementary Regulations

- § 225-42. Additional height, area and yard requirements.**
- § 225-43. Slope area restrictions.**
- § 225-44. Mobile home parks.**
- § 225-45. Swimming pools.**
- § 225-45.1. Group home facilities.**

WESTMONT CODE

ARTICLE X Off-Street Parking and Loading

- § 225-46. General provisions.**
- § 225-47. Design and maintenance of parking spaces.**
- § 225-48. Schedule of Off-Street Parking Requirements.**
- § 225-49. Location of parking areas.**
- § 225-50. Additional parking regulations.**
- § 225-51. Design and maintenance of loading space.**

ARTICLE XI Signs

- § 225-52. Permit required; fees.**
- § 225-53. Maintenance.**
- § 225-54. Obstruction of vision.**
- § 225-55. Specific regulations.**
- § 225-56. Temporary signs.**
- § 225-56.1. Temporary signs for electioneering.**
- § 225-57. Violations and penalties.**

ARTICLE XII Nonconforming Uses and Buildings

- § 225-58. Continuance.**
- § 225-59. Discontinuance of use.**
- § 225-60. Alterations to existing buildings.**
- § 225-61. Repair or reconstruction.**
- § 225-62. Construction in progress.**

ZONING

§ 225-63. Historical landmarks.

§ 225-64. Extensions and enlargements.

ARTICLE XIII Administrative Provisions

§ 225-65. Building permits.

(Cont'd on page 22505)

ZONING

§ 225-66. Certificates of occupancy.

§ 225-67. Fees; building permit term and renewal; special exception use permit.

ARTICLE XIV Zoning Officer

§ 225-68. Appointment; removal; compensation; Assistant Zoning Officer.

§ 225-69. Administration.

§ 225-70. Enforcement duties.

ARTICLE XV Zoning Hearing Board

§ 225-71. Creation; appointment; organization; compensation.

§ 225-72. Powers and duties.

§ 225-73. Appeals procedure.

ARTICLE XVI Enforcement, Violations and Penalties

§ 225-74. Enforcement.

§ 225-75. Violations and penalties.

ARTICLE XVII Amendments

§ 225-76. Procedure.

§ 225-77. Applicability of statutory provisions.

[HISTORY: Adopted by the Borough Council of the Borough of Westmont 11-10-1981 as Ord. No. 591. Amendments noted where applicable.]

GENERAL REFERENCES

Planning Commission — See Ch. 42.

Peddling and soliciting — See Ch. 147.

Signs — See Ch. 177.

Subdivision and land development — See Ch. 198.

ARTICLE I Preliminary Provisions

§ 225-1. Title.

This chapter shall be known as the "Westmont Borough Zoning Ordinance," and the map referred to herein and made a part of this chapter shall be known as the "Zoning Ordinance Map."¹

§ 225-2. Severability; conflict of provisions.

Should any section or provision of this chapter be declared invalid, the same shall not affect the validity of the chapter as a whole nor any part thereof other than the part so declared to be invalid. Where a provision of this chapter is found to be in conflict with a provision of any building or housing code or in any applicable health regulations or in any other ordinance of Westmont Borough existing on the effective date of this chapter or in any regulation issued under the authority of such code or chapter, the provision which establishes the higher standard for the protection of health, safety and welfare shall prevail.

§ 225-3. Purpose.

The purpose of this zoning chapter shall be designed to promote, protect and facilitate one (1) or more of the following: the public health, safety, morals, general welfare, coordinated and practical

¹ Editor's Note: The Zoning Map is included in a pocket at the end of this volume.

community development, proper density of population, civil defense, disaster evacuation, airports and national defense facilities, the provisions of adequate light and air, police protection, vehicle parking and loading space, transportation, water, sewerage, schools, public grounds and other public requirements; as well as to prevent one (1) or more of the following: overcrowding of land, blight, danger and congestion in travel and transportation, loss of health, life or property from fire, flood, panic or other dangers. This zoning chapter has been made in accordance with an overall program, and with consideration for the character of the municipality, its various parts and the suitability of the various parts for particular uses and structures, and to facilitate the development of the borough to fulfill the goals and objectives of the Westmont Borough Comprehensive Plan, dated October 1980, in developing the borough primarily as a residential area with the preservation of natural beauty, supplemental nonresidential development and to relate any plan of land use development with local fiscal considerations.

§ 225-4. Filing of copies.

This chapter, including the Zoning District Map, together with any succeeding amendments thereto, shall be on file and may be viewed by any interested party in the Westmont Borough office.

**ARTICLE II
Definitions and Word Usage**

§ 225-5. Word usage.

The following rules of construction shall apply to this chapter:

- A. The particular shall control the general.

- B. In case of any difference of meaning or implication between the text of this chapter and any caption or illustration, the text shall control.
- C. The word "shall" is mandatory and not discretionary. The word "may" is permissive.
- D. Words used in the present tense shall include the future; words used in the singular number shall include the plural, and the plural the singular, unless the context clearly indicates the contrary.
- E. The phrase "used for" includes "arranged for," "designed for," "intended for," "maintained for" and/or "occupied for."

§ 225-6. Definitions.

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

ACCESSORY BUILDING or ACCESSORY USE — A building or use customarily incidental and subordinate to the principal building or use and located on the same lot with such principal building or use. An "accessory use" includes but is not limited to the following:

- A. Children's playhouse, garden house or private greenhouse.
- B. Civil defense shelter serving not more than two (2) families.
- C. Garage, shed or building for domestic storage.
- D. Incinerator incidental to residential use.
- E. Storage of merchandise normally carried in stock on the same lot with any commercial use, unless such storage is excluded by the district regulations.
- F. Nonpaying guest house or rooms for nonpaying guests within an accessory building, provided that

such facilities are used for the occasional housing of guests of occupants of the principal building and not for permanent occupancy by others as housekeeping units.

- G. Servants' quarters or servants' house.
- H. Off-street motor vehicle parking area; loading and unloading facility.
- I. Fence; sign.
- J. Parking of accessory vehicles such as boats, boat trailers, campers and house trailers as further defined herein and any other type of trailer. For purposes of this chapter, a "trailer" is a wheeled vehicle which is licensed and/or used to haul or transport a boat, camper, goods, produce, products or any other item or thing over the public roads of this Commonwealth. **[Added 6-11-1996 by Ord. No. 728]**

(Cont'd on page 22509)

ALLEY — A service way providing a secondary public means of access to abutting properties.

ALTERATIONS — As applied to a building or structure, a change or rearrangement in the structural parts or in the exit facilities, or an enlargement, whether by extending on a side or by increasing in height, or the moving from one location to another, or any change in use from that of one zoning district classification to another.

ALTERATIONS, STRUCTURAL — Any change in the supporting members of a building, such as bearing walls, columns, beams, girders or foundations.

APARTMENT — A room or suite of rooms in a multiple-family structure which is used as a single housekeeping unit and which contains complete kitchen, bath and toilet facilities, permanently installed.

APARTMENT HOTEL — A building consisting of guest rooms, suites of rooms, or dwelling units which are occupied more or less permanently, wherein the occupants are furnished so-called "hotel services," including a dining room and maid service.

APARTMENT HOUSE — A building used by three (3) or more families living independently of each other and containing dwelling units.

AREA, BUILDING — The total of areas taken on a horizontal plane at the main grade level of the principal building, exclusive of uncovered porches, terraces, steps, garages and other accessory buildings.

AUTOMOBILE REPAIR, MAJOR — Engine rebuilding or major reconditioning of worn or damaged motor vehicles or trailers, collision service, including body, frame or fender straightening or repair, and overall painting of vehicles.

AUTOMOBILE REPAIR, MINOR — Incidental repairs; replacement of parts; motor service to automobiles; state inspection; but not including any operation specified under "automobile repair, major" above.

BASEMENT — A story partly underground, but having at least one-half ($\frac{1}{2}$) of its height above the average level of the adjoining ground. A "basement" shall be counted as a story for the purpose of height measurement if the vertical distance between the ceiling and the average level of the adjoining ground is five (5) feet or more or if the basement is used for business or dwelling purposes.

BILLBOARD — A structure, building wall or other outdoor surface used to display lettered, pictorial, sculptured or other matter which directs attention to any product, announcement, commodity or service offered only elsewhere than on the premises or as a minor and incidental service on the premises.

BOARD — The Zoning Hearing Board of Westmont Borough.

BUFFER AREA — A strip of land which is planted and maintained in shrubs, bushes, trees, grass or other landscaping material and within which no structure is permitted except a wall or fence.

BUILDING — A structure having a roof supported by columns or walls, for the shelter of persons, animals, chattels or property. When separated by walls which are common with the walls of adjoining dwellings, each portion of such structure shall be considered a separate building. It shall include any overhang, projection or roof extending beyond a wall or support, sun parlors and covered porches, whether enclosed or unenclosed, but does not include walks, steps or terraces.

BUILDING HEIGHT — The vertical distance measured from the average elevation of the proposed finished grade at the front of the building to the highest point of the roof for flat roofs, to the deckline of mansard roofs and to the mean height between eave and ridge for gable, hip and gambrel roofs.

BUILDING LINE — The line of that face of the building nearest the front line of the lot. This face includes front main foundation but does not include walks, steps or terraces.

CELLAR — A portion of a building having one-half ($\frac{1}{2}$) or more of its height below the average grade of the adjoining ground. In a dwelling, a "cellar" may not contain the principal living quarters.

COVERAGE — That percentage of the lot covered by the building area.

DISTRICT, ZONING — A section of Westmont Borough for which uniform regulations governing the use, height, area and intensity of use of buildings and land and open spaces about buildings are herein established.

DOG OR SIMILAR DOMESTIC PET HOUSING — A structure or fenced-in area of a lot or yard that is used primarily for the noncommercial housing of dogs or domestic pets. Fenced areas of yards primarily used for other purposes by the occupants of the dwelling and used incidentally for the controlling of domestic animals shall not be considered a dog or similar domestic pet housing. **[Added 2-11-2003 by Ord. No. 774]**

DWELLING — A building designed or used exclusively as the living quarters for one or more families.

DWELLING, GROUP — A group of two or more one-family, two-family or multiple-family dwellings occupying a lot in one ownership and having a yard in common.

DWELLING, MULTIPLE-FAMILY — A dwelling or group of dwellings on one plot or lot containing separate living units or dwelling units for three or more families, but which may have joint services or facilities or both.

DWELLING, MULTISTORY MULTIPLE-FAMILY — A multiple-family dwelling of more than three stories, unless further restricted in district regulations herein.

DWELLING, ONE-FAMILY — A detached building designed for or occupied exclusively by one family.

DWELLING, TOWNHOUSE — A multistory dwelling that is one of a planned complex of such contiguous dwellings sharing common party walls. Such dwellings are divided into distinct and noncommunicating units, with each dwelling unit having direct access to the outdoors. Provision for separate utilities and separate

lots for all dwelling units in a building must be made, and the facades of dwelling units shall harmonize with each other and the surrounding neighborhood.

DWELLING, TWO-FAMILY — A building designed for or occupied exclusively by two families living independently of each other, with separate dwelling unit entrances.

FAMILY — One or more persons related by blood, marriage or adoption, or two unrelated persons living as a household in a dwelling unit. "Family" may also include domestic servants and gratuitous guests.

FLOOR AREA — The sum of the gross horizontal areas of the several floors of a building or buildings, measured from the exterior faces of exterior walls, or from the center line of common walls separating buildings. For purposes of determining dwelling standards, the garage and basement areas shall not be included. For purposes of determining parking and loading space requirements for the several zoning districts herein, the "floor area" of a building or buildings shall include basement space, penthouses, attic space providing structural headroom of 7½ feet or more, interior balconies and mezzanines, enclosed porches, accessory uses other than accessory off-street parking, lobbies and hallways. For determination of parking and loading space requirements, the following areas shall not be included: cellar space, elevator shafts and stairwells, floor space for mechanical equipment as necessary to service the needs of the building, uncovered steps, terraces, breezeways, open spaces (unroofed, unless specifically required in the parking regulations herein) and fitting and dressing rooms.

GARAGE, PRIVATE — An accessory building, housing only motor-driven vehicles, the property of and for the use of the occupants of the lot on which the "private garage" is located.

GARAGE, PUBLIC — Any garage other than a private garage, available to the public, and which is used for

storage, parking, repair, rental, greasing, washing, servicing, adjusting or equipping of motor-driven vehicles.

HABITABLE LIVING SPACE — Refers to space utilized by occupants within a dwelling unit, including the following areas: living room, dining room, kitchen, bedroom, bathroom, closets, stairways, etc., but not including basements, garages or common hallways and common stairways. [Amended 10-13-1992 by Ord. No. 698]

HEIGHT — See "building height" herein.

HOME OCCUPATIONS: [Amended 2-11-2003 by Ord. No. 774]

A. HOME BUSINESS:

- (1) An accessory use of a service character within a dwelling by residents which is clearly secondary to the use of the dwelling for living purposes and does not change the character thereof or have any exterior evidence of such secondary use other than a small sign. The secondary use shall not be carried on in an adjacent, separate, attached or integral structure not designed for living space such as a garage or other outbuilding, shall not constitute more than 25% of the habitable living area and shall not employ any persons other than resident family members.
- (2) A home business shall be permitted by special exception according to the criteria stated in § 225-72C. Instructions in violin, piano or other musical instruments limited to a single person at a time shall be deemed a home business. The business of dressmaker, seamstress or other persons who offer skilled services to clients, tax preparer, consultant, and similar professions shall be deemed a home business. The following

are not permitted as home businesses: dancing instruction or band instrument instructions for three or more persons at one time, tourist homes, physicians, dentists, convalescent homes, mortuary establishments, stores, trades or auto body workshops.

B. HOME OFFICE — An accessory use of a service character within a dwelling by the residents of the structure, which is clearly secondary to the use of the dwelling for living purposes and does not change the character thereof or have any evidence of such secondary use. A limited business or commercial activity which meets all of the following criteria is considered a home office and is permitted by approval of the Zoning Officer in any dwelling unit:

- (1) No exterior evidence (e.g., noise, light, heat, dust, odor, signs, electromagnetic interference, etc.) of the home office shall be permitted that is uncharacteristic of a residential setting.
- (2) No retail sales or display of goods, exclusive of telephone, Internet or other electronic network solicitation, is permitted.
- (3) Only residents of the dwelling may be engaged in the home office activity.
- (4) The home office activity may be conducted only within the dwelling unit and may not occupy more than 10% of the habitable floor area.
- (5) The use shall not require the delivery of materials and goods by trucks larger than standard panel trucks.
- (6) The use shall not involve regular visitations by customers, clients, salespersons or suppliers.

HOSPITAL — Includes residential inpatient treatment facilities such as a sanitarium, sanitorium,

preventorium, rest home, nursing home, convalescent home and any place for inpatient care.

HOTEL — A building in which lodging is provided and offered to the public for compensation and in which ingress and egress to and from rooms is made from an inside lobby or office supervised by a person in charge at all hours, and which is open to transient guests, in contradistinction to a boardinghouse, lodging house or rooming house.

HOTEL, MOTOR — A building in which lodging is provided and offered to the transient public for compensation and in which egress and ingress to and from rooms may be made either through an inside lobby or office supervised by a person in charge at all times or directly from the exterior.

HOUSE TRAILER — A transportable temporary dwelling that is a mechanized or nonmechanized vehicle having self-contained living facility arrangements on board; except for motor homes that are proven to be used for primary transportation of the family. **[Added 10-13-1992 by Ord. No. 698]**

INSTITUTIONAL HOUSE — A public or private benevolent establishment devoted to the shelter, maintenance or education and care of minor children, homeless, aged or infirm persons or a halfway house. **[Amended 10-13-1992 by Ord. No. 698]**

LIVESTOCK — Such animals normally raised on farms for individual consumption or for sale. Generally such animals include but are not limited to pigs, goats, sheep, cattle, horses, chickens or other fowl.

LOADING SPACE — A space within the main building or on the same lot therewith providing for the standing, loading or unloading of vehicles.

LOT — A designated parcel, tract or area of land, accessible by means of a public street, established by a plat or otherwise as permitted by law and to be used,

developed or built upon as a unit. **[Amended 10-13-1992 by Ord. No. 698]**

LOT, CORNER — A lot at the junction of two or more intersecting streets and having frontage on two or more such streets.

LOT, DEPTH OF — The mean horizontal distance between the front lot line and the rear lot line, measured midway between the side lot lines.

LOT, INTERIOR — A lot other than a corner lot or a through lot.

LOT LINE, FRONT — In the case of an interior lot, the line separating the lot from the street; in the case of a corner lot, the line separating the narrowest frontage of the lot from the street.

LOT, THROUGH — A lot having frontage on two parallel or approximately parallel streets and which is not a corner lot.

LOT, WIDTH — The dimension of a lot, measured between the side lot lines on the building line.

MEDICAL AND DENTAL OUTPATIENT CLINIC — Limited to a nonresidential place for the diagnosis, treatment or other care of human ailments.

MOBILE HOME — A transportable, single-family dwelling intended for permanent occupancy, contained in one unit, or in two or more units designed to be joined into one integral unit capable of again being separated for repeated towing, which arrives at a site complete and ready for occupancy except for minor and incidental unpacking and assembly operations, and constructed so that it may be used without a permanent foundation. **[Amended 10-13-1992 by Ord. No. 698]**

MOBILE HOME LOT — A parcel of land in a mobile home park, improved with the necessary utility connections and other appurtenances necessary for the erections thereon of a single mobile home, which is

leased by the park owner to the occupants of the mobile home erected on the lot.

MOBILE HOME PARK — A parcel of land under single ownership which has been planned and improved for the placement of mobile homes for nontransient use, consisting of two or more mobile home lots.

MODULAR HOME — A transportable, single-family dwelling intended for permanent occupancy contained in two or more units and designed for use with a permanent foundation.

MOTEL — See “hotel, motor” herein.

NONCONFORMING USE — A building or use of land lawfully existing on the effective date of this chapter that does not completely conform to the use regulations for the district in which it is located.

NURSERY SCHOOL — A school designed to provide daytime care or instruction for two or more children of preschool age.

PARKING LOT — Any lot, parcel or yard used in whole or in part for the storage or parking of two or more vehicles where such usage is not incidental to or in conjunction with a one-family or two-family dwelling.

PARKING SPACE — An off-street space available for the parking of one motor vehicle and having an area of not less than 180 square feet, exclusive of passageways and driveways appurtenant thereto, and giving access thereto and having direct access to a street or alley.

PLANNING COMMISSION/COMMITTEE — The Planning Body of Westmont Borough, which shall have conferred and imposed upon it all the powers of the Zoning Commission.

SELF-SERVICE LAUNDRY — A business that provides home-type washing, drying or ironing machines or dry-

cleaning machines for hire to be used by customers on the premises.

SERVICE STATION — A building(s), premises or portions thereof which are used, arranged, designed or intended to be used for the retail sale of gasoline or other fuel for motor vehicles, boats or aircraft, as well as for minor automobile repair, including state inspection.

SIGN — Any surface, fabric or device bearing lettered, pictorial, sculptured or other matter designed to convey information visually and exposed to public view; any structure designed to carry the above visual information; any structure or device designed or installed principally to direct or attract attention, except traffic signs or devices.

SNOW FENCE — A temporary fence structure for seasonal purposes that is not located within a Borough or state right-of-way and otherwise not determined to cause a safety hazard. **[Added 2-11-2003 by Ord. No. 774]**

STORY — That portion of a building included between the surface of any floor and the surface of the floor next above it, or if there is no floor above it, then the space between the floor and the ceiling next above it.

STREET — A strip of land, including the entire right-of-way (not limited to the cartway), intended for use by the general public as a means of vehicular and pedestrian circulation to provide access to more than one lot. See the Westmont Borough Subdivision Ordinance for further clarification on this definition.¹

STRUCTURE — Any man-made object having an ascertainable stationary location on or in land or water, whether or not affixed to the land. **[Amended 10-13-1992 by Ord. No. 698]**

¹ Editor's Note: See Ch. 198, Subdivision and Land Development.

SWIMMING POOL — Any structure intended for swimming, recreational bathing, or other contained body of water, containing or normally capable of containing water to a depth of over 24 inches. This includes in-ground, aboveground and on-ground swimming pools, hot tubs and spas. A swimming pool may be further defined as a "permanently installed" or "storable" pool. **[Added 10-13-1992 by Ord. No. 698; amended 11-13-2007 by Ord. No. 796]**

SWIMMING POOL PERMANENTLY INSTALLED — A pool that is constructed the ground or partially in the ground, and all other pools capable of holding water with a depth greater than 42 inches (1,067 mm), and all pools installed inside of a building, regardless of water depth, whether or not served by electrical circuits of any nature. **[Added 11-13-2007 by Ord. No. 796]**

SWIMMING POOL, STORABLE — A pool that is constructed on or above the ground and is capable of holding water with a maximum depth of 42 inches (1,067 mm), or a pool with nonmetallic molded polymeric walls or inflatable fabric walls, regardless of dimensions, containing or normally capable of containing water to a depth of over 24 inches. These pools are designed for easy setup and removal and are not designed to remain outdoors during winter periods. Spas and hot tubs that fall within the depth parameters set forth in this definition shall be considered storable swimming pools. **[Added 11-13-2007 by Ord. No. 796]**

TELECOMMUNICATIONS TOWER — An elevated radio, television or microwave transmission or receiving tower which is used to transmit, receive, retransmit or otherwise convey radio, television or microwave signals. [NOTE: This new definition does not separate telecommunications towers from other structures defined in Article IX, § 225-42A(2) and adds television and microwave towers and signals.] **[Added 2-10-1998 by Ord. No. 737; amended 5-12-1998 by Ord. No. 740]**

TEMPORARY STRUCTURE — Any structure erected for or as a temporary means of protecting vehicles or other property from the elements. This includes tented carports, tarpaulins, or similar items, excluding temporary fences, used for a period not to exceed 30 days. Temporary structures are easily constructed and removed, and the materials are designed for removal or disassembly and re-use at another location. **[Added 2-11-2003 by Ord. No. 774]**

USE — The specific purpose for which land or a building is designed, arranged, intended or for which it may be occupied or maintained. The term "permitted use" or its equivalent shall not be deemed to include any nonconforming use.

YARD — A space on the same lot with a principal building, open, unoccupied and unobstructed by structures, except as otherwise provided in this chapter.

YARD, FRONT — A yard extending across the full width of the lot, unoccupied other than by steps, walks, terraces, driveways, lampposts and similar structures, the depth of which is the least distance between the lot line and the building line.

YARD, REAR — A yard extending across the full width of the lot between the rear of the principal building and the rear lot line, unoccupied by other than accessory buildings which do not occupy more than 35% of the space, and steps, walks, terraces, driveways, lampposts and similar structures, the depth of which is the least distance between the rear lot line and the rear of such buildings.

YARD, SIDE — A yard between the principal building and the side lot line, extending from the front yard, or from the front lot line where no front yard is required, to the rear yard. The width of the required side yard is measured horizontally and at 90° with the side lot line, from the nearest part by encroachment of the principal building.

ARTICLE III
Establishment of Districts

§ 225-7. Designation of districts.

The Borough of Westmont is hereby classified and divided into seven districts designated as follows:

R-1 District	One-Family Residential District
R-2 District	Multiple-Family (Low-Density) Residential District
R-3 District	Multiple-Family (Medium-Density) Residential District
R-4 District	Multiple-Family (Townhouse) Residential District
C District	Commercial District
FP District	Floodplain District
S District	Conservancy District

(Cont'd on page 22521)

§ 225-8. Interpretation of boundaries.

- A. Where district boundaries are indicated as approximately following the centered lines of streets, highways, street lines, highway right-of-way lines or streams, such center lines shall be construed to be such boundaries.
- B. Where district boundaries are so indicated that they approximately follow lot lines, such lot lines shall be construed to be such boundaries.
- C. Where district boundaries are so indicated that they approximately follow or are parallel to the center lines of streets, highways or the rights-of-way of the same, such district boundaries shall be construed to be parallel thereto and at such distance therefrom as indicated on the Zoning Ordinance Map.²
- D. Where the boundary of a district follows a railroad, such boundary shall be deemed to be located in the middle of the main tracks of such railroad.
- E. Where the boundary of a district follows a stream or other body of water abutting another municipality, the boundary shall be deemed to be the limits of jurisdiction of the Borough, unless otherwise indicated.
- F. Where the boundary of a district traverses a lot, parcel or tract of record, the zoning district designation shall be determined by review of the Zoning Hearing Board as a special exception in accordance with Article XV, § 225-72C(6). [Added 2-11-2003 by Ord. No. 774]

² Editor's Note: The Zoning Map is included in a pocket at the end of this volume.

**ARTICLE IV
General Provisions**

§ 225-9. Conformance required; permits and licenses.

No building or land shall, after effective date of this chapter, except for existing nonconforming uses, be used or occupied and no building or part thereof shall be erected, moved or altered unless in conformity with the regulations herein specified for the district in which it is located, and then only after applying for and securing all permits and licenses required by all laws and ordinances.

§ 225-10. General restrictions.

No building shall hereafter be erected or altered to exceed the height, to accommodate or house a greater number of families, to occupy a greater percentage of lot area or to have a narrower or smaller rear yard, side yard or front yard than is herein specified for the district in which the building is located.

§ 225-11. Yards.

No part of a yard or other open space about any building required for the purpose of complying with the provisions of this chapter shall be included as a part of a yard or open space similarly required for another building.

§ 225-12. Substandard dwellings.

No structure shall be used or occupied as a dwelling if such structure is in need of such major structural repairs as to render it unsafe or unsanitary, or if the premises do not have connection with the municipal sewer system or alternative sanitary sewage facilities approved by the local public health authorities having jurisdiction.

§ 225-13. Public utility lines.

Public utility lines for the transportation, distribution and control of water, gas, electricity, oil, steam, telegraph and telephone communications, and their supporting members other than buildings, and railroads shall not be required to be located on a zoning lot nor be held to reduce yard dimensions for other buildings on a lot.

§ 225-14. Lots not meeting area requirements.

Nothing in the district regulations shall be held to prohibit the erection of a one-family dwelling upon a lot whose size is inadequate to meet the lot area regulations set for the district, provided that such lot on the effective date of this chapter was held under separate ownership from the adjoining lots or is a lot in a recorded plan which complies with all district regulations, except lot area requirements, or is a lot in a subdivision plan approved under the Borough of Westmont subdivision regulations.³

§ 225-15. Mobile homes.

Mobile homes, home trailers or auto trailers shall be permitted for permanent occupancy in the R-3 District and in mobile home parks only. All mobile homes must be permanently affixed to a foundation so as to prevent tipping due to high winds or flash flooding and comply with all other requirements of § 225-19.

§ 225-15.1. Temporary structures. [Added 2-11-2003 by Ord. No. 774]

Temporary structures may be constructed in side and rear lot areas, in compliance with the yard areas and setbacks for the district in which the property is located, for a period not to

³ Editor's Note: See Ch. 198, Subdivision and Land Development.

exceed 30 days. If the structure is not removed after the thirty-day period expires, the structure shall be subject to building permit requirements.

§ 225-16. Property survey required.

Prior to all new construction, the owner and/or developer must have each lot or lots properly surveyed by a certified surveyor or professional engineer and the location of the proposed building and/or buildings (drawn to scale) indicated on said survey.

**ARTICLE V
Residential Districts**

§ 225-17. R-1 One-Family Residential District. [Amended 10-19-1989 by Ord. No. 662; 1-12-1993 by Ord. No. 703; 10-11-1994 by Ord. No. 715; 12-13-1994 by Ord. No. 717; 6-11-1996 by Ord. No. 728; 2-10-1998 by Ord. No. 737; 5-12-1998 by Ord. No. 740; 2-11-2003 by Ord. No. 774]

Within the R-1 One-Family Residential District, the following regulations apply:

A. Permitted uses.

- (1) Permitted uses shall be as follows:
 - (a) One-family detached dwelling.
- (2) Uses permitted by special exception shall be as follows:
 - (a) Public school or private school having a curriculum similar to that ordinarily given in a public school, including religious instruction in parochial schools.
 - (b) Church or similar place of worship.

- (c) Convent, monastery, rectory or parish house to be occupied by not more than 10 persons.
 - (d) Public recreation (Borough, county or state) area, including municipal park.
 - (e) Government building and/or government use for a Borough office, fire station, police station, maintenance shed and/or equipment storage area, provided that a substantial purpose of the building or use is to deliver the citizens of Westmont Borough fire protection, police protection or local government services.
 - (f) Group home facilities as specified in § 225-45.1.
- (3) Accessory uses. Accessory uses are customarily incidental to any of the above permitted uses and include the following:
- (a) Private garage.
 - (b) Garage, shed or building for domestic storage.
 - (c) Fence or ornamental wall not over six feet in height (rear and side yard only).
 - (d) Cultivation of plants, noncommercial only (no permit required).
 - (e) Home occupation: home office.
 - (f) Gazebo, garden house or children's playhouse.
 - (g) Parking of accessory vehicles as further specified in § 225-42D.
 - (h) Front yard parking, as further specified in § 225-47F; permit required. **[Added 9-14-2004 by Ord. No. 779]**
 - (i) Swimming pool: storable, having protective fencing and meeting setbacks as set forth in § 225-45B(2) and (4). **[Added 11-13-2007 by Ord. No. 796]**

- (4) Accessory uses permitted by special exception shall be as follows:
 - (a) Private swimming pool: permanently installed, appurtenant to a dwelling as per § 225-45. **[Amended 11-13-2007 by Ord. No. 796]**
 - (b) Private (noncommercial) greenhouse.
 - (c) Dog or similar domestic pet housing.
 - (d) Home occupation: home business.
- B. Nonpermitted uses shall be as follows:
 - (1) Surface mining.
 - (2) Commercial and industrial establishment.
 - (3) Deep mining facility.
 - (4) The keeping of livestock.
 - (5) Helicopter landing area.
 - (6) Other activities that are deemed damaging to the purpose of this chapter.
- C. Height. The maximum height of buildings hereafter erected or altered shall be as follows:
 - (1) One-family detached dwelling: 35 feet or 2½ stories.
 - (2) Church or similar place of worship: 45 feet for the principal building and 75 feet for steeples or towers.
 - (3) Accessory building: 20 feet.
 - (4) Any other permitted building: 35 feet or 2½ stories.
- D. Lot area. The minimum lot area for every building hereafter erected or altered shall be as follows:
 - (1) One-family detached dwelling, convent, monastery, rectory or parish house: a minimum of 11,250 square feet and a width at the building line of not less than 75 feet.

- (2) Church or similar place of worship: 1½ acres and a width at the building line of not less than 200 feet.
 - (3) Public or private school.
 - (a) Elementary school: ten acres plus one acre for every 100 students at design capacity.
 - (b) Junior high school: 20 acres plus one acre for every 100 students at design capacity.
 - (c) High school: 35 acres plus one acre for every 100 students at design capacity.
- E. Yard areas. No building or structure shall be erected or enlarged unless the following yards are provided and maintained, or the present average setback is applicable under Subsection J of this section, in connection with such building, structure or enlargement:
- (1) Front yard: not less than 40 feet.
 - (2) Side yard: on each side, not less than 7½ feet in width, free from all encroachments such as overhanging eaves and cornices, porches, steps, cellar doors, etc., on each side of a one-family dwelling, unless, prior to the effective date of this chapter, lots have been accepted by the Westmont Borough Council with less than 75 feet of frontage on any Borough street, and in that event, the side yard on each side of a one-family dwelling shall be equal to 10% of the amount of the foot frontage of the lot, but in no event shall be less than five feet. Side yards on corner lots shall be 15 feet clear of all encroachments on the street side. Side yard fences are allowed to sit on side yard property lines.
 - (3) Rear yard.
 - (a) There shall be a rear yard of not less than 25% of the depth of the lot at the ground level.
 - (b) Accessory buildings and private garages may occupy not more than 35% of the required area

of the rear yard. The yard area occupied by such accessory buildings shall, however, be included in computing the percentage of the lot area which may be built upon in a given zone.

- (c) No private garage or other accessory buildings shall be nearer to a rear or side property line than 10 feet unless otherwise permitted in side yard requirements of this Article. No garage or other accessory building shall be placed nearer to a rear lot line which serves as a side line of an adjoining property than 10 feet. Nothing contained herein, however, shall prevent the construction of a private garage as a structural part of a dwelling, provided that, when so constructed, the garage walls shall be regarded as any other walls of the main building in applying the front, side and rear yard requirements of this chapter.
- F. Percentage of lot coverage. All buildings, including accessory uses, shall cover not more than 20% of the area of the lot.
- G. Dwelling standards. Every one-story dwelling hereafter erected or altered shall have a floor area of not less than 1,400 square feet. Every dwelling of more than one story hereafter erected or altered shall have a total floor area of not less than 1,800 square feet.
- H. Off-street parking facilities shall be provided as required or permitted under Article X.
- I. Present average setback shall be as follows:
 - (1) The present average setback shall be the average distance of setback from the front street line of the nearest main building or buildings within 100 feet on each side of the street. Where no main building exists within 100 feet of either side of the building to be erected, the present average setback shall be the

average distance of setback from the front street line of all main buildings within the block.

- (2) No building shall extend nearer to a front street line than the present average setback, and in no event less than 35 feet back from the street line.
- (3) In no case, however, shall a building be required to be set back more than 60 feet from the street line during the application of this present average setback. Otherwise, the requirements of § 225-17F shall control.

§ 225-18. R-2 Multiple-Family (Low-Density) Residential District.

Within the R-2 Multiple-Family (Low-Density) Residential District, the following regulations shall apply:

A. Permitted uses. [Amended 10-13-1992 by Ord. No. 698; 1-12-1993 by Ord. No. 703; 12-13-1994 by Ord. No. 717; 6-11-1996 by Ord. No. 728; 2-10-1998 by Ord. No. 737; 5-12-1998 by Ord. No. 740; 2-11-2003 by Ord. No. 774]

- (1) Permitted uses shall be as follows:
 - (a) One-family detached dwelling.
 - (b) Two-family dwelling.
 - (c) Multiple-family dwellings and apartments with not more than six dwelling units in one structure.
- (2) Uses permitted by special exception shall be as follows:
 - (a) Public school or private school having a curriculum similar to that ordinarily given in a public school, including religious instruction in parochial schools.
 - (b) Church or similar place of worship.

- (c) Convent, monastery, rectory or parish house to be occupied by not more than 10 persons.
 - (d) Public recreation (Borough, county or state) area, including municipal park.
 - (e) Government building and/or government use for a Borough office, fire station, police station, maintenance shed and/or equipment storage area, provided that a substantial purpose of the building or use is to deliver the citizens of Westmont Borough fire protection, police protection or local government services.
 - (f) Group home facilities as specified in § 225-45.1.
 - (g) Conversion apartments for family occupancy.
 - (h) Efficiency apartments.
- (3) Accessory uses. Accessory uses are customarily incidental to any of the above permitted uses and include the following:
- (a) Private garage.
 - (b) Garage, shed or building for domestic storage.
 - (c) Fence or ornamental wall not over six feet in height (rear and side yard only).
 - (d) Cultivation of plants, noncommercial only (no permit required).
 - (e) Home occupation: home office.
 - (f) Gazebo, garden house or children's playhouse.
 - (g) Parking of accessory vehicles as further specified in § 225-42D.
 - (h) Front yard parking, as further specified in § 225-47F; permit required. **[Added 9-14-2004 by Ord. No. 779]**

- (i) Swimming pool: storable, having protective fencing and meeting setbacks as set forth in § 225-45B(2) and (4). **[Added 11-13-2007 by Ord. No. 796]**
- (4) Accessory uses permitted by special exception shall be as follows:
 - (a) Private swimming pool: permanently installed, appurtenant to a dwelling as per § 225-45. **[Amended 11-13-2007 by Ord. No. 796]**
 - (b) Private (noncommercial) greenhouse.
 - (c) Dog or similar domestic pet housing.

(Cont'd on page 22531)

(d) Home occupation: home business.

B. **[Amended 10-13-1992 by Ord. No. 698]** Nonpermitted uses shall be as follows:

- (1) Surface mining.
- (2) Commercial and industrial establishment.
- (3) Deep mining facility.
- (4) The keeping of livestock.
- (5) Helicopter landing area.
- (6) Other activities that are deemed damaging to the purpose of this chapter.

C. Height shall be as permitted in the R-1 District, except that the multiple-family dwellings shall be restricted by lot coverage and a maximum height of three stories.

D. Lot area. The minimum lot area for every building hereafter erected or altered shall be as follows:

- (1) One-family detached dwelling, convent, monastery, rectory or parish house: 7,000 square feet and a width at the building line of not less than 50 feet.
- (2) Two-family dwelling: 4,000 square feet per dwelling unit and a width at the building line of not less than 50 feet.
- (3) Multiple-family dwelling: not less than 3,000 square feet per dwelling unit or apartment and a width at the building line of not less than 50 feet.
- (4) Church or similar place of worship: 1½ acres and width at the building line of not less than 200 feet.
[Amended 10-13-1992 by Ord. No. 698]
- (5) **[Amended 10-13-1992 by Ord. No. 698]** Public or private school.
 - (a) Elementary school: 10 acres plus one acre for every 100 students at design capacity.

- (b) Junior high school: 20 acres plus one acre for every 100 students at design capacity.
- (c) High school: 35 acres plus one acre for every 100 students at design capacity.

E. [Amended 10-11-1994 by Ord. No. 715] Yard areas. No building or structure shall be erected or enlarged unless the following yards are provided and maintained, or the present average setback is applicable under Subsection J of this section, in connection with such building, structure or enlargement:

- (1) Front yard: not less than 25 feet, except for a multiple-family dwelling, which shall provide and maintain a front yard, side yard and rear yard of horizontal dimension not less than the height of the building or 50 feet, whichever is greater.
- (2) Side yard: for a one-family detached dwelling and two-family dwelling, not less than five feet on each of two sides for an interior lot and not less than 15 feet combined total of side yards for a corner lot, with the side yard from the street being at least 10 feet.
- (3) Rear yard.
 - (a) There shall be a rear yard of not less than 20% of the depth of the lot at the ground level.
 - (b) Accessory buildings and private garages may occupy not more than 35% of the required area of the rear yard. The yard area occupied by such accessory buildings shall, however, be included in computing the percentage of the lot area which may be built upon in a given zone.
 - (c) No private garage or other accessory building shall be nearer to a lot line than 10 feet or nearer to a side lot line than five feet. No garage or other accessory building shall be placed nearer to a rear lot line which serves as

a side line of an adjoining property than 10 feet. Nothing contained herein, however, shall prevent the construction of a private garage as a structural part of a dwelling, provided that, when so constructed, the garage walls shall be regarded as any other walls of the main building in applying the front, side and rear yard requirements of this chapter.

- (4) Church and similar place of worship: not less than 40 feet on each side of the principal building.
- F. Percentage of lot coverage. All buildings, including accessory uses, shall cover not more than 35% of the area of the lot, except multifamily dwellings, which may cover 40% of the lot.
- G. Dwelling standards. Every one-story dwelling hereafter erected or altered shall have a floor area of not less than 750 square feet. Every two-story dwelling hereafter erected or structurally altered shall have a total floor area of not less than 1,500 square feet. Every multifamily dwelling hereafter erected or altered shall have a floor area of not less than 750 square feet for each dwelling unit.
- H. Off-street parking facilities shall be provided as required or permitted under Article X.
- I. Special regulations for conversion and efficiency apartments shall be as follows:
 - (1) Plans and specifications shall be submitted and approved by the Zoning Hearing Board.
 - (2) No living quarters shall be below ground level.
 - (3) The exterior shall be renovated at the time of conversion and in accordance with generally accepted architectural design and practice.
 - (4) The entire structure of the building, both exterior and interior, must be up to minimum housing code

standards at time of conversion when such codes are adopted by the Borough Council.

- (5) No building shall be more than three stories in height.
- (6) No multiple-family dwelling shall be occupied by more than four families.
- (7) Each housekeeping unit must have living quarters with an area of not less than 500 square feet of usable floor space per unit, exclusive of bathroom and kitchen facilities.
- (8) No multiple dwelling or two-family dwelling unit shall occupy more than 60% of the lot area.
- (9) Garage facilities. Garage facilities for any two-family dwelling or multiple-dwelling unit may be erected upon the same lot for the housing of automobiles for those who have a residence in such dwelling. These garage facilities shall be subject to rear yard restrictions contained elsewhere in this chapter.
- (10) In any event, all conversions or alterations must conform to any other provisions of this chapter relating to area, yard and height restrictions, including off-street parking according to the provisions of Article X.

J. Present average setback shall be as follows:

- (1) The present average setback shall be the average distance of setback from the front street line of the nearest main building or buildings within 100 feet on each side of the street. Where no main building exists within 100 feet of either side of the building to be erected, the present average setback shall be the average distance of setback from the front street line of all main buildings within the block.
- (2) No building shall extend nearer a front street line than the present average setback and in no event

less than 25 feet back from the street line.
[Amended 10-11-1994 by Ord. No. 715]

(3) (Reserved)¹

(4) In no case, however, shall a building be required to be set back more than 60 feet from the street line.

§ 225-19. R-3 Multiple-Family (Medium-Density) Residential District.

Within the R-3 Multiple-Family (Medium-Density) Residential District, the following regulations shall apply:

A. Permitted uses. [Amended 10-13-1992 by Ord. No. 698; 1-12-1993 by Ord. No. 703; 12-13-1994 by Ord. No. 717; 6-11-1996 by Ord. No. 728; 2-10-1998 by Ord. No. 737; 5-12-1998 by Ord. No. 740; 2-11-2003 by Ord. No. 774]

(1) Permitted uses shall be as follows:

(a) One-family detached dwelling.

(b) Two-family dwelling.

(c) Multiple-family dwellings and apartments with not more than six dwelling units in one structure.

(d) Mobile home parks as specified in § 225-44 hereof.

(2) Uses permitted by special exception shall be as follows:

(a) Public school or private school having a curriculum similar to that ordinarily given in a public school, including religious instruction in parochial schools.

¹ Editor's Note: Former Subsection J(3), which dealt with corner lots having two street frontages of approximately equal lengths, was deleted 10-11-1994 by Ord. No. 715.

- (b) Church or similar place of worship.
 - (c) Convent, monastery, rectory or parish house to be occupied by not more than 10 persons.
 - (d) Public recreation (Borough, county or state) area, including municipal park.
 - (e) Government building and/or government use for a Borough office, fire station, police station, maintenance shed and/or equipment storage area, provided that a substantial purpose of the building or use is to deliver the citizens of Westmont Borough fire protection, police protection or local government services.
 - (f) Group home facilities as specified in § 225-45.1.
 - (g) Conversion apartments for family occupancy.
 - (h) Efficiency apartments.
 - (i) Any structure regulated by Article IX, § 225-42A(3).
- (3) Accessory uses. Accessory uses are customarily incidental to any of the above permitted uses and include the following:
- (a) Private garage.
 - (b) Garage, shed or building for domestic storage.
 - (c) Fence or ornamental wall not over six feet in height (rear and side yard only).
 - (d) Cultivation of plants, noncommercial only (no permit required).
 - (e) Home occupation: home office.
 - (f) Gazebo, garden house or children's playhouse.

- (g) Parking of accessory vehicles as further specified in § 225-42D.
 - (h) Front yard parking, as further specified in § 225-47F; permit required. **[Added 9-14-2004 by Ord. No. 779]**
 - (i) Swimming pool: storable, having protective fencing and meeting setbacks as set forth in § 225-45B(2) and (4). **[Added 11-13-2007 by Ord. No. 796]**
- (4) Accessory uses permitted by special exception shall be as follows:
- (a) Private swimming pool: permanently installed, appurtenant to a dwelling as per § 225-45. **[Amended 11-13-2007 by Ord. No. 796]**
 - (b) Private (noncommercial) greenhouse.
 - (c) Dog or similar domestic pet housing.
 - (d) Home occupation: home business.
- B. **[Amended 10-13-1992 by Ord. No. 698]** Nonpermitted uses shall be as follows:
- (1) Surface mining.
 - (2) Commercial and industrial establishment.
 - (3) Deep mining facility.
 - (4) The keeping of livestock.
 - (5) Helicopter landing area.
 - (6) Other activities that are deemed damaging to the purpose of this chapter.
- C. Height shall be as permitted in the R-1 District, except that the multiple-family dwellings shall be restricted by lot coverage and a maximum height of three stories.
- D. Lot area. The minimum lot area for every building hereafter erected or altered shall be as follows:

- (1) One-family detached dwelling, convent, monastery, rectory or parish house: 7,000 square feet and a width at the building line of not less than 50 feet.
 - (2) Two-family dwelling: 4,000 square feet per dwelling unit and a width at the building line of not less than 50 feet.
 - (3) Multiple-family dwelling: not less than 1,350 square feet per dwelling unit or apartment and a width at the building line of not less than 50 feet. The minimum size of lot for a multiple-family dwelling is two acres.
 - (4) Church or similar place of worship: 1½ acres and a width at the building line of not less than 200 feet.
[Amended 10-13-1992 by Ord. No. 698]
 - (5) **[Amended 10-13-1992 by Ord. No. 698]** Public or private school.
 - (a) Elementary school: 10 acres plus one acre for every 100 students at design capacity.
 - (b) Junior high school: 20 acres plus one acre for every 100 students at design capacity.
 - (c) High school: 35 acres plus one acre for every 100 students at design capacity.
 - (6) Mobile home park: as required in § 225-44.
- E. **[Amended 10-13-1992 by Ord. No. 698; 10-11-1994 by Ord. No. 715]** Yard areas. No building or structure shall be erected or enlarged unless the following yards are provided and maintained, or the present average setback is applicable under Subsection J of this section, in connection with such building, structure or enlargement:
- (1) Front yard: not less than 25 feet, except for a multiple-family dwelling, which shall provide and maintain a front yard, side yard and rear yard of horizontal dimension not less than the height of the building or 50 feet, whichever is greater.

- (2) Side yard: for a one-family detached dwelling and two-family dwelling, not less than five feet on each of two sides for an interior lot and not less than 15 feet combined total of side yards for a corner lot, with the side yard from the street being at least 10 feet.

(Cont'd on page 22539)

1. The first part of the document is a list of names and dates, which appears to be a record of some kind. The names are written in a cursive script, and the dates are in a more formal, printed style. The list is organized into two columns, with names on the left and dates on the right. The names are: John Smith, James Brown, William Jones, Thomas White, and Robert Black. The dates are: 1810, 1811, 1812, 1813, and 1814. The list is followed by a section of text that is also written in cursive. This text appears to be a description of the events that took place during the period covered by the list. It mentions the names of the individuals listed and describes their actions and the circumstances surrounding them. The text is written in a clear, legible hand, and it provides a detailed account of the events. The final part of the document is a section of text that is also written in cursive. This text appears to be a summary or conclusion of the events described in the previous section. It mentions the names of the individuals listed and describes the overall outcome of the events. The text is written in a clear, legible hand, and it provides a concise summary of the events.

(3) Rear yard.

- (a) There shall be a rear yard of not less than 20% of the depth of the lot at the ground level.
- (b) Accessory buildings and private garages may occupy not more than 35% of the required area of the rear yard. The yard area occupied by such accessory buildings shall, however, be included in computing the percentage of the lot area which may be built upon in a given zone.
- (c) No private garage or other accessory building shall be nearer to a lot line than 10 feet or nearer to a side lot line than five feet. No garage or other accessory building shall be placed nearer to a rear lot line which serves as a side line of an adjoining property than 10 feet. Nothing contained herein, however, shall prevent the construction of a private garage as a structural part of a dwelling, provided that, when so constructed, the garage walls shall be regarded as any other walls of the main building in applying the front, side and rear yard requirements of this chapter.

(4) Church and similar place of worship: not less than 40 feet on each side of the principal building.

- F. Percentage of lot coverage. All buildings, including accessory uses, shall cover not more than 35% of the area of the lot, except multifamily dwellings, which may cover 40% of the lot.
- G. Dwelling standards. Every one-story dwelling hereafter erected or altered shall have a floor area of not less than 750 square feet. Every two-story dwelling hereafter erected or structurally altered shall have a total floor area of not less than 1,500 square feet. Every multifamily dwelling hereafter erected or altered shall have a floor area of not less than 750 square feet for each dwelling unit.

- H. Off-street parking facilities shall be provided as required or permitted under Article X.
- I. **[Amended 10-13-1992 by Ord. No. 698]** Special regulations for conversion and efficiency apartments shall be as follows:
- (1) Plans and specifications shall be submitted and approved by the Zoning Hearing Board.
 - (2) No living quarters shall be below ground level.
 - (3) The exterior shall be renovated at the time of conversion and in accordance with generally accepted architectural design and practice.
 - (4) The entire structure of the building, both exterior and interior, must be up to minimum housing code standards at time of conversion when such codes are adopted by the Borough Council.
 - (5) No building shall be more than three stories in height.
 - (6) No multiple-family dwelling shall be occupied by more than four families.
 - (7) Each housekeeping unit must have living quarters with an area of not less than 500 square feet of usable floor space per unit, exclusive of bathroom and kitchen facilities.
 - (8) No multiple dwelling or two-family dwelling unit shall occupy more than 60% of the lot area.
 - (9) Garage facilities. Garage facilities for any two-family dwelling or multiple dwelling unit may be erected upon the same lot for the housing of automobiles for those who have a residence in such dwelling. These garage facilities shall be subject to rear yard restrictions contained elsewhere in this chapter.

- (10) In any event, all conversions or alterations must conform to any other provisions of this chapter relating to area, yard and height restrictions, including off-street parking according to the provisions of Article X.

J. [Amended 10-13-1992 by Ord. No. 698] Present average setback shall be as follows:

- (1) The present average setback shall be the average distance of setback from the front street line of the nearest main building or buildings within 100 feet on each side of the street. Where no main building exists within 100 feet of either side of the building to be erected, the present average setback shall be the average distance of setback from the front street line of all main buildings within the block.
- (2) No building shall extend nearer to a front street line than the present average setback and in no event less than 25 feet back from the street line.
[Amended 10-11-1994 by Ord. No. 715]
- (3) (Reserved)⁵
- (4) In no case, however, shall a building be required to be set back more than 60 feet from the street line.

§ 225-20. R-4 Multiple-Family (Townhouse) Residential District.

Within the R-4 Multiple-Family (Townhouse) Residential District, created to allow townhouse construction along the perimeter of the Borough thereby being minimally disruptive to the adjacent single-family R-1 District, the following regulations shall apply:

A. Permitted uses. [Amended 10-13-1992 by Ord. No. 698; 1-12-1993 by Ord. No. 703; 12-13-1994 by Ord.

⁵ Editor's Note: Former Subsection J(3), which dealt with corner lots having two street frontages of approximately equal lengths, was deleted 10-11-1994 by Ord. No. 715.

No. 717; 6-11-1996 by Ord. No. 728; 2-10-1998 by Ord. No. 737; 5-12-1998 by Ord. No. 740; 2-11-2003 by Ord. No. 774]

- (1) Permitted uses shall be as follows:
 - (a) One-family detached dwelling.
 - (b) Two-family dwelling.
- (2) Uses permitted by special exception shall be as follows:
 - (a) Public school or private school having a curriculum similar to that ordinarily given in a public school, including religious instruction in parochial schools.
 - (b) Church or similar place of worship.
 - (c) Convent, monastery, rectory or parish house to be occupied by not more than 10 persons.
 - (d) Public recreation (Borough, county or state) area, including municipal park.
 - (e) Government building and/or government use for a Borough office, fire station, police station, maintenance shed and/or equipment storage area, provided that a substantial purpose of the building or use is to deliver the citizens of Westmont Borough fire protection, police protection or local government services.
 - (f) Multiple-family dwellings and apartments with not more than six dwelling units in one structure.
 - (g) Townhouse dwellings with not more than six dwelling units in one structure.
 - (h) Group home facilities as specified in § 225-45.1.
 - (i) Any structure regulated by Article IX, § 225-42A(3).

(3) Accessory uses. Accessory uses are customarily incidental to any of the above permitted uses and include the following:

- (a) Private garage.
- (b) Garage, shed or building for domestic storage.
- (c) Fence or ornamental wall not over six feet in height (rear and side yard only).
- (d) Cultivation of plants, noncommercial only (no permit required).
- (e) Home occupation: home office.
- (f) Gazebo, garden house or children's playhouse.
- (g) Parking of accessory vehicles as further specified in § 225-42D.
- (h) Front yard parking, as further specified in § 225-47F; permit required. **[Added 9-14-2004 by Ord. No. 779]**
- (i) Swimming pool: storable, having protective fencing and meeting setbacks as set forth in § 225-45B(2) and (4). **[Added 11-13-2007 by Ord. No. 796]**

(4) Accessory uses permitted by special exception shall be as follows:

- (a) Private swimming pool: permanently installed, appurtenant to a dwelling as per § 225-45. **[Amended 11-13-2007 by Ord. No. 796]**
- (b) Private (noncommercial) greenhouse.
- (c) Dog or similar domestic pet housing.
- (d) Home occupation: home business.

B. **[Amended 10-13-1992 by Ord. No. 698]** Nonpermitted uses shall be as follows:

- (1) Surface mining.

- (2) Commercial and industrial establishment.
 - (3) Deep mining facility.
 - (4) The keeping of livestock.
 - (5) Helicopter landing area.
 - (6) Other activities that are deemed damaging to the purpose of this chapter.
- C. Height shall be as permitted in the R-1 District, except that the multiple-family and townhouse dwellings shall not exceed three stories in height.
- D. Lot area. The minimum lot area for every building hereafter erected or altered shall be as follows:
- (1) One-family detached dwelling, convent, monastery, rectory or parish house: 7,000 square feet and a width at the building line of not less than 50 feet.

(Cont'd on page 22541)

- (2) Two-family dwelling: four thousand (4,000) square feet per dwelling unit and a width at the building line of not less than fifty (50) feet.
- (3) Multiple-family dwelling: not less than two thousand (2,000) square feet per dwelling unit or apartment and a width at the building line of not less than fifty (50) feet. The minimum size of lot for a multiple-family dwelling is two (2) acres.
- (4) Townhouse dwelling: not less than two thousand seven hundred (2,700) square feet per dwelling unit and a width at the building line of not less than seventy-five (75) feet for a townhouse dwelling containing three (3) or more dwelling units under one (1) ownership. If a townhouse dwelling is arranged, designed or intended to be sold or owned in separate ownership between party walls, the minimum width of lot between center lines of party walls shall be twenty-two (22) feet, and the seventy-five-foot minimum width of total site frontage shall apply for the entire structure. The minimum size of a lot for a townhouse dwelling structure: one (1) acre or forty-three thousand five hundred sixty (43,560) square feet.
- (5) Church or similar place of worship: one and one-half (1½) acres and a width at the building line of not less than two hundred (200) feet. **[Amended 10-13-1992 by Ord. No. 698]**
- (6) **[Amended 10-13-1992 by Ord. No. 698]** Public or private school.
 - (a) Elementary school: ten (10) acres plus one (1) acre for every one hundred (100) students at design capacity.
 - (b) Junior high school: twenty (20) acres plus one (1) acre for every one hundred (100) students at design capacity.

- (c) High school: thirty-five (35) acres plus one (1) acre for every one hundred (100) students at design capacity.

E. [Amended 10-13-1992 by Ord. No. 698; 10-11-1994 by Ord. No. 715] Yard areas. No building or structure shall be erected or enlarged unless the following yards are provided and maintained, or the present average setback is applicable under Subsection J of this section, in connection with such building, structure or enlargement.

- (1) Front yard: not less than twenty-five (25) feet, except for a multiple-family dwelling, which shall provide and maintain a front yard, side yard and rear yard of horizontal dimension not less than the height of the building or fifty (50) feet, whichever is greater.
- (2) Side yard: for a one-family detached dwelling and two-family dwelling, not less than five (5) feet on each of two (2) sides for an interior lot and not less than fifteen (15) feet combined total of side yards for a corner lot, with the side yard from the street being at least ten (10) feet.
- (3) Rear yard.
 - (a) There shall be a rear yard of not less than twenty percent (20%) of the depth of the lot at the ground level.
 - (b) Accessory buildings and private garages may occupy not more than thirty-five percent (35%) of the required area of the rear yard. The yard area occupied by such accessory buildings shall, however, be included in computing the percentage of the lot area which may be built upon in a given zone.
 - (c) No private garage or other accessory building shall be nearer to a lot line than ten (10) feet or nearer to a side lot line than five (5) feet. No garage or other accessory building shall be

placed nearer to a rear lot line which serves as a side line of an adjoining property than ten (10) feet. Nothing contained herein, however, shall prevent the construction of a private garage as a structural part of a dwelling, provided that, when so constructed, the garage walls shall be regarded as any other walls of the main building in applying the front, side and rear yard requirements of this chapter.

- (4) Church and similar place of worship: not less than forty (40) feet on each side of the principal building.
- F. Percentage of lot coverage. All buildings, including accessory uses, shall cover not more than thirty-five percent (35%) of the area of the lot, except multifamily dwellings, which may cover forty percent (40%) of the lot.
- G. Dwelling standards. The following are minimum square footage requirements of habitable living space within dwelling units:
 - (1) One-family detached dwelling: one-story at one thousand four hundred (1,400) square feet; or two-story at one thousand eight hundred (1,800) square feet.
 - (2) Townhouse or multifamily dwelling units: one (1) bedroom at nine hundred (900) square feet; two (2) bedrooms at one thousand two hundred (1,200) square feet; three (3) bedrooms at one thousand five hundred (1,500) square feet; and over three (3) bedrooms to be reviewed by the Zoning Hearing Board.
 - (3) Such dwelling standards for townhouse or multifamily dwelling units shall be based on the high limit of F.W. Dodge Cost Trends Manual.
- H. Off-street parking facilities shall be provided as required or permitted under Article X.

I. **[Amended 10-13-1992 by Ord. No. 698]** Special regulations for conversion and efficiency apartments shall be as follows:

- (1) Plans and specifications shall be submitted and approved by the Zoning Hearing Board.
- (2) No living quarters shall be below ground level.
- (3) The exterior shall be renovated at the time of conversion and in accordance with generally accepted architectural design and practice.
- (4) The entire structure of the building, both exterior and interior, must be up to minimum housing code standards at time of conversion when such codes are adopted by the Borough Council.
- (5) No building shall be more than three (3) stories in height.
- (6) No multiple-family dwelling shall be occupied by more than four (4) families.
- (7) Each housekeeping unit must have living quarters with an area of not less than five hundred (500) square feet of usable floor space per unit, exclusive of bathroom and kitchen facilities.
- (8) No multiple dwelling or two-family dwelling unit shall occupy more than sixty percent (60%) of the lot area.
- (9) Garage facilities. Garage facilities for any two-family dwelling or multiple dwelling unit may be erected upon the same lot for the housing of automobiles for those who have a residence in such dwelling. These garage facilities shall be subject to rear yard restrictions contained elsewhere in this chapter.
- (10) In any event, all conversions or alterations must conform to any other provisions of this chapter relating to area, yard and height restrictions,

including off-street parking according to the provisions of Article X.

J. [Amended 10-13-1992 by Ord. No. 698] Present average setback shall be as follows:

- (1) The present average setback shall be the average distance of setback from the front street line of the nearest main building or buildings within 100 feet on each side of the street. Where no main building exists within 100 feet of either side of the building to be erected, the present average setback shall be the average distance of setback from the front street line of all main buildings within the block.
- (2) No building shall extend nearer to a front street line than the present average setback and in no event less than 25 feet back from the street line. **[Amended 10-11-1994 by Ord. No. 715]**
- (3) (Reserved)⁶
- (4) In no case, however, shall a building be required to be set back more than 60 feet from the street line.

ARTICLE VI Commercial Districts

§ 225-21. C Commercial District.

Within the C Commercial District, the following regulations shall apply:

- A. Permitted uses. [Amended 10-13-1992 by Ord. No. 698; 1-12-1993 by Ord. No. 703; 12-13-1994 by Ord. No. 717; 6-11-1996 by Ord. No. 728; 2-10-1998 by Ord. No. 737; 5-12-1998 by Ord. No. 740; 2-11-2003 by Ord. No. 774]**

⁶ Editor's Note: Former Subsection J(3), which dealt with corner lots having two street frontages of approximately equal lengths, was deleted 10-11-1994 by Ord. No. 715.

(1) Permitted uses shall be as follows:

- (a) One-family dwelling.
- (b) Two-family dwelling.
- (c) Multiple-family dwelling and apartments with not more than six dwelling units in one structure.
- (d) Art, book, school supply and stationery store.
- (e) Bakery shop, including the baking and processing of baked food products when prepared for retail use on the premises only.
- (f) Bank or financial institution.
- (g) Barbershop, beauty shop or similar personal service.
- (h) Camera and photographic store.
- (i) Candy or ice cream store.
- (j) Delicatessen.
- (k) Dry-cleaning outlet, no on-site cleaning permitted.
- (l) Drugstore.
- (m) Florist shop.
- (n) Food store.
- (o) Gift store.
- (p) Hardware store.
- (q) Hobby store.
- (r) Meat market.
- (s) Newsstand.
- (t) Business and nonmedical professional office.

- (u) Medical or dental outpatient clinic.
 - (v) Restaurants.
 - (w) Undertaking and embalming.
 - (x) Similar type commercial use not specifically listed, when authorized as a special exception by the Zoning Hearing Board in accordance with § 225-172C(6) and after receipt and review of recommendations of the Planning Commission.
- (2) Uses permitted by special exception shall be as follows:
- (a) Group home facilities as specified in § 225-45.1.
 - (b) Any structure regulated by Article IX, § 225-42A(3).
 - (c) Drive-through for restaurant, bank, or financial institution.
- (3) Permitted accessory uses.
- (a) Private garage.
 - (b) Garage, shed or building for domestic storage.
 - (c) Fence or ornamental wall not over six feet in height (rear and side yard only).
 - (d) Cultivation of plants.
 - (e) Home occupation: home office or home business.
 - (f) Gazebo, garden house or children's playhouse.
 - (g) Parking of accessory vehicles as further specified in § 225-42D.
 - (h) Swimming pool: storable, having protective fencing and meeting setbacks as set forth in § 225-45B(2) and (4). **[Added 11-13-2007 by Ord. No. 796]**

- (4) Accessory uses permitted by special exception shall be as follows: **[Added 11-13-2007 by Ord. No. 796²]**
 - (a) Private swimming pool: permanently installed, appurtenant to a dwelling as per § 225-45.
 - (5) All activities permitted in the C District, except for those permitted by Subsection A(2)(b), and A(3)(g), shall be conducted wholly within an enclosed building.
- B. Nonpermitted uses. **[Amended 10-13-1992 by Ord. No. 698]**
- (1) Nonpermitted uses shall be as follows:
 - (a) Surface mining.
 - (b) Commercial and industrial establishment.
 - (c) Deep mining facility.
 - (d) The keeping of livestock.
 - (e) Helicopter landing area.
 - (f) Other activities that are deemed damaging to the purpose of this chapter.
 - (g) All manufacturing, assembling, treating, processing, servicing or repairing of goods or merchandise which are not retail businesses conducted on the premises or which constitute nuisances by reason of odor, noise, dust or smoke or which constitute unusual fire or explosion hazards or which, in any manner, are detrimental to the health, morals or welfare of the community.

² Editor's Note: This ordinance also redesignated former Subsection A(4) as Subsection A(5).

- (2) No service station or commercial garage or vacant lot other than located in a commercial zone or existing as a nonconforming use in any other zone shall be used for the storage or rental of trucks, trailers, utility trailers or other rental vehicles unless said vehicles are parked within a building so as not to be visible. In the event that sufficient inside storage is not available, this shall be a prohibited use.
- C. Height. The maximum height of buildings hereafter erected, altered or enlarged shall be 75 feet.
- D. Lot area. The minimum lot area for every building hereafter erected or altered shall contain a minimum of 4,800 square feet and a width at the building line of not less than 50 feet.

(Cont'd on page 22546.3)

1. The first part of the document is a list of the names of the people who were present at the meeting.

2. The second part of the document is a list of the names of the people who were not present at the meeting.

3. The third part of the document is a list of the names of the people who were present at the meeting.

4. The fourth part of the document is a list of the names of the people who were not present at the meeting.

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15. The fifteenth part of the document is a list of the names of the people who were present at the meeting.

- E. **[Amended 10-11-1994 by Ord. No. 715]** Yard areas. No building or structure shall be erected or enlarged unless the following yards are provided and maintained, or the present average setback is applicable under Subsection G of this section, in connection with such building, structure or enlargement.
- (1) Front yard: not less than 25 feet.
 - (2) Side yard: not less than five feet. Where abutting an R District, there shall be provided, in addition to the five feet, a buffer area of not less than five feet.
 - (3) Rear yard: not less than 10 feet. Where abutting an R District, there shall be provided, in addition to the rear yard requirements, a buffer area of not less than 10 feet.
- F. Percentage of lot coverage. All buildings shall cover not more than 40% of the lot. **[Added 2-11-2003 by Ord. No. 774⁷]**
- G. Off-street parking and loading facilities shall be provided as required or permitted under Article X.
- H. **[Added 10-11-1994 by Ord. No. 715]** Present average setback shall be as follows:
- (1) The present average setback shall be the average distance of setback from the front street line of the nearest main building or buildings within 100 feet on each side of the street. Where no main building exists within 100 feet of either side of the building to be erected, the present average setback shall be the average distance of setback from the front street line of all main buildings within the block.
 - (2) No building shall extend nearer to a front street line than the present average setback and in no event less than 25 feet back from the street line.

⁷ Editor's Note: This ordinance also redesignated former Subsections F and G as G and H, respectively.

- (3) In no case, however, shall a building be required to be set back more than 60 feet from the street line.

ARTICLE VII Floodplain Districts

§ 225-22. Purpose.

The following article is incorporated to comply with Section 19103(k) of the National Flood Insurance Program.

§ 225-23. Intent.

The intent of this article is to:

- A. Promote the general health, welfare and safety of the community.
- B. Encourage the utilization of appropriate construction practices to minimize flood damage in the future.
- C. Minimize danger to public health by protecting water supply and natural drainage.
- D. Reduce financial burdens imposed on the community, its governmental units and its residents by preventing excessive development in areas subject to flooding.

§ 225-24. Applicability of permit requirements.

- A. It shall be unlawful for any person, partnership, business or corporation to undertake or cause to be undertaken any construction or development anywhere within flood-prone areas of the Borough unless an approved special building permit has been obtained from the Zoning Officer.

(Cont'd on page 22547)

- B. A building permit shall not be required for minor repairs to existing buildings or structures, provided that no structural changes or modifications are involved.

§ 225-25. Building permit required.

Building permits shall be required before any proposed construction or development is undertaken within any identified flood-prone area of the Borough of Westmont.

§ 225-26. Issuance of permit.

- A. The Zoning Officer shall issue a building permit only after it has been determined that the proposed work to be undertaken will be in conformance with the requirements of this chapter and all other applicable codes and ordinances.
- B. No building permit shall be issued until all other required permits have been obtained from any other office or agency.

§ 225-27. Application procedures.

- A. Application for such a building permit shall be made, in writing, to the Zoning Officer on forms supplied by the Borough of Westmont. Such application shall contain at least the following:
 - (1) The name and address of the applicant.
 - (2) The name and address of the owner of the land on which the proposed construction is to occur.
 - (3) The name and address of the contractor.
 - (4) The site location.
 - (5) The proposed lowest floor and basement elevations in relation to mean sea level.
 - (6) A brief description of the proposed work and the estimated cost.

- (7) A plan of the site showing the exact size and location of the proposed construction as well as any existing buildings or structures.

B. If any proposed construction or development is located within or adjacent to any identified flood-prone area, applicants for building permits shall also provide the following specific information:

- (1) A plan which accurately delineates the area which is subject to flooding, the location of the proposed construction, the location of any other flood-prone development or structures and the location of any existing or proposed stream improvements or protective works. Included shall be all plans for proposed subdivision and land development in order to assure that all such proposals are consistent with the need to minimize flood damage; all utilities and facilities such as sewer, gas, electrical and water systems are located, elevated and constructed to minimize or eliminate flood damage; and adequate drainage is provided so as to reduce exposure to flood hazards. Such plan shall also include existing and proposed contours; information concerning one-hundred-year-flood elevations and other applicable information, such as uplift forces, associated with the one-hundred-year flood; the size of structures and location and elevations of streets; water supply and sanitary sewage facilities; soil types; and floodproofing measures.
- (2) A document certified by a registered professional engineer or architect that the proposed construction has been adequately designed against flood damage and that the plans for the development of the site adhere to the restrictions cited in this chapter. Such statement shall include a description of the type and extent of floodproofing measures which have been incorporated into the design of the structure.

§ 225-28. Additional permit issuance requirements.

- A. Prior to any proposed alteration, relocation or development within fifty (50) feet landward from the top-of-bank of any stream or any watercourses, etc., within the municipality, a permit shall be obtained from the Department of Environmental Resources, Dams and Encroachment Division, as specified in the Dam Safety and Encroachments Act of 1979, as amended.³⁵ Further, notification of the proposal shall be given to all affected adjacent municipalities. Copies of such notifications shall be forwarded to both the Federal Insurance Administration and the Department of Community Affairs. Under no circumstances shall any use, activity and/or development adversely affect the capacity of the channels or floodways of any watercourse, drainage ditch or any other drainage facility or system.
- B. Prior to the issuance of any building permit, the Building Official shall review the application for permit to determine if all other necessary governmental permits such as those required by state and federal laws have been obtained, including those required by Act 537, the Pennsylvania Sewage Facilities Act,³⁶ and the U. S. Clean Water Act. No permit shall be issued until this determination has been made.

§ 225-29. Designation of flood-prone areas.

The flood-prone area(s) shall be any area(s) of the Borough of Westmont which are identified as being flood-prone on the Flood Hazard Boundary Map as issued by the Federal Insurance Administration, dated October 13, 1978.

**§ 225-30. Determination of regulatory flood elevation.
[Amended 8-11-1987 by Ord. No. 648]**

- A. For the purposes of this chapter, the one-hundred-year-flood elevation shall be used as the basis for regulation. When available, information from other federal, state and other

³⁵ Editor's Note: See 32 P.S. § 693.1 et seq.

³⁶ Editor's Note: See 35 P.S. § 750.1 et seq.

acceptable sources shall be used to determine the one-hundred-year elevation, as well as a floodway area, if possible. When no other information is available, the one-hundred-year elevation shall be determined by using a point on the boundary of the identified floodplain area which is nearest the construction site in question.

- B. In lieu of the above, the municipality may require the applicant to determine the elevation with hydrologic and hydraulic engineering techniques. Hydrologic and hydraulic analyses shall be undertaken only by professional engineers or others of demonstrated qualifications, who shall certify that the technical methods used correctly reflect currently accepted technical concepts. Studies, analyses, computations, etc., shall be submitted in sufficient detail to allow a thorough technical review by the borough.

§ 225-31. Changes in designation of flood-prone areas.

The delineation of any of the identified flood-prone areas may be revised by the Westmont Borough Council where natural or man-made changes have occurred and/or more detailed studies conducted or undertaken by the United States Army Corps of Engineers, River Basin Commission or other qualified agency or individual which documents the notification for such changes. However, prior to any such change, approval must be obtained from the Federal Insurance Administration (FIA).

§ 225-32. Boundary disputes.

Should a dispute concerning any district boundary arise, an initial determination shall be made by the Westmont Borough Planning Commission/Committee, and any party aggrieved by this decision may appeal to the Westmont Borough Council. The burden of proof shall be on the appellant.

§ 225-33. Specific requirements. [Amended 8-11-1987 by Ord. No. 648]

- A. In the identified flood-prone area(s), the development and/or use of any land shall be permitted, provided that the development and/or use adheres to the restrictions and requirements of all other applicable codes and ordinances in force in the municipality.
- B. Within any floodway area, no new construction or development shall be permitted that would cause any increase in the one-hundred-year-flood elevation.
- C. Within any identified flood-prone area(s), the elevation of the lowest floor (including basement) of any new or improved residential structures shall be at or above the regulatory flood elevation.
- D. Within any identified flood-prone area(s), the elevation of the lowest floor (including basement) of nonresidential structures shall be at or above the regulatory flood elevation or be floodproofed up to that height.
- E. Any nonresidential structure or part thereof having a lowest floor which is not elevated to at least one and one-half (1½) feet above the one-hundred-year-flood elevation shall be floodproofed in a completely or essentially dry manner in accordance with the W1 or W2 space classification standards contained in the publication entitled "Flood-Proofing Regulations" published by the United States Army Corps of Engineers (June 1972) , or with some other equivalent standard. All plans and specifications for such floodproofing shall be accompanied by a statement, certified by a registered professional engineer or architect, which states that the proposed design and methods of construction are in conformance with the above-referenced standards.
- F. Fully enclosed spaces below the lowest floor shall be prohibited. **[Added 11-9-1993 by Ord. No. 705]**

§ 225-34. Design and construction standards.

The following minimum standards shall apply for all construction proposed to be undertaken within any identified flood-prone area:

A. Fill. If fill is used, it shall:

- (1) Extend laterally at least fifteen (15) feet beyond the building line from all points.
- (2) Consist of soil or small rock materials only. Sanitary landfills shall not be permitted.
- (3) Be compacted to provide the necessary permeability and resistance to erosion, scouring or settling.
- (4) Be no steeper than one (1) vertical to two (2) horizontal, unless substantiated data justifying steeper slopes are submitted to and approved by the Westmont Borough Zoning Officer. **[Amended 10-13-1992 by Ord. No. 698]**
- (5) Be used to the extent to which it does not adversely affect adjacent properties.

B. Placement of buildings and structures. All buildings and structures shall be designed, located and constructed so as to offer the minimum obstruction to the flow of water and shall be designed to have a minimum effect upon the flow and height of floodwaters.

C. Anchoring.

- (1) All buildings and structures shall be firmly anchored in accordance with accepted engineering practices to prevent flotation, collapse or lateral movement.
- (2) All air ducts, large pipes and storage tanks and other similar objects or components located at or below the regulatory flood elevation shall be firmly anchored or affixed to prevent flotation.

D. Floors, walls and ceilings.

- (1) Where located at or below the regulatory flood elevation:
 - (a) Wood flooring shall be installed to accommodate a lateral expansion of the flooring perpendicular to the flooring grain without incurring structural damage to the building.
 - (b) Plywood shall be a marine or water-resistant variety.
- (2) Walls and ceilings at or below the regulatory flood elevation shall be designed and constructed of materials that are water-resistant and will withstand inundation.
- (3) Windows, doors and other components at or below the regulatory flood elevation shall be made of metal or other water-resistant material.

E. Electrical systems and components.

- (1) Electric water heaters, furnaces, air-conditioning and ventilating systems and other electrical equipment or apparatus shall not be located below the regulatory flood elevation, and other electrical equipment or apparatus shall be permitted only at elevations above the regulatory flood elevation.
- (2) Electrical distribution panels shall be at least three (3) feet above the level of the one-hundred-year-flood elevation.
- (3) Separate electric circuits shall serve lower levels and shall be dropped from above.

F. Plumbing.

- (1) Water heaters, furnaces and other mechanical equipment or apparatus shall not be located below the regulatory flood elevation.
- (2) No part of any on-site sewage disposal systems shall be located within any identified flood-prone area(s).

- (3) Water supply systems and sanitary sewage systems shall be designed to prevent the infiltration of floodwaters into the system and discharges from the system into floodwaters.
 - (4) All gas and oil supply systems shall be designed to prevent the infiltration of floodwaters into the system and discharges from the system into the floodwaters. Additional provisions shall be made for the drainage of these systems in the event that floodwater infiltration occurs.
- G. Paints and adhesives. When used at or below the regulatory flood elevation:
- (1) Paints or other finishes shall be of a marine or water-resistant quality.
 - (2) Adhesives shall be a marine or a water-resistant quality.
 - (3) All wooden components (doors, trim, cabinets, etc.) shall be finished with a marine or water-resistant paint or other finishing material.
- H. Storage. No materials that are buoyant, flammable, explosive or in times of flooding could be injurious to human, animal or plant life shall be stored below the regulatory flood elevation.
- I. Drainage facilities. Storm drainage facilities shall be designed to convey the flow of surface waters without damage to persons or property. The system shall ensure drainage at all points along streets and provide positive drainage away from buildings. The system shall also be designed to prevent the discharge of excess runoff onto adjacent properties.
- J. Sanitary sewer facilities. All new or replacement sanitary sewer facilities and private package sewage treatment plants (including all pumping stations and collector systems) shall be designed to minimize or eliminate infiltration of floodwaters into the systems and

discharges from the systems into the floodwaters. In addition, they should be located and constructed to minimize or eliminate flood damage and impairment.

- K. Water facilities. All new or replacement water facilities shall be designed to minimize or eliminate infiltration of floodwaters into the system and be located and constructed to minimize or eliminate flood damage.
- L. Streets. The finished elevation of proposed new streets shall be no more than one (1) foot below the regulatory flood elevation.
- M. Utilities. All utilities such as gas lines, electrical and telephone systems being placed in flood-prone areas should be located, elevated (where possible) and constructed to minimize the change or impairment during a flood.

§ 225-35. Prohibited activities and materials. [Amended 1-11-1983 by Ord. No. 607]

- A. No mobile homes, mobile home parks, hospitals (public or private), nursing homes (public or private) or jails shall be erected in any flood-prone area of Westmont Borough.
- B. None of the following materials shall be stored or manufactured in any flood-prone area of Westmont Borough, nor shall a supply [more than five hundred fifty (550) gallons or other comparable volume or any amount of radioactive substances] be maintained:
 - (1) Acetone ammonia.
 - (2) Benzene.
 - (3) Calcium carbide.
 - (4) Carbon disulfide.
 - (5) Celluloid.
 - (6) Chlorine.

- (7) Hydrochloric acid.
- (8) Hydrocyanic acid.
- (9) Magnesium.
- (10) Nitric acid.
- (11) Oxides of nitrogen.
- (12) Petroleum products (gasoline, fuel oil, etc.).
- (13) Phosphorus.
- (14) Potassium.
- (15) Sodium.
- (16) Sulphur and sulphur products.
- (17) Pesticides (insecticides, fungicides and rodenticides).
- (18) Radioactive substances.

§ 225-36. Existing structures.

Structures existing in any identified flood-prone area prior to the enactment of this chapter, but which are not in compliance with these provisions, may continue to remain, subject to the following:

- A. Any modification, alteration, reconstruction or improvement of any kind to an existing structure to an extent or amount of less than fifty percent (50%) of its market value shall be elevated and/or floodproofed to the greatest extent possible.
- B. Any modification, alteration, reconstruction or improvement of any kind to an existing structure to an extent or amount of fifty percent (50%) or more of its market value shall be undertaken only in full compliance with the provisions of this chapter.

- C. No expansion or enlargement of an existing structure shall be allowed within any floodway area that would cause any increase in the elevation of the one hundred-year flood. [Added 11-9-1993 by Ord. No. 705]

§ 225-37. Variances.

- A. If compliance with the elevation or floodproofing requirements of this Article would result in an exceptional hardship for a prospective builder, developer or landowner, the Borough of Westmont may, upon request, grant relief from the strict application of the requirement.
- B. Request for variances shall be considered by the Borough of Westmont in accordance with the following procedures:
- (1) If granted, a variance shall involve only the least modification necessary to provide relief.
 - (2) In granting any variance, the Borough of Westmont shall attach whatever reasonable conditions and safeguards it considers necessary in order to protect the public health, safety and welfare and to achieve the objectives of this Article.
 - (3) Whenever a variance is granted, the Borough of Westmont shall notify the applicant, in writing, that:
 - (a) The granting of the variance may result in increased premium rates for flood insurance.

(Cont'd on page 22557)

- (b) Such variance may increase the risks to life and property.
- (4) In reviewing any request for a variance, the Borough of Westmont shall consider, but not be limited to, the following:
 - (a) That there is good and sufficient cause.
 - (b) That failure to grant the variance would result in exceptional hardship to the applicant.
 - (c) That the granting of the variance will not result in an unacceptable or prohibited increase in flood heights, additional threats to public safety or extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with any other applicable local or state ordinances and regulations.
- (5) A complete record of all variance requests and related actions shall be maintained by the Borough of Westmont. In addition, a report of all variances granted during the year shall be included in the annual report to the Federal Insurance Administration.
- (6) No variance shall be granted for any construction or development within any floodway area that would cause any increase in the one-hundred-year-flood elevation.
[Added 8-9-1988 by Ord. No. 653]
- C. Notwithstanding any of the above, however, all structures shall be designed and constructed so as to have the capability of resisting the one-hundred-year flood.

§ 225-38. Word usage.

Unless specifically defined below, words and phrases used in this Article shall be interpreted so as to give this Article its most reasonable application.

§ 225-39. Definitions.

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

ACCESSORY USES OR STRUCTURE — A use or structure on the same lot with and of a nature customarily incidental and subordinate to the principal use or structure.

BUILDING — A combination of materials to form a permanent structure having walls and a roof. Included shall be all mobile homes and trailers to be used for human habitation.

CONSTRUCTION — The construction, reconstruction, renovation, repair, extension, expansion, alteration or relocation of a building or structure, including the placement of mobile homes.

DEVELOPMENT — Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, the subdivision of land, the placement of mobile homes, streets and other paving, utilities, filling, grading, excavation, mining, dredging or drilling operations.

FLOOD — A temporary inundation of normally dry land areas.

FLOOD-PRONE AREA — A relatively flat or low land area which is subject to partial or complete inundation from an adjoining or nearby stream, river or watercourse; and/or any area subject to the unusual and rapid accumulation of surface waters from any source.

FLOODPROOFING — Any combination of structural and nonstructural additions, changes or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

MINOR REPAIR — The replacement of existing work with equivalent materials for the purpose of its routine maintenance and upkeep, but not including any addition, change or modification in construction, exit facilities or permanent fixtures or equipment.

MOBILE HOME — A structure, transportable in one (1) or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. The term includes park trailers, travel trailers and recreational and other similar vehicles placed on a site for more than one hundred eighty (180) consecutive days. [Amended 8-11-1987 by Ord. No. 648]

MOBILE HOME PARK — A parcel (or contiguous parcels) of land which has been planned and improved for the placement of two (2) or more manufactured homes. [Amended 8-11-1987 by Ord. No. 648]

OBSTRUCTION — Any structure or assembly of materials, including fill, above or below the surface of land or water, and an activity which might impede, retard or change flood flows. The planting, cultivation and harvesting of field and orchard crops or the grazing of livestock, including the maintenance of necessary appurtenant agricultural fencing, unless deemed to be an "obstruction" by the Zoning Officer, shall not be considered an "obstruction" under this definition and shall not be subject to regulation under this chapter.³⁸

ONE-HUNDRED-YEAR FLOOD — A flood that, on the average, is likely to occur once every one hundred (100) years (i.e., that has a one-percent chance of occurring each year, although the flood may occur in any year).

PERSON — Any person, persons, partnership, business or corporation.

REGULATORY FLOOD ELEVATION — The one-hundred-year-flood elevation plus a freeboard safety factor of one and one-half (1½) feet.

STRUCTURE — Anything constructed or erected on the ground or attached to the ground, including but not limited to buildings, sheds, mobile homes and other similar items.

³⁸ Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

SUBDIVISION — The division or redivision of a lot, tract or parcel of land by any means into two (2) or more lots, tracts, parcels or other divisions of land, including changes in existing lot lines for the purpose, whether immediate or future, of lease, transfer of ownership or building or lot development; provided, however, that the division of land for agricultural purposes into parcels of more than ten (10) acres not involving any new street or easement of access shall be exempted.

§ 225-40. Warning and disclaimer of liability.

- A. The degree of flood protection sought by the provisions of this Article VII of this chapter is considered reasonable for regulatory purposes and is based on acceptable engineering methods of study. Larger floods may occur on rare occasions. Flood heights may be increased by man-made or natural causes, such as ice jams and bridge openings restricted by debris. This Article does not imply that areas outside any identified floodplain area or land uses permitted within such areas will be free from flooding or flood damages.
- B. This Article shall not create liability on the part of the borough or any officer or employee thereof for any flood damages that result from reliance on this Article or any administrative decision lawfully made thereunder.

**ARTICLE VIII
Conservancy Districts**

§ 225-41. S Conservancy District.

The S Conservancy District is intended to preserve the scenic and ecological values of the borough's steep hillside lands, waterways, environmentally sensitive forest lands and soil types through the prohibition or restriction of commercial and residential development.

- A. Permitted uses.
 - (1) Permitted uses shall be as follows:
 - (a) Scenic or natural preservation.

- (b) Open recreational use, when operated by a nonprofit organization (hiking trails, picnicking pavilions and buildings associated with outdoor recreation). Such auxiliary buildings, if necessary, shall be constructed in a manner compatible with the surrounding conservancy area.
- (2) Uses by special exception (as procedurally outlined in Article XV) shall be as follows:
 - (a) Surface mining.
 - (b) Deep mining operations (provided that all disturbed land is properly backfilled and/or returned to its original contours).
- B. Setbacks. No building or structure shall be erected or enlarged unless the minimum setback of 50 feet is provided when facing borough streets.
- C. Height. The maximum height shall be 15 feet.
- D. Off-street parking shall be provided as under Article X.
- E. Signs shall be provided as under Article XI.

ARTICLE IX

Supplementary Regulations

§ 225-42. Additional height, area and yard requirements.

The district regulations set forth in this section qualify or supplement, as the case may be, the district regulations appearing elsewhere in this chapter.

A. Additional height regulations.

- (1) Single-family dwellings and two-family dwellings may be increased in height by not more than 10 feet when the side and rear yards are increased over the yard requirements of the district in which they are

located by not less than 10 feet, but they shall not exceed three stories or 45 feet in height.

- (2) Chimneys, elevator bulkheads, monuments, stage towers or scenery lofts, water tanks, ornamental towers and spires, radio antennas, television antennas and necessary mechanical appurtenances may be erected to a height above the limitations of the district, but not to exceed 15 feet over such limitations. [NOTE: Removes items from the current Code section and places them in a new § 225-42A(3). Radio and television antennas are also added to this revised section.] **[Amended 2-10-1998 by Ord. No. 737; 5-12-1998 by Ord. No. 740]**
- (3) **[Added 2-10-1998 by Ord. No. 737; amended 5-12-1998 by Ord. No. 740]** Cooling towers, fire towers, stacks, water towers, radio towers, television towers and telecommunications towers may be erected in R-3 Residential Districts, R-4 Residential Districts and in commercial districts so long as they do not exceed 75 feet and so long as:
 - (a) Such towers and stacks shall be located not less than 25 feet from any lot line and the required setback shall be increased by one foot for each vertical foot of structure that exceeds the allowable height for the district in which it is to be erected.
 - (b) Accessory appurtenant structures, support cables and other structures associated with any tower shall be located not less than 15 feet from any lot line or any setback in that district.
 - (c) All towers, support cables and appurtenant structures shall be within a protective fence with locking gates. Such fences shall be six feet in height.

- (d) All safety lighting shall be installed and maintained and all operations shall be conducted in accordance with FAA, FCC or other applicable regulations.
- (e) All proposed towers and stacks must be certified in writing by the Borough Engineer or his designate to be structurally sound under American National Standards Institute standards as proposed before construction may begin, and as constructed, within 30 days of its completion.
- (f) All towers and stacks exceeding 25 feet in height must be certified as structurally sound under American National Standards Institute standards by the Borough Engineer or his designate every second year, beginning on the first business day in June in the second year following their construction.
- (g) All towers and stacks exceeding 25 feet in height must be made structurally sound or removed at the property owner's expense within 60 days of a written finding by the Borough Engineer or his designate that they are not structurally sound.
- (h) All towers and stacks must be removed and the site returned to a natural state, with all towers and appurtenances removed, at the owner's expense and the use by special exception terminated within six calendar months of the discontinuance of their use as a tower or stack.
- (i) The owner/responsible party of all towers and stacks must pay the cost (100%) of inspection.

B. Additional area regulations. When more than one multiple-family dwelling building is erected upon a single lot or tract, the minimum distances between main buildings shall be the following:

- (1) Front to front: 70 feet; front to rear: 60 feet.
- (2) Side to side: $\frac{1}{2}$ the height of the tallest building, but not less than 20 feet.
- (3) Front to side or rear to side: the height of the tallest building, but not less than 30 feet.
- (4) Rear to rear: 50 feet.

C. Additional yard regulations.

- (1) Every part of a required yard shall be open to the sky, unobstructed, except for accessory buildings in a rear yard and except for the ordinary projections of skylights, sills, belt courses, cornices and ornamental features projecting not to exceed 12 inches. This requirement shall not prevent the construction of fences not exceeding six feet in height, provided that no solid fences are erected. The ratio of the solid to open portion of a fence shall not exceed one to one (1:1). No fence of any type shall be permitted on that portion of lots within 30 feet of the intersection of two or more streets. **[Amended 1-12-1993 by Ord. No. 703]**
- (2) Open or lattice-enclosed fire escapes, fireproof outside stairways and balconies opening upon fire towers projecting into a yard not more than four feet six inches and the ordinary projections of chimneys and flues may be permitted by the Zoning Officer.

(Cont'd on page 22563)

- (3) For the purpose of side yard requirements, a two-family dwelling shall be considered as one (1) building occupying a single lot.
 - (4) Terraces, uncovered porches, platforms and ornamental features which do not extend more than three (3) feet above the floor level of the first (ground) story may project into a required side yard, provided that these projections are a distance of at least five (5) feet from the adjacent side lot lines.
 - (5) Fences, hedges, trees or other structures or plantings of any nature shall not be located at street corners so as to interfere with vision clearance at intersections across corner lots. The height of such objects is restricted to three (3) feet above the established street grade within a triangular area formed by the intersecting street lines and equidistant from the point of intersection. This distance shall be thirty (30) feet from the corner.
- D. Accessory vehicle parking regulations. **[Added 6-11-1996 by Ord. No. 728]**
- (1) The parking of accessory vehicles may occur in the rear and side yard areas and/or as specified under Article X, Off-Street Parking and Loading Requirements for the Commercial District.
 - (2) The location of accessory vehicles shall meet front yard, the side yard and rear yard setback requirements for accessory structures for the zoning district in which the property is located.
 - (3) The total percentage of lot coverage, which shall include all structures and buildings, and the size of any accessory vehicles as defined in § 225-6J of this chapter shall not exceed ten percent (10%) above the maximum permitted lot coverage for the zoning district in which the property is located.

- (4) The number of accessory vehicles parked on any one (1) property shall be limited to two (2).
- (5) Accessory vehicles shall maintain current licenses, registrations and inspections as may be required for the type of vehicles.
- (6) The accessory vehicle shall be the property of the owner or tenant of the property on which it is parked.
- (7) The maximum height for such vehicles shall meet the requirements for accessory structures in the respective zoning districts.
- (8) A new permit shall be required in the event that a different accessory vehicle is to be parked on a lot. The change in overall length by more than four (4) feet and/or overall size by more than fifty (50) square feet will constitute a different vehicle for the purposes of this section.

§ 225-43. Slope area restrictions.

A. Applicability.

- (1) The restrictions set forth in this section apply in all instances and to all districts where appropriate and supplement the district regulations which appear elsewhere in this chapter.
- (2) Slope area restrictions shall apply when the average cross slope of that portion of the parcel to be developed exceeds twenty percent (20%) ("development portion," for purposes of this Article, shall be interpreted to mean the building area on which the structure is situated, plus all required yard areas, parking lots or other required land area in conjunction with any site development) and the development of the property will unduly increase the danger of stormwater, sewerage drainage or

other runoff and result in erosion or other damage to surrounding lands.

- B. Lot areas. The lot or parcel shall contain a minimum area of three (3) acres for residential uses and a minimum area of ten (10) acres for all other uses.
- C. Yard areas and setbacks. No buildings or structures shall be constructed or enlarged unless the following setback lines and yards are established and maintained in connection with said buildings.
 - (1) There shall be established and maintained a setback building line of not less than one hundred (100) feet for every structure from any public right-of-way.
 - (2) Side and rear yards of not less than seventy-five (75) feet shall be maintained, except that, where a nonresidential use abuts a residential district, yard widths of at least one hundred (100) feet shall be established and maintained.
 - (3) If it is determined by the Sewage Enforcement Officer of the borough or of the State Department of Environmental Resources that the above-cited yard area and setback requirements are not sufficient to properly and safely accommodate on-site sewage disposal systems, the Zoning Hearing Board shall require greater yard areas and setback minimums as deemed necessary to meet the intent and purposes of this chapter prior to the issuance of a zoning permit by the Zoning Officer.
- D. Planting area.
 - (1) A planting screen consisting of suitable shrubbery and/or trees maintained at an average height of at least eight (8) feet and an area width or depth of at least twenty-five (25) feet shall be planted and maintained in the area between any building and the property line of a nonresidential use which abuts a residence district.

- (2) Where trees already exist within the screen area specified above, these trees shall remain undisturbed, except that diseased or dead material may be removed. Trees may be removed to provide access for utility lines across required planting screens; however, all care must be exercised not to disturb the larger, more desirable trees which are living.

(Cont'd on page 22565)

- (3) When any tree is removed, it shall be replaced by a seedling suitable to the environment. All such replacement planting shall be in accordance with accepted conservation practices.

§ 225-44. Mobile home parks.³⁹

- A. Use. Mobile home trailer parks shall be permitted in an R-3 Residential District only.
- B. Lot area. The minimum area for every mobile home park hereafter developed shall be two (2) acres.
- C. Plot plan. Each application shall be accompanied by three (3) copies of a plot plan drawn at a scale of one (1) inch equals twenty (20) feet, prepared by a licensed surveyor or engineer, showing limits and square footage of the proposed mobile home park and the location and size of driveways, parking areas, drying areas, playgrounds, service buildings, other buildings and mobile home lots, together with required setbacks from rights-of-way and property lines. All mobile home lots shall be numbered in sequence on the plot plan. As mobile home parks also constitute a subdivision of land, each mobile home park must also comply with the Subdivision and Land Development ordinances of Westmont Borough.⁴⁰
- D. Minimum lot area for each mobile home. The minimum unit area for each mobile home lot used or occupied by and under each mobile home shall be as follows:
 - (1) Seventy-five percent (75%) of the lots in any one mobile home park shall be not less than two thousand one hundred (2,100) square feet in area.
 - (2) Twenty-five percent (25%) of the lots in any one (1) mobile home park shall be not less than one thousand eight hundred (1,800) square feet in area.
 - (3) Density in any mobile home park shall not exceed ten (10) units per gross acre.

³⁹ Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

⁴⁰ Editor's Note: See Ch. 198, Subdivision and Land Development.

- E. Minimum width of mobile home lots. The minimum width for each mobile home lot shall be thirty (30) feet.
- F. Minimum distance between mobile homes. No mobile home shall be placed within fifteen (15) feet of another, provided that, with respect to mobile homes parked end-to-end, the distance between mobile homes so parked shall be not less than ten (10) feet.
- G. Setbacks. No mobile home shall be placed a lesser distance from the mobile home park boundary than the side yard width required in the zoning district which abuts each boundary line. In no case shall a mobile home be parked less than ten (10) feet from the mobile home park boundary. All mobile homes shall be set back from any public street the same distance as buildings are required to be set back in the zoning district in which the mobile home park is located.
- H. Markers. Every lot shall be clearly defined on the ground by permanent markers. There shall be posted and maintained in a conspicuous place on each lot a number corresponding to the number of each lot as shown in the plot plan.
- I. Driveways. The minimum lane or driveway on which an individual mobile home lot fronts shall be twenty-eight (28) feet in width. In cases where driveways dead-end, there shall be constructed at each such dead end a cul-de-sac with a minimum turning radius of fifty (50) feet. All construction material for such roads shall meet established borough requirements. When an entrance to any mobile home park is from a state highway, approval of said entrance from the Pennsylvania Department of Transportation must be secured before said development is approved.
- J. Water and sewer facilities. An adequate supply of water approved by the Department of Environmental Resources or Health Department shall be furnished from a public water supply system or from a private water system conforming to all applicable laws, regulations, resolutions, resolutions and ordinances, with supply faucets located on each mobile home lot. In each park, all wastewater from a faucet, toilet, tub, shower, sink, drain, washing machine, garbage disposal unit

or laundry shall empty into an approved sewer system installed in accordance with state and Borough regulations.

- K. Service buildings. Each mobile home park shall provide service buildings to house the following facilities:
- (1) All service buildings shall be permanent structures complying with ordinances regulating the construction of buildings.
 - (2) All service buildings shall be adequately lighted at all times of day and night, shall be well ventilated, shall be constructed of such moisture-proof material, including painted woodwork, as shall permit repeated cleaning and washing and shall be maintained at a temperature of not less than 68° F. during the period from October first to May first.
 - (3) Service buildings housing sanitation facilities shall be located not closer than 20 feet to any mobile home lot nor further than 150 feet from any mobile home lot serviced by such building. Setback requirements from public streets pertaining to mobile homes shall also apply to service buildings. Walkways shall be provided from each service building to the nearest driveway and shall be constructed and maintained to a minimum width of three feet in a manner and of materials suitable for all-weather use.
 - (4) All service buildings and the grounds of the park shall be maintained in a clean, sightly condition and kept free of any condition that will menace the health of any occupant or the public or constitute a nuisance or fire hazard.
- L. Storage tanks. Gasoline, liquefied petroleum, gas or oil storage tanks shall be so installed as to comply with all County, State and National Fire Prevention Code Regulations.

- M. Additions to mobile homes. No permanent or semipermanent structure shall be affixed to any mobile home as an addition to such mobile home, nor shall any accessory structure be permitted on any mobile home lot or in any mobile home park except those accessory structures required by these regulations and an office structure. The prohibition herein against any addition or accessory to a mobile home shall not apply to a canopy or awning designed for use with a mobile home.
- N. Percentage of lot coverage. The maximum lot coverage of a mobile home shall not exceed 30% of the total mobile home lot area.
- O. General conditions. All procedures for development of a mobile home park shall be the same as required for a special exception as specified in Article XV.

§ 225-45. Swimming pools.

- A. Permanently installed swimming pools shall be permitted in all Residential and Commercial Districts by special exception from the Zoning Hearing Board, provided that the same are not operated for profit. Storable swimming pools shall be a permitted use, by building permit, in all Residential and Commercial Districts. **[Amended 11-13-2007 by Ord. No. 796]**
- B. All swimming pools shall be erected, constructed and maintained in accordance with the following minimum regulations and in accordance with such other rules and regulations as the Zoning Hearing Board in its discretion may prescribe.
 - (1) All swimming pools must be provided with an adequate drainage system connected with a storm sewer of the Borough of Westmont, where accessible, and constructed of such material as may be approved by the Zoning Hearing Board. In the event that a Borough storm sewer is not accessible, the Board shall have full power to prescribe rules and

regulations to ensure adequate drainage without harm to other persons or property.

- (2) All swimming pools must be enclosed with a protective fence with suitable protection gate or gates. Said protective fence shall have a minimum height of four feet and a maximum height of six feet. Hot tubs and spas shall be protected by a fence, as described herein, or by a lockable cover. **[Amended 11-13-2007 by Ord. No. 796]**
- (3) All swimming pools shall be erected, constructed and maintained with a suitable water filtration system in working order in accordance with minimum specifications as may be prescribed by the Zoning Hearing Board.
- (4) All swimming pools and buildings accessory thereto, such as dressing rooms, shower rooms, etc., must conform to yard, area and height regulations as contained elsewhere in this chapter. No pool shall be covered with a building or other structure without prior approval from the Zoning Hearing Board, and no temporary-type enclosure shall be permitted.
- (5) All previously existing swimming pools, hot tubs and spas, as defined herein, shall be brought into compliance with these rules and regulations within 90 days from the effective date of this ordinance.³ **[Amended 11-13-2007 by Ord. No. 796]**

C. Department of Environmental Resources. All swimming pools shall conform to the Pennsylvania Department of Environmental Resource Standards.

³ Editor's Note: "This ordinance" refers to Ord. No. 796, which provided an effective date of 1-1-2008.

§ 225-45.1. Group home facilities. [Added 12-13-1994 by Ord. No. 717]

- A. Group home facilities are permitted in all residential and commercial zones by special exception.
- B. Group home facilities are hereby deemed as a type of residential use and not as an institutional use. The following regulations are adopted in the interest of protecting the residents of such facilities, to ensure the residential character of the structure and of the surrounding neighborhood and to prevent other types of facilities (specifically nonvoluntary and penal living arrangements) which are likely to be disruptive to the residential character of the neighborhood from being classified as group homes.
- C. All group homes shall hold a valid license, specifically as a group home, from the Pennsylvania Department of Public Welfare, or other governmental agency, and shall meet all current department regulations, including those standards governing indoor space and applicable state and local building and fire safety codes.
- D. The residential exterior appearance of the structure shall be maintained. No external alterations, additions or changes to the exterior of the structure are permitted, except as may be required by the Pennsylvania Department of Welfare, or other governmental agency, or whereas needed for safety reasons or to accommodate the physically handicapped.
- E. There shall be no more than one kitchen or cooking facility and the group home facility shall consist of living space of a minimum of 250 square feet per occupant for any one facility. Meals shall be served to occupants and visitors only. No separate cooking facility is permitted for any occupant.

- F. No group home shall be located within 1,000 feet of another group home, and additionally not more than one home shall be located on any street or roadway within the Borough of Westmont.
- G. Facilities which house persons who are likely to pose a physical threat to the community may not be deemed "group homes" under provisions of this section. Such persons include, but are not necessarily limited to, individuals who have a potentially violent behavioral disorder or disorders, or who have been convicted of a violent crime or crimes or who have pleaded guilty or who have been found not guilty or culpable due to insanity or lack of mental capacity.

ARTICLE X

Off-Street Parking and Loading

§ 225-46. General provisions.

- A. Procedure. An application for a building permit for a new, renovated or enlarged building, structure or use shall include therewith a plot plan, drawn to scale and fully dimensioned, showing any off-street parking or loading facilities to be provided in compliance with the requirements of this chapter.
- B. Extent of control. The off-street parking and loading requirements of this chapter apply as follows:
 - (1) All buildings and structures erected and all land uses initiated after the effective date of this chapter shall provide necessary off-street parking or loading facilities as required hereinafter for the use thereof.
 - (2) When a building and structures erected, renovated or enlarged prior to and after the effective date of this chapter shall undergo a decrease in number of dwelling units, gross floor area, seating capacity, number of employees or other unit of measurement specified hereinafter for required off-street parking

or loading facilities, and together, when said decrease would result in a requirement for fewer total off-street parking or loading spaces through application of the provisions of this chapter thereto, off-street parking and loading facilities may be decreased only when the facilities remaining would at least equal or exceed the off-street parking or loading requirements resulting from application of the provisions of this chapter to the entire building or structure as modified.

- (3) When a building or structure undergoes any increase in number of dwelling units, gross floor area, seating capacity or other unit of measurement specified hereinafter for required off-street parking or loading facilities, and further, when said increase would result in a requirement for additional total off-street parking or loading spaces through application of the provisions of this chapter, parking and loading facilities shall be increased so that the facilities will at least equal or exceed the off-street parking or loading requirements resulting from application of the provisions of this chapter to the entire building or structure as modified.
- C. Existing off-street parking and loading spaces. Accessory off-street parking and loading spaces in existence on the effective date of this chapter may not be reduced in number unless already exceeding the requirements of this Article for equivalent new construction, in which event said spaces shall not be reduced below the number required herein for such equivalent new construction.

§ 225-47. Design and maintenance of parking spaces.

- A. Parking space description. A required off-street parking space shall be an area of not less than 180 square feet nor less than nine feet wide by 20 feet long, measured perpendicularly to the sides of the parking space, exclusive of access drives or aisles, ramps, columns or

office and work areas, accessible from streets or alleys or from private driveways or aisles leading to streets or alleys and to be used for the storage or parking of passenger automobiles or commercial vehicles under 1½ tons' capacity. Aisles between vehicular parking spaces shall be not less than 12 feet in width when serving automobiles parked at a forty-five-degree angle in one direction; not less than 20 feet in width when serving automobiles

(Cont'd on page 22571)

[illegible]

parked perpendicularly for two-way aisle movement; and not less than 20 feet in width when serving automobiles parked perpendicularly for one-way aisle movement.

- B. Measurement of space. When determination of the number of required off-street parking spaces results in a requirement of a fractional space, any fraction up to and including $\frac{1}{2}$ may be disregarded, and fractions over $\frac{1}{2}$ shall be interpreted as one parking space.
- C. Access. Parking facilities shall be designed with appropriate means of vehicular access to a street or alley in such manner as will least interfere with the movement of traffic. No driveway or curb cut in any district shall exceed 25 feet in width for one-way movement or 32 feet in width for two-way movement.
- D. Signs. No signs shall be displayed in any parking area within any residential district, except such as may be necessary for the orderly use of the parking facilities. All signs in other parking areas shall conform to Article XI herein.
- E. Striping. All parking spaces shall be properly marked by durable paint in stripes a minimum of four inches wide and extending the length of the parking space.
- F. Required setbacks. **[Amended 9-14-2004 by Ord. No. 779]**
 - (1) In residential districts, off-street parking spaces located in a required front yard area shall be limited to a maximum of 25% of the front yard area. Residential off-street parking spaces located in required front yard areas shall be located not closer than 10 feet from the front lot line and not closer than the required side yard setback for main buildings for each zoning district. Off-street parking may also be located in rear and side yard areas of residential lots, except for the parking of accessory vehicles as regulated under § 225-42D. Improved driveways leading directly to, and not wider than,

an enclosed garage or other structure approved for enclosed storage and/or parking of vehicles shall not be considered as off-street parking in front yard areas.

- (2) In C Commercial and S Conservancy Districts, off-street parking spaces may be installed and maintained in the required front yard, provided that such parking areas do not occupy street or alley rights-of-way, but in no case shall be closer than five feet to the paved cartway.
- G. Surfacing. All open off-street parking areas, except those accessory to single-family dwellings, shall be improved with a compacted base surfaced with all-weather dustless material of adequate thickness to support the weight of fully-loaded vehicles which customarily park or travel on it.
- H. Lighting. Any lighting area used to illuminate an off-street parking area shall be so arranged as to reflect the light away from all adjoining properties.
- I. Stormwater. Adequate stormwater drainage facilities shall be installed in order to ensure that stormwater does not flow onto abutting property or abutting sidewalks in such a way or quantity that pedestrians using the sidewalk would be detrimentally affected or inconvenienced. The Borough Engineer shall approve all such facilities.
- J. Walls or planting strip. Whenever a parking lot abuts onto a public street, sidewalk, or alley, a structurally sound wall or planting strip, approved by the Borough Engineer, shall be installed. Adequate retaining walls and other walls along abutting properties shall also be constructed, subject to the approval of the Borough Engineer.

**§ 225-48. Schedule of Off-Street Parking Requirements.
[Amended 10-13-1992 by Ord. No. 698]**

The Schedule of Off-Street Parking Requirements shall be as follows:

Type of Use	Number of Spaces Required
1- or 2-family dwellings	2 for each family dwelling unit
3-or-more-family dwellings	1 for each family dwelling unit, plus visitor's parking space for every dwelling unit or fraction thereof
Bowling alleys, recreation centers, swimming pools, skating rinks, outdoor commercial recreation enterprise and other recreation and amusement facilities	1 for every 4 customers computed on the basis of maximum servicing capacity at any one time, plus 1 additional for every 2 persons regularly employed during peak shift on the premises
Club houses and meeting places of veterans, business, civic, fraternal, labor and similar organizations	1 for every 50 square feet of aggregate floor area in the auditorium, assembly hall and dining room of such building, plus 1 additional for every 2 persons

(Cont'd on page 22573)

1. The first part of the document is a list of the names of the persons who have been appointed to the various offices of the government of the State of New York.

2. The second part of the document is a list of the names of the persons who have been appointed to the various offices of the government of the State of New York.

Type of Use	Number of Spaces Required
	regularly employed during peak shift on the premises
Drive-in facilities	5 per 100 square feet of floor space
Funeral homes and undertaking establishments	Parking or storage space for all vehicles used directly in the conduct of such business, plus 1 parking space for every 2 persons regularly employed on the premises during peak shift and 1 for every 6 seats in the establishment
Home occupations	Adequate off-street parking shall be provided for patrons of all home occupations. At a minimum, 1 parking space for each chair provided in the waiting room or examination room must be provided. These parking requirements are in addition to those required for the residential dwelling
Hospitals (inpatient)	1 for every 4 beds intended for patients, excluding bassinets, plus 1 per doctor, plus 1 per 2 employees on peak shift, plus 1 per hospital vehicle
Indoor retail businesses	Parking or storage space for all vehicles used directly in the conduct of such business, plus 1 parking space for each 250 square feet of total floor area
Junior and senior high schools	1 for every 6 seats available at maximum capacity in the assembly hall, auditorium, stadium or gymnasium of greatest

Type of Use**Number of Spaces Required**

capacity on the school grounds or campus. If the school has no assembly hall, auditorium, stadium or gymnasium, 1 parking space shall be provided for each person regularly employed at such school, plus 2 additional for each classroom

Libraries, museums, post offices and similar establishments

Parking or storage space for all vehicles used directly in the operation of such establishment, plus 1 parking space for each 250 square feet of total floor area

Medical and dental clinics (out-patient)

3 for each doctor, plus 1 additional for every 2 regular employees

Motels and hotels

1 for each sleeping room offered for tourist accommodation, plus 1 for each dwelling unit on the premises, plus 1 additional for every 2 persons regularly employed on the premises during peak shift

Multi-use buildings

Parking space for buildings of mixed uses shall be calculated proportionally according to its uses

Nursing homes

1 for every 2 beds occupied at maximum capacity. This requirement is in addition to the parking space requirement for hospitals set forth herein

Offices

1 for every 500 square feet of office space

Type of Use	Number of Spaces Required
Outdoor retail businesses	Parking or storage space for all vehicles used directly in the conduct of such business, plus 2 parking spaces for each person employed on the premises based on maximum seasonal employment, plus 1 for every 500 feet of lot area used for business purposes
Public and private elementary schools	1 for each person regularly employed at such school, plus 1 additional for each classroom
Public garages	Indoor or outdoor parking or storage space for all vehicles used directly in the conduct of such business, plus 3 parking spaces for each person regularly employed on the premises
Repair shops, plumbing shops, electrical shops, roofing shops and other service establishments	Parking or storage space for all vehicles used directly in the conduct of the business, plus 2 parking spaces for each person regularly employed on the premises
Restaurants, indoor, and other eating and drinking establishments	1 for each table or booth, plus 1 parking space for every 2 stools at bar or counter, plus 1 parking space for every 2 persons on peak shift
Service stations	Parking or storage space for all vehicles used directly in the conduct of the business, plus 1 parking space for each gas pump, 3 for each grease rack or similar facility and 1 for every 2 persons employed on the

Type of Use	Number of Spaces Required
	premises at maximum employment on a single shift
Theaters, auditoriums, churches, stadiums and other places of public assembly	1 for every 6 seats available at maximum capacity
Transportation terminals	1 for every 100 square feet of waiting room space, plus 1 additional for every 2 persons regularly employed on the premises during peak shift
Universities, colleges, academies and similar institutions of higher learning	1 for every 6 seats occupied at maximum capacity in the assembly hall, auditorium, stadium or gymnasium of greatest capacity on the campus. If the institution has no assembly hall, auditorium, stadium or gymnasium, 1 parking space shall be provided for each person regularly employed at such institution, plus 5 additional for each classroom
Warehouses, freight terminals and trucking terminals	Parking or storage space for all vehicles used directly in the conduct of such business, plus 2 parking spaces for each person regularly employed on the premises during peak shift

§ 225-49. Location of parking areas.

- A. Off-street automobile parking facilities shall be located as hereinafter specified; where a distance is specified, such distance shall be walking distance measured from the nearest point of the parking area to the nearest entrance of the building that said parking area is required to serve.

- (1) For one- and two-family dwellings: on the same lot with the building they are required to serve.
- (2) For three- and four-family dwellings not over three (3) stories in height, and townhouse dwellings not over three (3) stories in height: on the same lot or parcel of land as the building they are required to serve. For the purpose of this requirement, a group of such uses constructed and maintained under a single ownership or management shall be assumed to be on a single lot or parcel of land.
- (3) For clubs, hospitals, sanitariums, orphanages, homes for the aged, convalescent homes and for other similar uses: on the same lot or parcel of land as the main building or buildings being served, or upon properties contiguous to the lot upon which is located the building or buildings they are intended to serve.
- (4) For multiple-family dwellings containing more than four (4) dwelling units and all other uses: on the same lot or parcel of land as the building they are required to service, or on a separate lot or parcel of land not more than three hundred (300) feet from the nearest entrance to the main use being served.

B. Notwithstanding Subsection A(1) through (4) above, no parking area accessory to a C District use shall be located in an R District.⁴²

§ 225-50. Additional parking regulations.

A. Use of off-street parking facilities. Off-street parking facilities accessory to residential use and developed in any residential district in accordance with the requirements of this Article shall be used solely for the parking of passenger automobiles, commercial vehicles of not more than one (1) ton gross vehicle weight (GVW) owned by occupants of the dwelling structures to which such facilities are accessory, service vehicles or by guests of said occupants.

B. Joint parking facilities.

⁴² Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

- (1) Off-street parking facilities for different buildings, structures or uses or for mixed uses may be provided collectively in any zoning district in which separate off-street parking facilities for each constituent use together are not less than the sum of the separate requirements for each use of which normal hours of operation coincide, and not more than three hundred (300) feet from and contiguous to the lot on which the main building is located.
 - (2) In any case, where the required parking spaces are not on the same lot with the building or use served or where such spaces are collectively or jointly provided and used, a written agreement thereto assuring their retention for such purposes shall be properly drawn and executed by the parties concerned, approved as to form and execution by the Borough Solicitor and shall be filed with the application for a building permit.
 - (3) Not more than fifty percent (50%) of the parking spaces required for theaters and places of amusement and up to one hundred percent (100%) of the parking spaces required for a church or school may be provided and used jointly by banks, offices, retail stores, repair shops, service establishments and similar uses not normally open, used or operated during the same hours as theaters, places of amusement, churches or schools; provided, however, that written agreement assuring the retention for such purposes is properly drawn and executed by the parties concerned, approved as to form and execution by the Borough Solicitor, and is filed with the application for a building permit.⁴³
- C. Control of off-site facilities. When required accessory off-street parking facilities are provided elsewhere than on the lot on which the principal use is located, they shall be in the same possession, either by deed or long-term lease, as the property occupied by such principal use, and the owner shall be bound by covenants of record filed in the office of the Borough Secretary requiring the owner and his or her heirs and

⁴³ Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

assigns to maintain the required number of off-street parking spaces during the existence of said principal use.

- D. No nonresidential parking in residential districts. No nonresidential parking in residential areas shall be permitted.

§ 225-51. Design and maintenance of loading space.

A. Design.

- (1) Loading space description. An off-street loading space shall be a hard-surfaced area of land, open or enclosed, other than a street or public way, used principally for the standing, loading or unloading of motor trucks, tractors and trailers so as to avoid undue interference with the public use of streets and alleys. A required loading space shall be not less than 10 feet in width, 14 feet in height and of adequate length to suit the specific use, exclusive of access aisles and maneuvering space, except as otherwise specifically dimensioned herein.
- (2) Location. No permitted or required loading space shall be closer than 50 feet to any property in a residential district unless completely enclosed by building walls. No permitted or required loading space shall be located within 25 feet of the nearest point of intersection of any two streets. Loading space open to the sky may be located in any required yards.
- (3) Measurement of spaces. When determination of the number of required off-street loading spaces results in a requirement of a fractional space, any fraction up to and including $\frac{1}{2}$ may be disregarded, and fractions over $\frac{1}{2}$ shall be interpreted as one loading space.
- (4) Surfacing. All open off-street loading berths shall be improved with a compacted base, surfaced with all-

weather dustless material of adequate thickness to support the weight of a fully loaded vehicle.

B. Additional requirements. Every building or structure used for business or trade shall provide space as herein indicated for the loading and unloading of vehicles off the street or public alley. Such space shall have access to a public alley or, if there is no alley, to a street. Off-street loading and unloading space shall be in addition to and not considered as meeting a part of the requirements for off-street parking space. Off-street loading and unloading space shall not be used or designed, intended or constructed to be used in a manner to obstruct or interfere with the free use of any street, alley or adjoining property. The following off-street loading and unloading space requirements for specific uses shall be provided:

- (1) Multistory multiple-family dwelling: one off-street loading and unloading space of at least 10 feet wide for every 3,000 square feet of total floor area.
- (2) Warehouses and wholesale storage facilities: one off-street loading and unloading space at least 12 feet by 50 feet for every 7,500 square feet of total floor area.
- (3) Freight terminals and trucking terminals: one off-street loading and unloading space at least 12 feet by 50 feet for every 5,000 square feet of total floor area.

ARTICLE XI

Signs

[Amended 10-13-1992 by Ord. No. 698]

§ 225-52. Permit required; fees. [Amended 6-12-2001 by Ord. No. 754]

A building permit shall be required prior to the erection of any and all signs in the Borough of Westmont, including but not

limited to commercial and/or other signs. Prior to the erection of any sign, the owner of the real estate upon which the sign is located shall complete a building permit application form showing the location with respect to property lines, size, height, the type of lighting, if any, and the type of material that is to be used. The application and permit fees shall be as set forth by current Westmont Borough Council resolution as kept on file at the Borough Office.

§ 225-53. Maintenance.

All signs shall be erected and maintained in a safe and orderly condition. The Zoning Officer may order the repair or removal of any sign which he has declared unsafe. In the event that the property owner fails to remove or repair an unsafe sign within 48 hours following such notification by the Zoning Officer, it may be removed by the borough at the property owner's expense.

§ 225-54. Obstruction of vision.

All signs should be erected in a manner which will not obstruct vision or in any way impede the safe movement of vehicular and/or pedestrian traffic. The Zoning Officer may order the removal of any sign which obstructs vision or in any way impedes the safe movement of vehicular and/or pedestrian traffic. In the event that the property owner fails to remove the sign within 48 hours following such notification by the Zoning Officer, the sign may be removed by the borough at the property owner's expense.

§ 225-55. Specific regulations. [Amended 6-12-2001 by Ord. No. 754]

In the Borough of Westmont, the following regulations shall apply to all signs proposed to be erected, including but not limited to commercial and/or other signs:

A. Residential district regulations.

- (1) All signs located in residential districts shall not exceed nine square feet.
- (2) Front, side and rear yard areas shall be maintained as set forth in the regulations for the residential district in which a sign is proposed to be constructed.
- (3) Each home occupation and/or family dwelling shall be restricted to one commercial or other identification sign, excepting temporary signs for electioneering as regulated by § 225-56.1.
- (4) No sign in residential districts may be illuminated except those signs identifying special exception uses as permitted in the district in which it is proposed to be constructed, and then only after the location and size of such sign has been reviewed and approved by the Westmont Borough Zoning Hearing Board.
- (5) The height of all signs located in residential districts shall not exceed 10 feet.

B. Commercial district regulations.

- (1) Freestanding signs.
 - (a) Signs not attached to a building shall be set back a minimum of five feet from the front and side lot lines. Freestanding signs located on corner lots shall be located a minimum setback of 15 feet from the side lot lines along the side street.
 - (b) The height of all proposed freestanding signs shall be limited to 20 feet.
 - (c) Each separately owned commercial property located in the Borough of Westmont shall be limited to one freestanding sign.
 - (d) The size of each freestanding sign shall be limited to 50 square feet for each face.

(2) Signs attached to buildings.

- (a) Business or identification signs attached to buildings shall not exceed one square foot for each linear foot of building that faces the front lot line. Signs attached to sides of buildings shall not exceed $\frac{1}{2}$ square foot for each linear foot of building that faces the side lot line.
 - (b) A sign attached to a building shall not project more than 12 inches from the face of the building to which it is attached.
 - (c) Signs attached to a building shall not project above the ridge line of a sloping roof nor above the ridge line of a flat roof.
- (3) Illumination. Signs located in commercial districts, for commercial uses, may be internally illuminated only. Any illuminated sign shall not reflect excess light onto neighboring residential districts.

C. General sign regulations. The following restrictions shall apply to all permitted sign uses:

- (1) No sign shall be placed in such a position that it will cause danger to traffic on a street by obscuring view.
- (2) No stringing of light bulbs, no animated sign, nor signs that revolve, swing or have movable parts or have flashing lights or reflectors shall be permitted after the effective date of this chapter, except when authorized as a special exception by the Zoning Hearing Board, and no advertising signs, banner, pennant, baffle, spinners or display constructed of cloth, canvas, wallboard or other like materials shall be erected, suspended or hung on any property except as follows. The Zoning Officer may permit the use of any such advertising signs, banners or displays constructed of cloth, light fabric or other like materials for a period of not more than 30 days in any one calendar year, provided that:

- (a) No such sign or display shall exceed in size the area permitted for permanent signs as provided for each zoning district.
- (b) No sign shall be placed in such a position that it will cause danger to traffic on a street by obscuring the view.
- (c) No such sign or display shall be permitted within the lines of any public street or public sidewalk or shall be closer to a curb than 10 feet, unless specifically authorized by other ordinances and regulations of the Borough of Westmont.
- (d) No sign or display shall be permitted to be placed across a public street or highway.
- (3) No sign shall project over a public sidewalk, unless authorized as a special exception by the Zoning Hearing Board.
- (4) Each sign must be maintained in good condition and repair.
- (5) No commercial building, including multiple dwellings or apartments in any residential district, shall be illuminated on the exterior by floodlighting or spotlighting or similar-type lighting.
- (6) All signs shall be made a part of the architectural design of a new commercial construction or major alterations of existing buildings. Drawings submitted for sign permits shall show size, location and illumination in detail.
- (7) All nonconforming signs and billboards at the effective date of this chapter shall not be altered, expanded or enlarged without approval of the Zoning Hearing Board.
- (8) No sign, including but not limited to political, commercial and/or other signs, shall be erected in the Borough of Westmont on public property.

D. Billboards. Billboards are specifically prohibited in the Borough of Westmont.

§ 225-56. Temporary signs.

A temporary sign shall mean a sign which is erected for a period of not more than 30 consecutive days. Erection of a temporary sign shall not occur more than twice in any calendar year.

- A. All provisions of this chapter shall apply to temporary signs, except that no permit or fee shall be required as set forth in § 225-52, and front, side and rear yard setback requirements as set forth in § 225-55 shall not apply.
- B. The property owner on whose property the temporary sign is erected shall remove said sign on or before the 30th day after it was erected. In the event that the property owner fails to remove said temporary sign, it may be removed by the borough at the property owner's expense.

§ 225-56.1. Temporary signs for electioneering. [Added 6-12-2001 by Ord. No. 754]

A "temporary sign for electioneering" is defined as a sign which indicates support for a named candidate for elective office and may be erected 30 days prior to the primary election and 30 days prior to the general election, and there is no limit on the number of temporary signs for electioneering erected on a property.

- A. All provisions of this chapter shall apply to temporary signs for electioneering, except that no permit or fee shall be required as set forth in § 225-52, and front, side and rear yard setback requirements as set forth in § 225-55 shall not apply, and there is no limit on the number of temporary signs for electioneering erected on a property.

- B. The property owner on whose property the temporary sign for electioneering is erected shall remove said temporary sign for electioneering on or before the 30th day after it was erected. In the event that the property owner fails to remove the temporary sign for electioneering, it may be removed by the Borough at the property owner's expense.

(Cont'd on page 22585)

§ 225-57. Violations and penalties.

If any person shall violate any provision of this Article, such person shall, upon conviction of such offense, pay fines or may be sentenced and committed to the county jail as per Article XVI of this chapter.

ARTICLE XII
Nonconforming Uses and Buildings

§ 225-58. Continuance.

The lawful use of a building existing at the time of the effective date of this chapter may be continued, although such use does not conform to the provisions hereof. If no structural alterations are made, a nonconforming use of a building may be changed to another nonconforming use of the same or a more restricted classification. Whenever a nonconforming use has been changed to a more restricted use or to a conforming use, such use shall not thereafter be changed to a less restricted one. Whenever the use of a building becomes nonconforming through a change in this chapter or district boundaries, such use may be continued, and if no structural alterations are made, it may be changed to another nonconforming use of the same or of a more restricted classification.

§ 225-59. Discontinuance of use.

Whenever a nonconforming use of a building or structure or part thereof has been discontinued for a period of twelve (12) consecutive months, or for a continuous period of eighteen (18) months if the building was originally designed and constructed for a nonresidential use, such discontinuance shall constitute abandonment of such use. Where no enclosed building is involved, discontinuance of a nonconforming use for a period of six (6) months shall constitute abandonment of such use, and any new use must be in conformity with the regulations of the district. However, if the Zoning Hearing Board determines the resumption of the discontinued use to be in harmony with the general intent of this chapter, it may grant a special exception permitting the resumption of the discontinued use.

§ 225-60. Alterations to existing buildings.

No existing building or premises devoted to a use not permitted in the district in which such building or premises is located, except when required to do so by law, or permitted by special exception, shall be enlarged, extended, reconstructed or structurally altered, unless such use is changed to a use permitted in the district in which such building or premises is located.

§ 225-61. Repair or reconstruction.

Any building or structure containing a nonconforming use which is damaged by fire, flood, wind or other act of God or man to the extent of seventy-five percent (75%) or more of its fair sales value immediately prior to damage shall not be repaired or reconstructed except in conformity with the provisions of this chapter. In the event that the Zoning Officer's estimate of the extent of damage or fair sales value is not acceptable to the applicant for the building permit to repair or reconstruct such building or structure, the applicant may appeal to the Zoning Hearing Board.

§ 225-62. Construction in progress.

No building or structure designed or intended to be utilized for a nonconforming use shall be constructed or allowed unless construction is already underway at the time of enactment or subsequent amendment of this chapter and is being diligently pursued so that such building or structure will be completed within eighteen (18) months from the date of the enactment or subsequent amendment of this chapter. All outstanding building permits for construction which do not meet these requirements are hereby rendered null and void.

§ 225-63. Historical landmarks.

The provisions of this Article shall not apply to any building or structure which is designated by the Zoning Hearing Board to be an historical landmark.

§ 225-64. Extensions and enlargements.

The Zoning Hearing Board may grant special exceptions permitting the reasonable extension of a nonconforming use or the reasonable enlargement or addition to a nonconforming building or structure, provided that it would be in conformity with the standards hereinafter set forth for granting special exceptions.

ARTICLE XIII
Administrative Provisions

§ 225-65. Building permits.

- A. No building or structure shall be erected, added to or structurally altered until a permit has been issued by the Zoning Officer. No such building permit shall be issued if the activity for which the permit is to be granted does not conform to any of the provisions of this chapter, except upon grant of a variance or special exception by the Zoning Hearing Board.
- B. There shall be submitted with all application for building permits two (2) copies of a site or plot plan, drawn to scale, showing actual dimensions of the lot, the exact size and location on the lot of the building and accessory buildings and such other information as may be necessary to determine and provide for the enforcement of this chapter. Where a special exception is required, the site or plot plan, in addition to any specific regulations set forth in the district regulations, shall show the following:
 - (1) The location of principal and accessory buildings.
 - (2) Traffic circulation features within the site.
 - (3) The location of vehicular traffic onto the site.
 - (4) The proposed height and size of structures.
 - (5) The provision for off-street parking and loading facilities.
 - (6) The provision for open space.
 - (7) The landscaping, paving, fencing, walls and signs on the site.

- C. Before a building permit will be issued, the building must be staked on the ground by a registered engineer or registered surveyor, and proof thereof furnished to the Zoning Officer, at the expense of the applicant.

§ 225-66. Certificates of occupancy.

- A. Certificates of occupancy shall be required only for the following:
- (1) Residential uses in any district.
 - (2) Nonresidential uses in any district.
 - (3) Multiple dwelling units in R Districts.
 - (4) Home occupation uses, as defined in § 225-6. The owner/occupant shall provide to the Zoning Officer a notarized signed statement of intended use.
 - (5) Nonconforming uses in any district.
- B. Inspections.
- (1) There must be two (2) inspections made of any building project, one (1) when the foundation is completed and the other when construction is seventy-five percent (75%) completed.
 - (2) Swimming pools and garages must also be inspected twice.
- C. After completion of a building or structure for which a building permit has been issued and inspection has determined that all requirements of all codes and ordinances of the borough have been met, a certificate of occupancy, whenever required, shall be issued by the Zoning Officer, stating that the building and proposed use thereof complies with the provisions of this chapter.
- D. No nonconforming use shall be maintained, renewed or changed without a certificate of occupancy having been secured from the Zoning Officer within one (1) year from the effective date of this chapter.

- E. Whenever a certificate of occupancy is required, it shall be applied for at the same time as the application for a building permit. Said certificate will be issued within ten (10) days after the erection or alteration and inspection, if the building or use is found to be in accordance with all codes and ordinances.
- F. The Zoning Officer shall maintain a record of all certificates of occupancy. Copies will be furnished upon request to any person having proprietary or tenancy interest in the building affected.
- G. No permit for excavation for or the erection or alteration of or repairs to any buildings shall be issued until an application has been made for a certificate of occupancy, whenever the same is required.

§ 225-67. Fees; building permit term and renewal; special exception use permit.

- A. **[Amended 1-13-1987 by Ord. No. 644; 10-13-1992 by Ord. No. 698]** Building permit fees for the following categories shall be as set forth from time to time by resolution of the Borough Council.
 - (1) Application fee for alterations or other small structures.
 - (2) Building permit fee for alterations or other small structures.
 - (3) Application fee and building permit fees for new one-family dwellings, two-family dwellings and/or multiple dwellings, as follows:
 - (a) One-family dwelling:
 - [1] Application fee.
 - [2] Building permit fee.
 - (b) Two-family dwelling:

- [1] Application fee.
- [2] Building permit fee.
- (c) Multiple dwelling:
 - [1] Application fee.
 - [2] Building permit fee.
- (4) Application fee for the erection, addition to or structural alteration of any commercial building, church, school, barn or other large structure not used for residential purposes.
- (5) Building permit fee for the erection, addition to or structural alteration of any commercial building, church, school, barn or other large structure not used for residential purposes.
- B. In determining the amount for building permit fees, the Zoning Officer shall approve the estimated cost of construction after review of the building plans and any other necessary data he may require from the applicant.
- C. A fee as set forth from time to time by resolution of the Borough Council shall be charged for a certificate of occupancy that is required for a building or structure in a residential (R) district or a Commercial (C) District, or for a nonconforming use in any district, or for a home occupation use in any residential (R) district. **[Amended 1-13-1987 by Ord. No. 644; 10-13-1992 by Ord. No. 698]**
- D. Copies of an original building permit or certificate of occupancy can be obtained by payment of the sum as set forth from time to time by resolution of the Borough Council. **[Amended 1-13-1987 by Ord. No. 644]**
- E. All fees and permits, including occupancy permit fees, shall be made payable to the Borough of Westmont and shall be paid in advance of actual work and before issuance of a permit. **[Amended 1-13-1987 by Ord. No. 644]**

F. Validity; renewals. [Amended 12-12-1995 by Ord. No. 722]

- (1) A building permit shall be valid for one (1) year from the date of issuance. All work for which a building permit was issued shall be completed during the term of a valid permit. In the event that construction is not completed under a valid permit and no extension or renewal is requested, the Westmont Borough Council shall then have the authority to proceed in accordance with the Nuisance Ordinance (Ordinance No. 698, Chapter 145) or the Dangerous Building Ordinance (Ordinance No. 698, Chapter 85) to eliminate any condition which shall be deemed to be a blight and/or is contrary to the health, safety and welfare of the community.
- (2) In the event that construction work is anticipated to extend beyond the term of a valid permit, the permit holder shall request a renewal or extension from the Zoning Hearing Board as a special exception. Any such request must be in writing at least sixty (60) days prior to the date of expiration of the permit. The Zoning Hearing Board shall have the authority to place special conditions on any renewal or extension of a building permit. This would include, but is not limited to, construction schedules, number of extensions and the length of time that a renewal or extension of a permit is valid.

(Cont'd on page 22591)

G. Special exception use permit. **[Added 5-5-1984 by Ord. No. 618]**

- (1) The special exception use permit required by Article XV, § 255-72C shall be obtained from Zoning Officer, who shall charge therefor a fee as set forth from time to time by the Borough Council for each day of such use. No fee shall be charged under this subsection to farmers selling their own produce, for the sale of goods, wares and merchandise donated by the owners thereof, the proceeds whereof are to be applied to any charitable or philanthropic purpose, or to any manufacturer or producer in the sale of bread and bakery products, meat and meat products or milk or milk products. **[Amended 10-13-1992 by Ord. No. 698]**
- (2) A special exception use permit shall only be valid for the days specified in the application and permit, and applicants may apply for such permits as often as necessary, provided that the aggregate number of such uses does not exceed the number authorized by Article XV, § 225-72C.

**ARTICLE XIV
Zoning Officer**

§ 225-68. Appointment; removal; compensation; Assistant Zoning Officer.

The Borough Council shall appoint a Zoning Officer to administer and enforce this chapter. The Zoning Officer shall be removable with or without cause at the will of the Borough Council. The Zoning Officer shall be paid such fees as the Borough Council shall from time to time determine by resolution. At its discretion, the Borough Council may also appoint an Assistant Zoning Officer who shall serve under the direction and control of the Zoning Officer.

§ 225-69. Administration.

- A. All applications for building permits and certificates of occupancy shall be made to the Zoning Officer, accompanied by the required fee and plot plans, together with such other data as may be required by district regulations.
- B. Applications which require a special exception or variance from the Zoning Hearing Board may, at the applicant's option, be presented directly to the Zoning Hearing Board by a petition for the grant of a special exception or variance, with said petition to be considered as the equivalent of an appeal from an adverse decision of the Zoning Officer.

§ 225-70. Enforcement duties.

- A. The Zoning Officer shall have the duty of enforcing this chapter, as set forth at § 225-74 hereafter. Further, he shall make periodic inspections as may be necessary or desirable and shall offer opinions and advice as to methods of compliance with the requirements of this chapter whenever feasible.
- B. The Zoning Officer shall be allowed to inspect borough structures during reasonable hours, in the company of a police officer, when he reasonably suspects activities of concern under this chapter may be taking place on the premises. **[Added 9-10-1985 by Ord. No. 630]**

ARTICLE XV
Zoning Hearing Board

§ 225-71. Creation; appointment; organization; compensation.

- A. A Zoning Hearing Board is hereby established. The Board shall consist of five (5) members, all of whom shall be appointed by the Borough Council. The term of office

of the members of the Board shall be five (5) years and shall be so fixed that the term of office of no more than one (1) member of the Board shall expire each year. The members of the existing five-member Board shall continue in office for the unexpired balance of their terms until the expiration of each term on the first day of January of the next five (5) years. After initial appointments of varying terms of no less than one (1) year and no more than five (5) years in duration, as determined necessary by the Borough Council to create the staggered terms required by this subsection, the subsequent appointments shall be for terms of five (5) years each. Appointments to fill vacancies shall be only for the unexpired portion of a vacant term. Members may be removed for cause by the Borough Council upon written charges and after public hearing. **[Amended 10-9-1984 by Ord. No. 619; 10-13-1992 by Ord. No. 698; 8-9-1994 by Ord. No. 713]**

- B. The Board shall elect its own Chairman and Vice Chairman, who shall serve for one (1) year. The Board shall adopt from time to time such rules and regulations as it may deem necessary to carry into effect the provisions of this chapter.
- C. Meetings of the Board 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. The Board shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed with the Borough Secretary and shall be a public record. At the Board's discretion, it may employ a reporter to take testimony at hearings held before the Board.

- D. The members of the Board shall receive such compensation, not to exceed the amount permitted by law, for each meeting, as shall be fixed by the Borough Council. No compensation shall be paid for any meeting at which only questions considered in a prior meeting are acted upon. The compensation of Board members shall be paid from the fees which are assessed under Article XIII.
- E. The Borough Council shall appoint by resolution one (1) alternate member of the Board to serve for a three-year term. When designated by the Chairman of the Board to sit due to the absence of a quorum because of the disqualification or absence of a regular member, the alternate shall be entitled to participate in all proceedings and discussions of the Board to the same and full extent as provided by law for regular Board members, including specifically the right to cast a vote as a voting member during the proceedings, and shall enjoy and exercise all of the powers and duties set forth in this chapter and as otherwise provided by law for a regular member of the Board. An alternate member so designated to sit shall continue to serve on the Board in all proceedings involving the matter or case for which he or she was initially appointed until the Board has made a final determination of that matter or case. An alternate shall hold no other office in the Borough of Westmont, including but not limited to an exclusion from membership on the Planning Commission or service as a Zoning Officer during his or her term as alternate. When not designated by the Board Chairman to sit, the alternate may not vote and shall not be compensated but may participate in any proceeding or discussion of the Board. When designated to sit by the Chairman of the Board due to the absence of a quorum by reason of disqualification or absence of a regular Board member, the alternate shall receive the same compensation for each meeting in which he participates as the compensation fixed under this chapter by the Borough

Council for the services of regular Board members at those meetings. [Added 8-9-1994 by Ord. No. 712]

§ 225-72. Powers and duties.

- A. Powers relative to error. The Zoning Hearing Board shall hear and decide appeals where it is alleged that there is an error in any order, requirements, decision or determination made by the Zoning Officer in the enforcement of this chapter, including any order requiring an alleged violator to stop, cease and desist.
- B. Powers relative to variations.
 - (1) When it is alleged that the provisions of this chapter inflict unnecessary hardship upon the applicant, the Board may grant a variance if the following conditions are found relevant in a given case:
 - (a) That there are unique physical circumstances or conditions, including irregularity, narrowness or shallowness of lot size or shape or exceptional topographical or other physical conditions peculiar to the particular property and that the unnecessary hardship is due to such conditions and not the circumstances or conditions generally created by the provisions of this chapter in the neighborhood or district in which the property is located.
 - (b) That because of such physical circumstances or conditions there is no possibility that the property can be developed in strict conformity with the provisions of this chapter and that the authorization of a variance is therefore necessary to enable the reasonable use of the property.
 - (c) That such unnecessary hardship has not been created by the applicant.

- (d) That the variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, nor substantially or permanently impair the appropriate use or development of adjacent property, nor be detrimental to the public welfare.

(Cont'd on page 22595)

- (e) That the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least modification possible of the regulation in issue.
 - (2) In granting any variance, the Board may attach such reasonable conditions and safeguards as it may deem necessary.
- C. **[Amended 5-8-1984 by Ord. No. 618]** Powers relative to special exceptions. Upon appeal, the Board shall be empowered to permit the following special exceptions, in addition to those otherwise specifically set forth in other parts of this chapter.
- (1) To permit the extension of a district where the boundary line of a district divides a lot of record in single ownership.
 - (2) To permit the reconstruction of a nonconforming building which has been damaged by explosion, fire, act of God or the public enemy to the extent of less than 75% of its fair market sales value when the Board finds some compelling public necessity requiring a continuance of the nonconforming use.
 - (3) To interpret the provisions of this chapter where the street layout actually on the ground varies from the street layout as shown on the map fixing the several districts, which map is attached to and made a part of this chapter.⁸
 - (4) To vary parking regulations of this chapter whenever the character or use of the building is such as to make unnecessary the full provision of parking facilities or when such regulations would impose an unreasonable hardship upon the use of the lot, as contrasted with merely granting an advantage or a convenience.

⁸ Editor's Note: The Zoning Map is included in a pocket at the end of this chapter.

- (5) To permit a public and/or charitable group, including but not limited to churches, schools, and/or governmental units, to make temporary periodic use of the property owned by it in a manner not directly related to its principal permitted use, provided that such use is demonstrated to be in the best interests of the community, is not detrimental to the neighborhood in which it is situate and the applicant includes in its use application a plan showing that adequate safeguards are included to ensure sufficient parking, access, traffic control, lighting, litter control and cleanup provisions, and provided further that such use may not occur in excess of one time per week nor more than five times in any one month, and further provided that a special exception use permit is obtained.
- (6) The standards for review of uses permitted by special exception. In any instance where the Zoning Hearing Board is required to consider a request for special exception for a use authorized in §§ 225-8F, 225-17A(2), 225-17A(4), 225-18A(2) and (4), 225-19A(2) and (4), 225-20A(2) and (4), 225-21A(1)(x), 225-21A(2) or 225-41A(2), the Zoning Hearing Board should determine that the following guidelines are met before granting the request:
[Added 2-11-2003 by Ord. No. 774]
 - (a) The size, scope, extent and character of the special exception, variance or use requested is consistent with the Comprehensive Plan of the Borough and promotes the harmonious and orderly development of the zoning district involved.
 - (b) The proposed change protects and promotes the safety, health, morals and general welfare of the Borough.
 - (c) The proposed change or modification constitutes an appropriate use consistent with the

character and type of development in the area surrounding the location for which the request is made and will not substantially impair, alter or detract from the use of surrounding property or the character of the neighborhood in light of the zoning classification of the area affected; the effect on other properties in the area; the number, extent and scope of nonconforming uses in the area; and the presence or the absence in the neighborhood of conditions or uses which are the same or similar in character to the condition of use for which applicant seeks approval.

- (d) The proposed change is suitable with respect to traffic and highways in the area and provides for adequate access and off-street parking arrangements in order to protect major streets and highways from undue congestion and hazard.
- (e) Major street and highway frontage will be developed so as to limit the total number of access points and encourage the frontage of buildings on parallel marginal roads or on roads perpendicular to the major street or highway.
- (f) The proposed change is reasonable in terms of the logical, efficient and economical extension of public services and facilities, such as public water, sewers, police, fire protection and public schools, and assures adequate arrangements for sanitation in specific instances.
- (g) All commercial or industrial parking, loading, access or service areas will be adequately illuminated at night while in use and arranged so as to comply with the requirements of Article X dealing with special regulations and relating to access and highway frontage.

- (h) Conditions are being imposed on the grant of the request necessary to ensure that the general purpose and intent of this zoning chapter are complied with and that the use of the property adjacent to the area included in the proposed change or modification is adequately safeguarded with respect to harmonious design of buildings, aesthetics, planting and its maintenance as a sight or sound screen, landscaping, hours of operation, lighting, numbers of persons involved, allied activities, ventilation, noise, sanitation, safety, smoke and fume control and the minimizing of noxious, offensive or hazardous elements.
 - (i) Any specific requirements set forth for the specific use, as further stipulated under Article IX, Supplementary Regulations, of this chapter shall also be met.
- D. Challenge to the validity of any ordinance or map. The Zoning Hearing Board shall hear challenges to the validity of a zoning ordinance or map except as indicated in 53 P.S. § 10916.1. In all such challenges, the Zoning Hearing Board shall take evidence and make a record thereon as provided in § 225-73 of this chapter. At the conclusion of the hearing, the Board shall decide all contested questions and shall make findings on all relevant issues of fact which shall become part of the record on appeal to the court. **[Amended 10-13-1992 by Ord. No. 698]**
- E. Exercise of powers. In exercising the above powers, the Board may, in conformity with the provisions of this chapter, reverse or affirm, wholly or partly, or may modify the order, requirement decision or determination as ought to be made and to that end shall have all the powers of the officer from whom the appeal is taken. In considering all appeals to this chapter, the Board shall, before making any finding in a specific case, first determine that the proposed change will not permit a

nonpermitted use for the district and will not impair an adequate supply of light and air to adjacent property or increase the danger of fire or materially diminish or impair established property values within the surrounding area or in any other respect impair the public health, safety, comfort, morals and welfare of the Borough. Every change granted or denied by the Board shall be accompanied by a written finding of fact based on sworn testimony and evidence, specifying the reason for granting or denying the variance or

(Cont'd on page 22597)

1. Name of the person

2. Date of birth

3. Place of birth

4. Nationality

5. Religion

6. Education

7. Occupation

8. Marital status

9. Children

10. Address

11. Telephone

12. E-mail

13. Signature

14. Stamp

15. Date

special exception. The decision of the Board shall be made a part of any building permit or occupancy certificate in which a variance or special exception is allowed.

- F. Conditions. In arriving at its decision, the Board may impose reasonable conditions, restrictions or safeguards in the furtherance of the general intent of this chapter, including requiring a bond to assure compliance with such conditions, restrictions or safeguards.
- G. Required action. The concurring vote of a majority of the members of the Board shall be necessary to reverse any order, requirement, decision or determination of the Zoning Officer or to decide in favor of the applicant on any matter upon which it is required to pass under this chapter or to allow any variance or special exception under this chapter.
- H. Appeal from action of the Board. Any person aggrieved by any decision of the Zoning Hearing Board or any taxpayer or the Borough Council may appeal to the Court of Common Pleas by petition duly verified, setting forth that such decision is arbitrary, capricious, an abuse of discretion or otherwise not in accordance with law and specifying the grounds relied upon.

§ 225-73. Appeals procedure.

- A. Appeals to the Board may be taken by any person or Borough official aggrieved or affected by any decision of the Zoning Officer. Such appeal shall be taken within 30 days after notice of a decision or order is issued or within such other time as allowed under the Pennsylvania Municipalities Planning Code² by filing with the Zoning Officer and the Board a notice of appeal specifying the grounds thereof. The Zoning Officer shall forthwith

² Editor's Note: See 53 P.S. § 10101 et seq.

transmit to the Board all the papers constituting the record upon which the action appealed from is taken.

- B. An appeal shall stay all proceedings in furtherance of the action appealed from, unless the Zoning Officer certifies to the Board after the notice of appeal was filed with him that, by reason of the facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by a restraining order, which may be granted by the Board or by a court of record on application, on notice to the Zoning Officer and due cause shown.
- C. The Board shall fix a reasonable time for the hearing of the appeal, within 45 days of the date the appeal was filed. A public notice of such hearing shall be published once each week for two successive weeks in a newspaper of general circulation. Such notice shall state the time and place of the hearing as well as the nature of the matter to be considered at the hearing. The first publication shall be not less than 14 days from the date of the hearing. A similar notice shall be mailed to the owners of all properties contiguous to the tract or parcel for which the appeal was filed, shall be given to all parties who have stated an interest in said hearing, and a notice of said hearing shall also be conspicuously posted on the affected tract of land. A decision must be rendered within 14 days after the hearing, or if such hearing is continued, within 14 days after such continued hearing. Upon the hearing, any party may appear in person or by agent or by their attorney. Failure of the Board to hold a hearing within 45 days, or failure to render a decision within 14 days, shall under no circumstances result in the decision being deemed in favor of the applicant. **[Amended 10-9-1984 by Ord. No. 620; 9-14-2004 by Ord. No. 779]**

- D. Upon receipt of an appeal or petition involving a variance or special exception and before conducting a hearing thereupon, the Board shall refer the matter to the Planning Commission/Committee for its recommendation, unless the Board decides that such reference is inappropriate. The Planning Commission/Committee shall report the result of its study to the Board within 10 days following its receipt of the appropriate documents. If no such report is filed with the Zoning Hearing Board, the Board shall assume that the Planning Commission/Committee has acted favorably; but in

(Cont'd on page 22599)

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any event the recommendation of the Planning Commission/Committee shall be advisory, and not obligatory, upon the Zoning Hearing Board.

- E. The Board may also hear all challenges to the validity of this chapter or the Zoning Map under the provisions of 53 P.S. § 10909.1. Any landowner who desires to challenge on substantive grounds the validity of an ordinance or map or any provisions thereof which prohibits or restricts the use or development of land in which he has an interest may submit a curative amendment to the governing body with a written request that his challenge and proposed amendment be heard and decided under Section 609.1 of the Pennsylvania Municipalities Planning Code.⁵⁵ The Board or the governing body shall, in such cases, comply with all requirements set forth in the Pennsylvania Municipalities Planning Code.^{56, 57}
- F. The Board shall conduct hearings and make decisions in accordance with the following requirements:
- (1) Notice shall be given to the public, the applicant, the Planning Commission/Committee, the Borough Council, the Zoning Officer, such other persons as the governing body shall designate by ordinance and to any person who has made timely request for the same. Hearing notices shall be given at such time and in such manner as prescribed in Subsection C above. A hearing notice shall also be posted conspicuously on the affected tract of land. The governing body may establish reasonable fees based on cost, to be paid by the applicant and by persons requesting any notice not required by ordinance.
 - (2) The hearings shall be conducted by the Board or the Board may appoint any member as a hearing officer. The decision or, where no decision is called for, the findings shall be made by the Board, but the parties may accept the decision or findings of the hearing officer as final.

⁵⁵ Editor's Note: See 53 P.S. § 10609.1.

⁵⁶ Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

⁵⁷ Editor's Note: See 53 P.S. § 10101 et seq.

- (3) The parties to the hearing shall be the municipality or any person who is entitled to notice under Subsection F(1) above without special request, anyone who has made timely appearance of record before the Board and any other person permitted to appear by the Board.
- (4) The Chairman or Acting Chairman of the Board or the hearing officer presiding shall have power to administer oaths and issue subpoenas to compel the attendance of witnesses and the production of relevant documents and papers, including witnesses and documents requested by the parties.
- (5) The parties shall have the right to be represented by counsel and shall be afforded an opportunity to respond and present evidence and argument and cross-examine adverse witnesses on all relevant issues.
- (6) Formal rules of evidence shall not apply, but irrelevant, immaterial or unduly repetitious evidence may be excluded.
- (7) The Board or the hearing officer, as the case may be, shall keep a record of the proceedings, either stenographically or by sound recording, and a transcript of the proceedings and copies of graphic or written material received in evidence shall be made available to any party at cost.
- (8) The Board or the hearing officer shall not communicate, directly or indirectly, with any party or his representatives in connection with any issue involved except upon notice and opportunity for all parties to participate, shall not take notice of any communication, reports, staff memoranda or other materials unless the parties are afforded an opportunity to contest the material so noticed and shall not inspect the site or its surroundings with any party or his representatives unless all parties are given an opportunity to be present.
- (9) The Board or the hearing officer, as the case may be, shall render a written decision or, when no decision is called for, make written findings on the application

within forty-five (45) days after the last hearing. Each decision shall be accompanied by findings of fact and conclusions based thereon, together with the reasons therefor. Conclusions based on any provision of this act or of any ordinance, rule or regulation shall contain a reference to the provision relied on and the reasons of the facts found. If the hearing is conducted by a hearing officer and there has been no stipulation that his decision or findings are final, the Board shall make his report and recommendations available to the parties and the Board shall make a final decision and entry of findings.

- (10) If the Board fails to render its decision or findings within forty-five (45) days after the last hearing or fails to hold a requested hearing within sixty (60) days after the applicant's request for a hearing, the decision shall be deemed to have been rendered in favor of the applicant, unless the applicant has agreed, in writing, to an extension of time. When a decision has been rendered in favor of the applicant because of the failure of the Board to meet or render a decision as hereinabove provided, the municipality shall give public notice of said decision within ten (10) days in the same manner as provided in Subsection F(1). Nothing in this subsection shall prejudice the right of any party opposing the application to urge that such decision is erroneous.
- (11) A copy of the final decision or, where no decision is called for, of the findings shall be delivered to the applicant personally or mailed to him not later than the day following its date. To all other persons who have filed their name and address with the Board shall provide, by mail or otherwise, brief notice of the decision or findings and a statement of the place at which the decision or findings may be examined.

- (12) The Board shall, in addition, follow all requirements of the Pennsylvania Municipalities Planning Code.⁵⁸

⁵⁸ Editor's Note: See 53 P.S. § 10101 et seq.

G. [Amended 5-8-1984 by Ord. No. 618; 1-13-1987 by Ord. No. 644⁵⁹] Fees for the following shall be as set forth from time to time by the Borough Council:

- (1) Filing appeals or petitions to the Zoning Hearing Board on residential matters.
- (2) Filing appeals or petitions to the Zoning Hearing Board on commercial matters.

ARTICLE XVI

Enforcement, Violations and Penalties

§ 225-74. Enforcement.

- A. The Zoning Officer shall have the duty of enforcing this chapter by the issuance of appropriate stop orders or cease-and-desist orders to violators, or by commencing summary proceedings against violators. In addition, the Zoning Officer, with the approval of Borough Council, may institute appropriate action or proceedings at law or in equity.
- B. The Zoning Hearing Board shall hear appeals from the decision of the Zoning Officer as provided in Article XV. The Board may reverse or affirm, wholly or partly, or may modify the order of the Zoning Officer and may make its own appropriate stop order or cease-and-desist order as ought to be made.
- C. The Borough Council may, at its option, institute appropriate actions or proceedings at law or in equity or commence summary proceedings against violators in order to enforce this chapter.

§ 225-75. Violations and penalties.

Any person or corporation violating any of the provisions of this chapter shall, upon conviction thereof before any District Magistrate, pay a penalty of not less than ten dollars (\$10.) and not more than five hundred dollars (\$500.), with costs, for each separate violation; and in

⁵⁹ Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

default of payment of the penalty and costs, the person convicted may be sentenced and committed to the county jail for a period not exceeding thirty (30) days. Each day that a violation is continued shall constitute a separate offense. All fines collected for said zoning violations shall be paid to the Borough of Westmont. See § 225-57 for penalties under signs.

ARTICLE XVII Amendments

§ 225-76. Procedure.

The Borough Council may, from time to time, on its own motion or on petition, amend, supplement, change, modify or repeal by ordinance the boundaries of districts or regulations or restrictions herein established. Any proposed amendment, supplement, change, modification or repeal shall first be submitted to the Planning Commission/Committee for its recommendations and report. The Planning Commission/Committee shall make a preliminary report and shall hold a public hearing thereon before submitting its final report. Upon receipt of the final report of the Planning Commission/Committee with respect to any proposed amendment, supplement, change, modification or repeal, the Borough Council shall proceed to hold a public hearing in relation thereto, giving at least fourteen (14) days' notice of the time and place of such hearing, which notice shall be published in a newspaper having general circulation in the borough. Thirty (30) days prior to the borough-conducted public hearing, the Borough Planning Commission/Committee shall submit the proposed amendments to the County Planning Commission for recommendations.

§ 225-77. Applicability of statutory provisions.

The foregoing provisions as to amendments and changes shall at all times be subject to the procedural requirements of the Pennsylvania Municipalities Planning Code, Act 247, as amended.⁶⁰

⁶⁰ Editor's Note: See 53 P.S. § 10101 et seq.

[illegible]