

**TOWN OF BEDFORD**

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**WORK SESSION**

**AGENDA**

**7:30pm**

**Wednesday, April 11th**

**in the 2<sup>nd</sup> Floor Conference Room  
at 425 Cherry Street**

Proposed Revisions to the Refuse Ordinance.

Discuss a response to the George Oros letter dated March 12, 2012 on Housing.

**REMINDERS ---**

Tuesday, April 17<sup>th</sup> ..... 8:00pm .....Town Board Meeting.

Saturday, April 21<sup>st</sup> ..... 9:00am.....Arbor Day Planting Ceremonies at three locations:  
Bedford Hills Community House, Dwight Lane and  
Katonah Memorial Park.

Tuesday, May 1<sup>st</sup>..... 8:00pm .....Town Board Meeting.

Thursday, May 3<sup>rd</sup>, Friday, May 4<sup>th</sup> and Saturday, May 5<sup>th</sup> .... Town Clean Up Days.

Tuesday, May 8<sup>th</sup>..... 8:00pm .....Town Board Meeting.

Monday, May 14<sup>th</sup> ..... 7:30pm .....Community Organizations Committee Meeting at the  
Bedford Hills Community House.

LOCAL LAW NO. \_\_\_\_ OF 2012

TOWN BOARD  
TOWN OF BEDFORD

PROPOSED LOCAL LAW TO AMEND  
CHAPTER 67  
OF THE CODE OF THE TOWN OF BEDFORD

A LOCAL LAW to amend  
Chapter 67 of the Code of  
the Town of Bedford  
concerning collection of  
garbage and recyclables.

**BE IT ENACTED** by the Town Board of the Town of Bedford as follows:

Section 1. Chapter 67, Article I of the Code of the Town of Bedford is hereby amended as follows:

**§67-1. Title.**

This article shall be known and cited as ~~“Amending Local Law No. 2-1982, “Refuse and Recycling Collection Law of the Town of Bedford.”~~

**§67-2. Purpose.**

A. The purpose of this article is to maintain and promote the orderly collection of ~~“Refuse and recyclables from residential and commercial entities~~ in the most efficient and economical manner within the Town of Bedford, while at the same time serving the public convenience and promoting ~~all reasonable efforts to further~~ the recycling of glass, metal, plastics, newspapers, cardboard and other ~~designated~~ materials. It is the policy of the Town of Bedford that the accomplishment of these purposes may best be achieved by the Town's regulation of ~~“Refuse and recyclables collection with regard to financial responsibility, collection routes and procedures and sensitivity to the interests of the public. services provided by private or public Collectors/carters/haulers and the establishment of procedures for such collection in the interests of the public.~~ This article, therefore, embodies the Town's standards, requirements and procedures for the regulation of the recycling and ~~“Refuse collection industry/industries~~ within the Town of Bedford.

B. The Town plan for recycling and waste reduction is intended to be consistent with the goals set forth in the New York State Department of Environmental Conservation published report of December 2010, BEYOND WASTE: A Sustainable Materials Management Strategy for New York State. The goal of this state plan is to reduce the amount of waste that requires disposal by approximately 85 percent by 2030, which is approximately equivalent to achieving a "zero waste" goal. Accordingly, the Town plans to take incremental steps to reduce the dependence of residents and businesses on disposal, and to encourage increases in waste reduction, reuse of materials recycling and composting.

C. Incremental steps are envisioned that will allow the Town to make progress toward the above goals, which include the following elements that may be implemented in time frames to be determined by the Town Board.

(1) The collection and analysis of information in Collector Quarterly Reports, which will enable the Town to develop Baseline tonnage information and to track progress toward waste reduction goals and for comparison with other municipal, county, state and national data. This requirement is effective immediately on the date of this ordinance.

(2) Single Stream Residential Recycling. Whereby Collectors will collect all designated recyclables from residents in a single container and deliver them to a location capable of processing such materials. This requirement is anticipated to become effective in approximately one year from the date of this ordinance.

(3) Pay-As-You-Throw or volume based pricing or service fees. Whereby customers will be given the option to pay a lower subscription fee for incrementally smaller ~~€~~Refuse containers. This will provide a measure of equity for those who dispose of less ~~€~~Refuse and encourage waste reduction and recycling. This requirement is anticipated to become effective in approximately one year from the date of this ordinance.

(4) Waste Reduction Initiatives. Adoption of policies by Town government and encouragement for residents and businesses aimed at reducing the generation of waste. Such initiatives include examples like electronic filing, purchasing requirements for recycled content or reduced packaging, reduced use of hazardous materials, etc.

Collection of Non-Yard Waste Organics. Whereby customers will be given the opportunity to have Non-Yard Waste organics, as defined below, collected separately for composting, when outlets for composting or other types of processing become available.

### **§67-3. Definitions.**

For the purpose of this article, the following words and terms shall be deemed to have the meanings herein given to them:

#### **BULK REFUSE CONTAINER**

A large receptacle commonly used for storage of Refuse and Construction and Demolition Waste, as defined herein, and otherwise referred to as a "dumpster."

## **CONSTRUCTION AND DEMOLITION WASTES**

Lumber, concrete, pipe, brick, masonry and other waste materials from buildings and other structures generated in the process of a construction, remodeling, renovation or demolition project.

## **HAZARDOUS WASTE**

Waste meeting the New York State definition of household hazardous wastes (HHW): Pesticides, corrosives, pool chemicals, driveway sealers, hazardous paints and stains, polishes and waxes, adhesives, solvents, hazardous cleaning products, antifreeze, vehicle fluids, fluorescent light tubes, compact fluorescent lamps and ballasts, photography chemicals, non-rechargeable hazardous batteries (both household and automotive), products containing mercury, propane gas cylinders (that still contain propane).

## **MIXED RECYCLABLES**

The following materials which may be mixed together:

A. Glass bottles and jars, clean and free of food particles and other residues. Examples are glass food bottles and jars, juice bottles, liquor bottles, baby food jars, soda bottles and wine bottles; but not ceramics, crystal, glass doors, light bulbs, mirrors, Pyrex window panes or windshields.

B. Metal cans and foil, free of food particles and other residue. Examples are metal food cans, soda cans, pet food cans, metal juice containers, aluminum foil and trays and aluminum cans; but not aerosol cans, batteries, oil or paint cans or hazardous chemical containers.

C. Plastics containers #1-7, clean and free of any food particles or residue. Examples are plastic soda bottles, liquor bottles, juice bottles, detergent bottles and food containers.

## **NON-YARD ORGANIC WASTES**

Food waste, soiled or food contaminated paper materials and compostable paper products. These materials are considered to be Refuse until such time as outlets for composting or otherwise processing or recycling them become available.

## **PAPER/FIBER RECYCLABLES**

Newspapers, ledger/office paper, writing paper, junk mail, cardboard, food boxes, magazines, phone books, paper board, chipboard, any/all of which must be clean, dry and free of any liquid or contamination.

## **REFUSE**

All putrescible and nonputrescible solid wastes (except body wastes), including any wastes commonly referred to as garbage, rubbish and ashes, but not including Yard Waste, recyclable materials, Hazardous Waste, explosives, ammunition, asbestos, bulk metal, Construction and Demolition Waste, electronic waste, empty propane tanks, household medical waste, radioactive material, tires, used oil or white goods.

## **REGISTRANT**

A person, partnership, company or corporation, licensed by Westchester County to provide either residential and/or commercial Refuse and/or recyclables collection services, and registered/permitted by the Town of Bedford, pursuant to Section 67-6 of this Article, to provide such services in the Town. Sometimes referred to herein as a "Collector" and otherwise known as a carter or hauler of Refuse and/or recyclables.

## **SINGLE STREAM RECYCLABLES**

A combination of paper/fiber recyclables with mixed recyclables.

## **TOWN**

The area of the Town of Bedford, New York.

## **YARD WASTE**

Brush, leaves and tree trimmings, but does not include grass cuttings.

### **§67-4. Pre-collection Practices.**

A. Residents shall use rigid containers for the storage of ~~Refuse and/or recyclables~~, except as hereinafter provided. Such containers shall be practical, suitable and of sufficient strength for the purpose of holding the material intended to be ~~disposed of and discarded~~. The container shall have a maximum gross weight when filled of 60 pounds and shall be equipped with suitable handles and a tight-fitting cover. Containers for the storage of Refuse shall be kept or placed in a single location readily accessible to the Collector. The containers shall be maintained in a sound and sanitary condition by the resident. Recyclables may be bagged or bundled, or placed in containers of a size and type required by the Collector.

~~B. Garden and other refuse (excluding leaves) that cannot be placed in standard containers shall be put in containers, bundled or otherwise secured and placed at the curb. Such bundles or containers shall not exceed 60 pounds in weight and shall be limited to six feet in length and three feet in height, width or diameter. Commercial establishments shall use rigid containers for storage of Refuse of a size and type required or provided by the Collector. Such containers shall have tight fitting covers, be of water tight bottom construction and of sufficient strength to handle the waste material collected. Containers shall have devices that prevent or discourage unauthorized entry and be located so that collection does not inhibit local traffic or otherwise cause a nuisance condition for the public.~~

C. Owners and occupiers of properties in the Town of Bedford who contract for or permit on their property containers for the purpose of storage of ~~Refuse~~ in excess of the maximum capacity permitted as stated in Subsection A ~~or B~~ above shall comply with the following requirements with respect to such containers:

(1) Such containers shall be kept and maintained in a clean and sanitary condition and in good repair with operating lids and shall be completely closed at all times except when actually being used for deposit of ~~Refuse~~.

(2) Such containers shall be posted with a conspicuous sign or signs, decals or other legend as approved by the Town Board and available at the Town Clerk's office. These signs shall be posted in such a manner to advise the public that they are prohibited from depositing ~~Refuse~~ in, on top of or adjacent to such containers.

(3) The provisions of this subsection shall take place immediately and shall apply to existing containers in the Town of Bedford.

D. No unauthorized person or entity, as hereinafter defined, shall deposit ~~Refuse or any Hazardous Material~~ in a ~~bulk Refuse~~ container within the Town of Bedford. No person or entity shall deposit ~~Refuse or any Hazardous Material~~ in a container utilized for recycling purposes in any location within the Town of Bedford. The finding of ~~Refuse or any Hazardous Material~~ in any such containers, which ~~Refuse or Hazardous Material~~ in part contains material bearing the name or other identifying mark of a person or entity as addressee, shall create a rebuttable presumption that the person or entity to whom such material was found to be addressed deposited such ~~Refuse or Hazardous Material~~ without authorization and in violation of this article. "Unauthorized person or entity," as used herein, shall mean a person or entity utilizing a bulk ~~Refuse~~ container owned, leased or contracted for by another person or entity without the consent of such person or entity.

#### **§67-5. Collection Practices.**

A. Residential ~~Refuse~~ shall be collected either once or twice a week, except where other agreements have been made between the ~~licensee~~Collector and the resident. ~~The Town has~~

the right to limit Refuse collection to once per week, upon reasonable notice to carters. Recyclables collection shall be either once a week or once every other week at the discretion of the resident and hauler.

B. The licensee shall pick up all refuse placed in standard containers in the usual place, as provided in § 67-4A hereof. Commercial Refuse and recyclables shall be collected at a frequency of once per week and/or at a frequency that is required to prevent odors, prevent excess waste from spilling from containers or any nuisance condition and as agreed between the business and Collector to accomplish these conditions.

C. The Collector shall pick up all Refuse placed in standard containers, as defined in § 67-4A and B hereof, and placed at the curb or usual place for pick up.

D. For curbside collection, containers for each service unit shall be placed at a single collection point within four feet of the curb no later than [WHY INCLUDE "NO LATER THAN" LANGUAGE?] 7:00 a.m. on scheduled household garbage collection days. For driveway, rear yard or in-garage collection, containers shall be placed at the appropriate collection location no later than 7:00 a.m. on scheduled household garbage collection days. The containers shall be maintained in a sound and sanitary condition by the resident. The Town Board reserves the right to adopt additional rules and regulations to further the purposes and implementation of this article.

E. Paper/Fiber Recyclables, yard waste and mixed recyclables shall not be intermingled with household Refuse or trash.

E. Paper/Fiber Recyclables to be picked up by carters shall be placed at curbside or other appropriate collection in a manner appropriate for either dual or single stream collection (as determined by the Town) no later than [WHY INCLUDE "NO LATER THAN" LANGUAGE?] 7:00 a.m. on scheduled Paper/Fiber Recyclable collection days. Paper/Fiber Recyclables shall only be permitted at curbside from 7:00 a.m. of the day before a scheduled collection until 10:00 a.m. the day following a scheduled collection.

G. Mixed recyclables must be properly placed in appropriate containers as provided by the customer or the Collector. Said containers of mixed recyclables shall be placed at curbside or other appropriate location no later than [WHY INCLUDE "NO LATER THAN" LANGUAGE?] 7:00 a.m. on scheduled mixed recyclable collection days. Such containers shall only be permitted at curbside from 7:00 a.m. of the day before a scheduled collection until 10:00 a.m. the day following a scheduled collection. Mixed recyclables may be collected only by permitted Collectors.

H. Single Stream Recyclables Collection. With Town Board approval in response to requests by Town residents, Collectors may provide or be required to provide single stream recycling collection services to Town residents in which newspapers, magazines, cardboard,

junk mail and other approved paper/fiber recyclables would be collected together with mixed recyclable materials, with ultimate delivery to a Materials Recovery Facility (MRF).

I. Non-Yard Waste Organics. With Town Board approval in response to requests by Town residents, Collectors may provide or be required to provide non-Yard Waste Organics collection services to Town residents and businesses.

J. Yard Waste. Yard waste to be picked up by the Highway Department shall be in tied bundles, each weighing no more than 60 pounds, containing no trimmings larger than three (3) inches in diameter, be more than six (6) feet long, or contained in compostable bags, and shall be placed at curbside no later than 7:00 a.m. on scheduled yard waste collection days.

K. For apartments and condominiums provided with containerized service for household garbage collection by the licensed carter, containers shall be kept and maintained in a clean and sanitary condition and shall be completely closed at all times, except when actually being used for deposit of household garbage and shall be adequately secured to prevent spillage by dogs, raccoons or other animals.

L. Nothing in this article shall be construed to prevent those residents who wish to self-haul recyclables from bringing their recyclables to the Town of Bedford Recycling Center.

M. Collection of Leaves and Yard Waste and Back Yard Composting.

(1) The Highway Department shall pick up bagged leaves and bundled Yard Waste on a set Yard Waste collection days throughout the year; provided that such Yard Wastes comply with the limitations in subdivision J, above.

(2) The Highway Department will pick up loose leaves in designated hamlet areas between October 1 and November 15 each year. At all other times, such leaves must be bagged for pick up.

(3) Residents are encouraged to self-mulch leaves and grass or to conduct backyard composting of leaves, grass and such other household organics as may be safely composted without creating nuisance odors, attracting rodents or wild animals. Town web site has references for these activities.

#### **§67-6. Registration/~~Town Permit~~ of for ~~e~~Collectors.**

A. Registration/~~Town Permit~~ required. It shall be unlawful for any person, firm or corporation regularly to collect ~~r~~efuse and/or ~~e~~Construction and ~~d~~emolition ~~debris~~Wastes or to collect any material for recycling from residential or commercial customers within the Town of Bedford, except from his own residence or business property,

~~without first registering with the Clerk of the Town by submitting proof of a license from the County of Westchester submitting to the Town Clerk an application for a Town Permit which includes all required information and proof of a license from the County of Westchester and upon acceptance and approval by the Town, obtaining a valid Town Permit. The Town, at its sole option, may designate and allow non-profit organizations (Scouts, Chowder and Marching Band, other) to collect and market recyclables without registering or obtaining a formal permit, by submitting a letter requesting approval of said collection for specific events.~~

B. ~~Registration/Town Permit fee. The registration/permit fee shall be \$25 for each refuse company is set forth in Attachment A of the Town of Bedford Application Form. Such Application Form, fee and Recycling Plan in Attachment A and such other information or submission of documents as the Town Board reasonably requires may be revised from time to time at the option of the Town Board.~~

C. ~~The contents of the registration/permit application shall be as follows:~~

~~(1) The form of the registration/permit application shall be as determined from time to time by the Town Board of the Town of Bedford and shall include the following information: requested on the Application Form and Attachment A. The Application Form and Attachment A shall be available in the office of the Town Clerk.~~

~~(a) The applicant's name, address and telephone number.~~

~~(b) The number of employee's in the applicant's work force.~~

~~(c) Proposed rates for collection of refuse and for bulk pickups referred to in §67-8A hereof.~~

~~(d) The number of garbage trucks owned by the applicant.~~

~~(e) A copy of the applicant's current license to operate issued by the Westchester County Solid Waste Commission.~~

D. ~~Term of registration. All registrations/Town Permits issued by the Town after January 1, 20062012, shall be valid and in effect for a period of one-two years. from the date of issuance and must fully comply with this Article. Failure to comply with the requirements of this article shall be considered an offense subject to penalties outlined in Section 67-14.~~

E. ~~No Town of Bedford Permit shall be issued until the fee is paid, a Recycling Plan is submitted per Attachment A of the Application, a copy of Instructions to Customers is submitted and a copy of a Westchester County license is submitted and approved by the Town of Bedford.~~

**§67-7. Type and maintenance of vehicles.**

All vehicles used in the transportation of ~~r~~Refuse, ~~and/or~~ ~~e~~Construction, and ~~d~~Demolition ~~w~~Wastes, Yard Waste, other organic waste, and/or recyclables, within the Town of Bedford shall be kept in a sanitary condition and shall be so constructed as to prevent leakage in transit. The body of such truck shall be wholly enclosed or shall at all times be kept covered with an adequate cover or canvas cover provided with eyelets and rope for tying down. Loading of vehicles shall be done in such manner as to prevent spilling or loss of contents. All ~~persons~~Collectors ~~licensed-registered/permited~~ hereunder shall use packer-type trucks for normal collection purposes. The use of small non-packer-type auxiliary vehicles may be approved if so stated on the application forms. Vehicles shall be maintained in such condition as to prevent mechanical breakdown and disruption of ~~garbage-Refuse or recyclables~~ collection. The name of the licensee and the Westchester County license number shall be printed conspicuously on each vehicle, and a decal issued by the Town Clerk shall be displayed on the left front bumper. The Town Clerk shall be notified within 10 days after any vehicle is replaced or substituted by the ~~licensee~~Collector.

**§67-8. Schedule of collections; bulk pickups; other obligations.**

A. Construction and ~~d~~Demolition ~~w~~Wastes, discarded household appliances and other discarded bulky items and equipment shall be collected by separate arrangement to be made between the Collector and the resident.

Deleted: licensee

B. The Registrant shall publish, file with the Town and distribute to each resident it proposes to service, in advance, its collection schedule, which shall not be changed without the consent and approval of the Town Board and without further notice to the residents.

C. ~~The registrant shall include in its schedule provision for the pickup of reasonable amounts of additional refuse not otherwise collected within the provisions of this article.~~

~~D. Registrants shall cooperate with the Town and its designated representatives and agencies to promote and carry out the provisions of Article II of this chapter concerning, among other things, the recycling of paper and other products, including but not limited to the periodic collection of newspapers as shall be mutually agreed, from time to time, between the Town and the participating licensees designated materials.~~

D. Any pickup of commercial containers in an area zoned residential shall be done only on Monday through Saturday between the hours of 7:00 a.m. and 7:00 p.m. of each day.

**§67-9. Complaints.**

A. Each ~~licensee~~Registrant shall remedy each resident and commercial complaint from an omitted service or improper handling of collections or other matters within 24 hours of the time received. Complaints called in prior to 6:00 p.m. on any day shall be deemed to be

received at 6:00 p.m. on said day. Sundays shall be excluded from this time period. The Registrant shall respond in the same manner to complaints from any resident or Town representative concerning any material deposited improperly within the limits of streets or highways during transit.

Deleted: licensee

B. Each ~~licensee~~Registrant must maintain an answering service or facility 24 hours per day every day of the week.

C. The Registrant hereunder shall be responsible for maintaining records of all messages and complaints received by him, said record to be available for inspection by the Town Board or its designee. The record of each complaint shall include, but not be limited to, the date and nature of the complaint, the name and service address of the complainant and the disposition thereof made by the ~~licensee~~Registrant.

#### **§67-10. Disposal and/or recycling of collected material.**

A. All ~~Refuse~~ collected hereunder shall be hauled to a designated and approved permitted disposal facility, ~~except such refuse which may be separately collected for recycling purposes which must hold a current and valid permit issued by the state where the Refuse is disposed.~~ The schedule of operation and all matters pertaining to the control and operation of the disposal facility shall be under the supervision of the custodian of the facility.

B. All recyclables collected must be hauled to a licensed and permitted transfer facility that accepts the delivered materials for processing and marketing or, to a designated market location or directly to a Material Recovery Facility (MRF) capable of processing and marketing such materials.

C. All Construction and Demolition Wastes shall be hauled to a designated and approved disposal facility, or facility that accepts the delivered materials for processing and marketing.

D. All Yard Waste shall be hauled to a designated and approved disposal facility, or facility that accepts the delivered materials for processing and marketing.

E. All Non-Yard Organic Waste shall be hauled to a designated and approved disposal facility, or facility that accepts the delivered materials for processing and marketing.

#### **§67-11. Responsibility of registrant; reporting; administration and enforcement.**

A. Each Registrant shall be required to complete and submit a Quarterly Recycling and Refuse Report to the Town Clerks Office on or before the 15th of the month of the quarterly reporting period (April 15, July 15, October 15 and January 15). The Quarterly

Recycling and Refuse Reports are available in the Town Clerk's office and on the Town of Bedford Website. Failure to comply with this reporting requirement shall subject the Registrant to the penalties set forth in this Article.

~~A~~B. The Registrant shall be directly responsible to the ~~customers~~ residential and commercial customers it services and to the County of Westchester Solid Waste Commission and shall collect and dispose of ~~Refuse, and collect and market recyclables,~~ in accordance with such rules and regulations as to service ~~and rates charge~~ herein stated. The enforcement of this article shall be the duty of the Town Board of the Town of Bedford and such other office, commission, agency or official as the Town Board may designate. The Town Board may adopt such rules and regulations as it may deem appropriate and necessary to enforce, implement and carry out the provisions and purposes of this article, provided that said rules and regulations are not inconsistent with the provisions hereof.

**§67-12. (Reserved)**

**§67-13. Collection fees.**

The fee schedule to be charged by a Registrant for any service to be performed under such registration shall be set forth in its application for such registration. Such fee information shall be considered confidential business information by the Town pursuant to the Freedom of Information Law and will not be released to the public or made available to anyone except officials or designees of the Town Supervisor.

**§67-14. ~~Enforcement;~~ Penalties for offenses.**

A. The Town Building Inspector will investigate all violations of this article. The Town may periodically inspect for recyclables in any items which are placed out for pickup as household garbage. Any household garbage found to contain Mixed Recyclables, newspapers or other recyclable material shall not be the responsibility of the Registrant to collect, until all recyclable materials are removed by the resident. Failure to comply with these provisions shall be subject to enforcement and penalties as hereafter stated.

B. Collectors' Responsibilities. Registered/permitted Collectors are responsible to collect Refuse and recyclables in accordance with New York State, Westchester County laws and Town of Bedford laws and regulations. Collectors shall provide written notice to any customer(s) who repeatedly violate the Town of Bedford's laws and rules for separation of Refuse and recyclables and shall explain to those customers that all collection services shall be discontinued as to that customer without refund or proration if required separation is not maintained.

C. Penalties. Notwithstanding any other remedy provided herein, any Registrant person or company committing an offense against this article shall, upon conviction by the Town Justice, be deemed guilty of a violation and shall be subject to a fine of not more than \$50

for a first offense and \$100 for each subsequent offense, and or revocation of a registration/permit.

D. A Registrant may also be subject to revocation of any registration/permit granted hereunder, as determined by the Town Board after public hearing.

**Deleted:** 's violation of this article may

**§67-14.1. Deadline for commencing actions.**

Any action brought hereunder shall be commenced within three months of the date of the alleged violation.

**§67-15. Severability**

If any clause, sentence, paragraph, section or part of this article shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof but shall be confined in its operation to the clause, sentence, paragraph, section or part whereof directly involved in the controversy in which such judgment shall have been rendered.

**§67-16. Conflicting laws.**

If any provision of this article shall be in conflict with any other local law or ordinance of the Town of Bedford or any law of the State of New York or political subdivisions thereof, the provision of the more restrictive law shall apply.

Section 2. Chapter 67, Article II of the Code of the Town of Bedford, "Recycling" is hereby repealed in whole.

Section 3. This Local Law shall take effect upon filing in the Office of the Secretary of State.



**Robert P. Astorino**  
County Executive

**George Oros**  
Chief of Staff

March 12, 2012

Dear Mayor/Supervisor,

County Executive Robert Astorino has requested that all municipalities be updated on the most recent development in the federal housing settlement which was entered into by the County in 2009.

On November 17, 2011, in the Monitor's Report and Recommendation Regarding Dispute Resolution (Amended) ("Report"), the federal monitor directed the County to assess the impact of municipal zoning practices. On February 29, 2012 the County submitted the comprehensive report which consists of a review and analysis of zoning ordinances for the 43 municipalities of Westchester County. The report is prepared in a format that addresses the six zoning practices set forth in the monitor's report. These are:

- Restrictions that limit or prohibit multifamily housing development;
- Limitations on the size of a development;
- Limitations directed at Section 8 or other affordable housing, including limitations on such developments in a municipality;
- Restrictions that directly or indirectly limit the number of bedrooms in a unit;
- Restrictions on lot size or other density requirements that encourage single-family housing or restrict multifamily housing; and
- Limitations on townhouse development.

The County's research has identified 853 unique zoning districts established by the 43 municipalities of Westchester County with home rule authority under New York State law to regulate land use. The research has created 43 compendium data tables, one for each municipality, that identify each district and provides information and analysis based on 31 categories. These tables were utilized to prepare an analysis for each municipality.

As stated in the County's *Analysis of Impediments* (page 204), the County is providing each municipality with a copy of the County's data and analysis for your municipality. Your municipality is asked to review the document and to provide a response to the County Department of Planning, with a copy to the County Executive's Office, attention Mary Mahon, Esq. The County considers this report to be another step in its continuing dialogue with the governments of Westchester's cities, towns and villages to ensure the greatest opportunities for developing and preserving housing that affirmatively furthers fair housing.

Office of the County Executive

Michaelian Office Building  
148 Martins Avenue  
White Plains, New York 10601

Telephone: (914)995-2934 E-mail: [goros@westchestergov.com](mailto:goros@westchestergov.com)



I am forwarding a copy of the report for your municipality. The voluminous data compendium containing the full analysis of all 43 municipalities can be obtained beginning March 15<sup>th</sup> from the Westchester County Website ([www.westchestergov.com/housing\\_settlement](http://www.westchestergov.com/housing_settlement)).

Thank you for your attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "George Oros". The signature is written in a cursive, flowing style.

George Oros  
Chief of Staff

**Review and Analysis of Municipal Zoning Ordinances  
in Westchester County**

**February 29, 2012**

**Prepared by  
Westchester County Department of Planning  
432 Michaelian Office Building  
148 Martine Avenue  
White Plains, New York 10601**

**Review and Analysis of Municipal Zoning Ordinances  
In Westchester County**

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**FIGURES**

Figure 1: 1944 Planning and Zoning Statistics for Westchester County.

Figure 2: Composite of Municipal Zoning Districts

Figure 3: Cluster Development – Hunt Farm

Figure 4: Cluster Development – Green Briar

Figure 5: Zoning Review Table Columns

Figure 6: Summary of Municipal Zoning Analysis Tables

**APPENDIX** *(Included in separate binder.)*

**COMPENDIUM DATA TABLES OF 43 MUNICIPAL ZONING ORDINANCES**

## **1. PURPOSE**

On November 17, 2011, the federal Monitor overseeing the August 10, 2009 Stipulation and Order of Settlement and Dismissal (“the Settlement”) entered in *U.S. ex. rel. Anti-Discrimination Center of Metro New York, Inc. v. Westchester County*, issued a document titled, Monitor’s Report and Recommendation Regarding Dispute Resolution (Amended).

The Monitor’s Report stated:

“The County shall, at a minimum, assess the impact each of the following zoning practices or explain why the analysis of the listed practices (“Restrictive Practices”) would not be helpful to understanding the impact of the zoning ordinances taken as a whole:

- Restrictions that limit or prohibit multi-family housing development;
- Limitations on the size of a development;
- Limitations directed at Section 8 or other affordable housing, including limitations on such developments in a municipality;
- Restrictions that directly or indirectly limit the number of bedrooms in a unit;
- Restrictions on lot size or other density requirements that encourage single-family housing or restrict multi-family housing; and
- Limitations on townhouse development.”

This review and analysis addresses the Monitor’s request.

An extensive review has been conducted of all 43 municipal zoning ordinances that have been adopted by the 43 cities, towns and villages in Westchester County that have home rule authority over land use regulation consistent with the laws of New York State. (The towns of Rye and Pelham have not adopted zoning ordinances as neither town encompasses land that is outside of an incorporated village.)

The County’s approach has been to be comprehensive. First, the review and analysis has been expanded beyond the 31 municipalities that are eligible sites for the development of 750 affordable affirmatively furthering fair housing units required under the Settlement’s Paragraph 7 (a), (b) and (c) so as to also include the 12 non-eligible municipalities. Second, the review encompassed all zoning districts, not just residential zones, and data was collected on additional subjects of regulation beyond the six subjects listed above.

The County considers this review and analysis as another step in its continuing dialogue with the governments of Westchester's cities, towns and villages to ensure the greatest opportunities for developing and preserving housing that affirmatively furthers fair housing.

Consistent with the actions set forth on page 204 in the *Westchester County Analysis of Impediments to Fair Housing Choice*, July 2011, the County will provide each municipality with a copy of this review and analysis. The municipalities will be requested to review the document and to provide a response to the County Department of Planning. The County will also conduct one or more informational or training programs to present and discuss the zoning research results.

Under a separate process, the County continues its efforts to promote to municipalities the "Model Ordinance Provisions" that are included in the *Westchester County Fair and Affordable Housing Implementation Plan*, dated August 9, 2010. These provisions provide model language for municipalities to require new development proposals to include a certain percentage of affordable residential units that will affirmatively further fair housing (AFFH). Also included in the provisions are model criteria and standards for the affordable AFFH units and definitions of who is eligible for the affordable AFFH units that are created. Further, the Model Ordinance Provisions outline standards for affirmative marketing and guidelines to expedite the review and approval process for development proposals that will include affordable AFFH units.

## **2. OVERVIEW OF REVIEW AND ANALYSIS**

The first zoning ordinance regulating the use of land in Westchester County was adopted by the City of White Plains in 1920, four years after the first zoning code in the United States was adopted by New York City in 1916. By 1926, when the United States Supreme Court issued its decision in *Village of Euclid v. Ambler Realty Co.* finding that zoning was not an unreasonable extension of the village's police power, 17 municipalities in Westchester County had already adopted zoning ordinances. All but three municipalities had zoning in place by 1944. See Figure 1: 1944 Planning and Zoning Statistics for Westchester County.

This history is important as it reveals that the local zoning ordinances in Westchester have evolved over six to nine decades so as to create a very complex set of regulations that should be expected to include both outdated provisions regulating uses and activities that no longer exist and the most current techniques and approaches to zoning and land use regulation.

To conduct the review and analysis, the County obtained all 43 municipal zoning ordinances. The zoning ordinance is usually a chapter or section of the municipal code. A municipal code (also known as Town Code, Village Code or City Code) includes chapters on most every subject needed to manage a municipality's operations and scope of regulation, only one of which is zoning. Other chapters may address subjects as diverse as the sale of alcoholic beverages, bingo, keeping of dogs and other animals, ethics and record keeping.

The zoning ordinance primarily divides a municipality into districts or zones and establishes regulations on the minimum size of lots, the use of land and the size and location of buildings within each of those districts. Other subjects such as accessory uses, signage, parking and exterior lighting are also typically addressed and regulated.

Several topics related to the development of land are sometimes addressed outside of the zoning ordinance and in other chapters of the municipal Code. For example, a municipality may have separate regulations on land subdivision, "clustering" (discussed in Chapter 4), wetland protection and environmental review procedures.

In this review and analysis, particular focus was given to locating within the zoning ordinance the schedule of districts, the listing and definition of permitted uses, dimensional standards and the zoning map. All but two of the 43 municipal zoning ordinances were accessed on the web-based document libraries *General Code* or *MuniCode*. For the two not available on-line, a request was made to the municipality to provide a hard copy. The web-based codes are updated by the municipality as the codes are amended and are generally considered the most up to date source of information. However, there may be lags between the adoption of code amendments and the posting of the amendments on line. Any such discrepancy will be corrected through the municipal review process described previously.

The data gathered from the 43 zoning ordinances was assembled on 43 tables. Chapter 5 of this report includes detailed explanation of the data subjects in the table's columns. The analysis of the

# WESTCHESTER COUNTY PLANNING COMMISSION

## PLANNING AND ZONING STATISTICS FOR WEST COUNTY -

1944

MUNICIPALITIES	SQUARE SUB-		PLANNING BOARD	ZONING MAP	BUDG. INSPR.	STRICTLY APP.	ZONING APP.	TAX MAPS	POPULATION 1940	PLANNING BOARD 1943
	MILES 1940	DIV. CTRL. CODE								
<b>INCORPORATED VILLAGES</b>										
ARDBLEY	1.00	0	1926	1924	1927	X	1926	1926	1926	1,423 \$ 5
BRIARCLIFF MANOR	3.78	1929	1928	1928	1928	1928	1928	1928	1917	1,830 NONE *
BROOKVILLE	1.00	X	1926	1927	1927	1927	1927	1927	1927	6,368 125
BUCHANAN	1.53	0	0	0	0	0	0	0	1932	1,600 NONE
CROTON ON HUDSON	5.00	1920	X	1920	1921	1921	1921	1921	1924	2,243 500
DORCE PERCY	2.30	1923	1927	1931	1924	1927	1924	1927	1925	2,883 25
ELMSFORD	1.00	1923	X	1923	1923	X	1923	X	1923	2,078 NONE
HASTINGS	2.12	1926	1928	1926	1928	1928	1928	1928	X	7,067 150
IRVINGTON	2.91	1928	1932	1928	1928	1928	X	X	X	3,272 NONE
LARCHMONT	1.00	1922	1919	1922	1921	1920	0	1921	X	5,970 100
MAMARONECK	3.55	X	1928	1927	1928	1928	X	1928	1928	13,024 55
MOUNTKISCO	1.99	1924	1928	1928	1928	1928	1928	1928	1917	5,941 NONE *
NORTH PELHAM	0.48	0	1931	0	1931	1931	0	0	0	5,082 NONE
NORTH TARRYTOWN	1.21	0	1927	0	1928	1927	1928	1928	1928	5,894 "
OSSINEG	3.08	1930	1930	1930	1930	1930	1931	X	X	18,998 "
PELHAM	0.52	0	1917	0	1928	1917	0	X	X	1,918 "
PELHAM MANOR	1.31	0	1928	X	1928	1928	0	1928	0	5,502 NONE *
PLEASANTVILLE	1.41	1925	0	1925	1927	0	1928	1927	1928	4,454 NONE
FORT CHESTER	2.90	X	1927	X	X	X	X	X	X	23,073 "
SCARSDALE	6.25	1918	1923	1917	1922	1923	1926	1925	1926	12,966 300
TARRYTOWN	2.81	1925	1923	1926	1923	1923	1926	1927	1927	6,274 NONE *
TUCKAHOE	1.62	X	1925	1925	1925	X	1925	X	X	6,563 NONE
<b>CITIES</b>										
MOUNT VERNON	4.59	1918	1930	1915	1927	1930	1927	1922	1922	67,362 558
NEW ROCHELLE	10.40	1931	1919	1931	1921	1911	1928	1921	1907	58,408 15
PERKINSVILLE	6.00	1944	X	1940	1929	X	0	1929	X	17,311 130
RYE	6.23	1927	1928	1927	1923	1924	1928	1923	1915	9,865 50
WHITE PLAINS	9.82	1927	1926	1916	1929	X	1927	1920	X	40,327 40
YONKERS	17.50	1927	1926	1929	1928	1925	1928	1928	X	142,598 4,254
<b>UNINCORPORATED TOWN AREAS</b>										
BEDFORD	40.61	1921	1929	1928	1929	1929	1929	1928	0	6,807 NONE
CORTLANDT	34.71	0	0	0	0	0	0	0	0	5,578 "
EASTCHESTER	3.20	0	1923	1928	1923	1926	1928	1923	1915	10,041 200
GREENBURGH	13.00	1929	1928	1929	1924	1925	1928	1923	1918	12,588 1,892
HARRISON	17.96	1941	1923	1941	1923	X	1923	1928	X	11,783 200
LEWISBORO	28.80	1925	0	1922	1926	1926	1926	1926	1927	1,929 25 *
MAMARONECK	5.16	0	1921	0	1922	1924	0	1922	1926	2,468 NONE
MT. PLEASANT	24.41	0	0	0	1928	0	0	X	X	10,427 "
NEW CASTLE	2.140	1929	0	1929	1928	1928	1929	1928	1916	4,405 150
NORTH CASTLE	2.738	1929	X	1929	1930	X	X	1920	X	3,306 50
NORTH SALEM	23.23	0	0	X	1929	0	0	0	X	1,194 10
OSSINEG	3.12	0	0	X	1930	0	1920	1926	X	1,468 25
POUNDRIDGE	78.30	0	0	0	1926	0	0	1926	0	806 NONE
RYE	1.65	X	1931	1928	1931	1931	X	X	0	1,258 200
SOMERS	31.50	1946	1926	1943	1934	X	1943	1924	1943	2,406 NONE *
YORKTOWN	40.30	1932	0	1922	1922	0	X	1922	X	8,642 310
PELHAM (CO-TOWN)		0	0	0	0	0	0	0	1923	
SCARSDALE (CO-TOWN)		0	0	0	0	0	0	0	X	
<b>WEST COUNTY</b>	<b>457.45</b>									<b>573,525</b>

\*1943  
X ) INDICATES EXISTANCE  
\* - CONTINGENCY FUND

Figure 1: 1944 Planning and Zoning Statistics for Westchester County

data is presented in Chapter 7 with an independent report for each municipality. These reports specifically address each of the six “Restrictive Practices.”

In total, the review identified 853 unique zoning districts with specific regulations in Westchester County. The number of zoning districts within an individual municipality ranged from seven districts to 45 districts.

Of the 853 districts, 653 districts permit residential development and 200 districts do not permit residential development.

Within the 31 “eligible” municipalities, 538 unique zoning districts were identified. The number of districts within an individual “eligible” municipality ranged from seven districts to 33 districts.

Of the 538 districts in “eligible” municipalities, 418 districts permit residential development and 120 districts do not permit residential development.

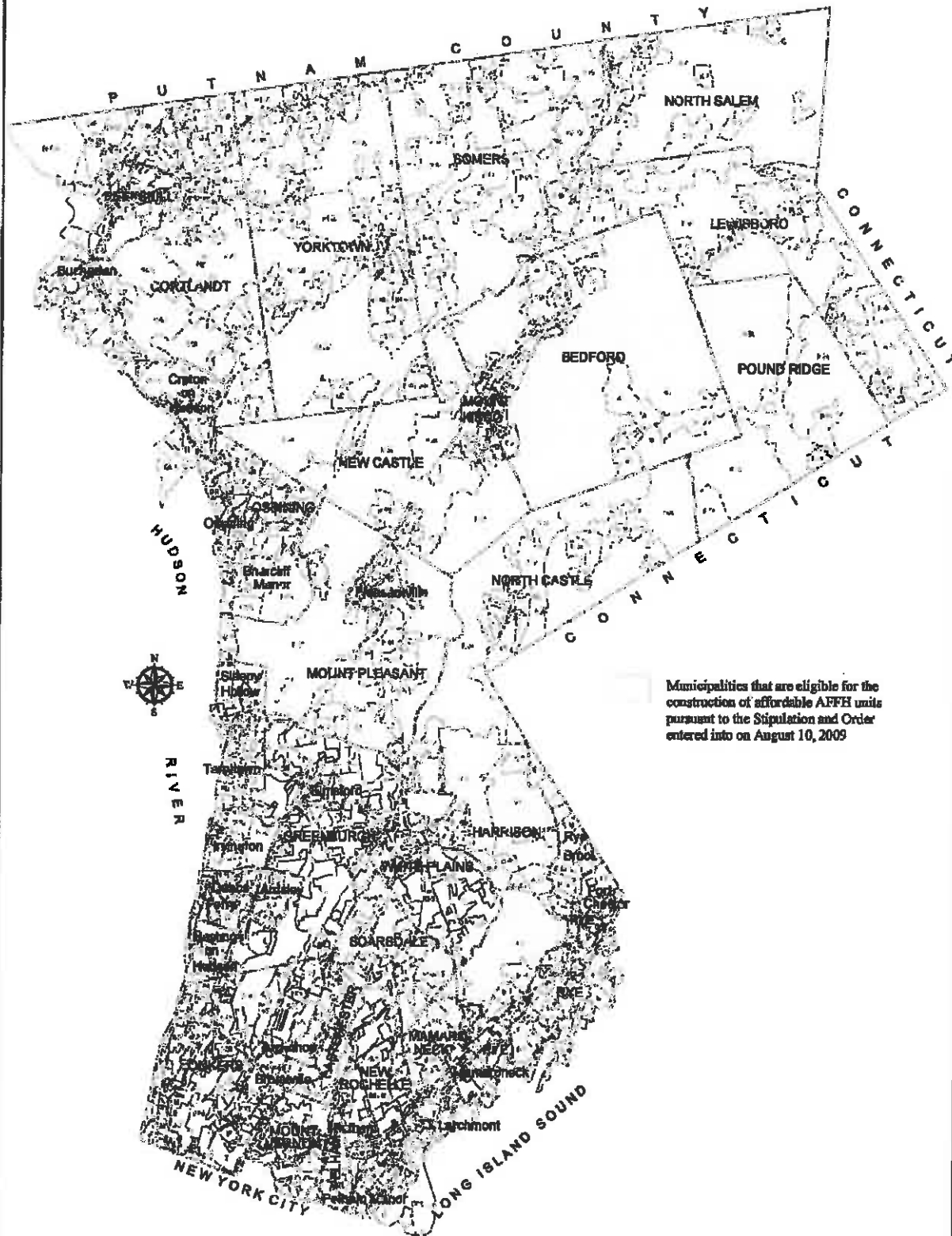
See Figure 2: Composite of Municipal Zoning Districts.

The review found that Westchester municipalities, taken together, have in place a complex set of land use regulations that cover thousands of specific conditions. Within that context, the basic elements and techniques are common throughout the county. Each ordinance includes a range of residential districts that vary primarily by minimum required lot size, from large to small, and by required minimum yard size or building setback from property lines. Each ordinance provides a variety of non-residential or business districts. Each ordinance requires an application for and approval of a special use permit for several land uses. These elements and techniques are well-established approaches to land use regulation that are found throughout the northeast states that share a home rule basis for local control of land use. There is no significant difference in the zoning techniques in effect in “eligible municipalities” compared to those in effect in “non-eligible municipalities.”

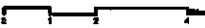
Where local zoning ordinances diverge is in the detailed regulation of specific subjects that most likely arose through very localized problems, situations or circumstance. Some of these provisions may well be antiquated. There are also some differences in definitions for certain uses, in defining and calculating development density and in the scope of local review of aspects of developments. Some ordinances are more complex than others and some have regulations that appear to conflict within the same code. These differences, inconsistencies and complexity may reflect not only the sophistication and investment of a municipality in updating its zoning ordinance, but also the uniqueness and variety of character and history of the 43 towns, villages and cities.

The review and analysis of zoning in Westchester finds that the regulations reflect the range of urban, suburban and near rural conditions that have been shaped by history, topography and availability of transportation and infrastructure. The county’s zoning provides for an overwhelming residential character at a wide range of density and allows a very broad scope of non-residential uses.

# WESTCHESTER COUNTY, NEW YORK



Municipalities that are eligible for the construction of affordable AFFH units pursuant to the Stipulation and Order entered into on August 10, 2009



WCDF February 2012

FIGURE 2

## Composite of Municipal Zoning Districts

### 3. TERMS NEEDING DISCUSSION AND CLARIFICATION

Several words and phrases require specific discussion and clarification so that they may be used with consistent definition in the context of this zoning review and analysis. Common usage of a word or phrase is not necessarily the same usage of that word or phrase in a zoning ordinance. Further complicating the matter is the fact that each zoning ordinance typically has its own, and possibly unique, “Definitions” section. This chapter discusses this potential for confusion in terminology and establishes how such terms are used in this review and analysis. All of the terms discussed and the uses they represent are represented in Westchester zoning ordinances.

The discussion that follows draws on the definitions and concepts as presented in several basic planning reference sources including in particular *The Municipal Planning Primer Series: The Planning Board* (Westchester County Department of Planning and Westchester Municipal Planning Federation, 2008) and *The New Illustrated Book of Development Definitions* (Moskowitz and Lindbloom, Center for Urban Policy and Research, 1993).

#### A. Multi-family housing.

Without clarification, the phrase “multi-family housing” could have several definitions. At a basic level, multi-family housing could be anything that is *not* single-family housing (i.e. one dwelling unit in a free-standing building). In this case, multi-family housing would be any housing where multiple separate dwelling units are contained within one building.

Within the federal government, it appears that the definition of multi-family housing varies from agency to agency. Some definitions that appear on agency websites include:

- Department of Homeland Security/Federal Emergency Management Agency – For the purposes of the Rental Repair Pilot, multi-family housing means a property consisting of more than four units (dwellings). The term includes apartments, cooperative buildings and condominiums.
- Department of Housing and Urban Development – A property consisting of five or more units, also including health care facilities.
- Department of Veterans Affairs – A property consisting of two or more rental units.

In zoning ordinances, multi-family housing is most commonly defined as a structure with three or more separate dwelling units. Excluded from this definition are “accessory apartments” and “two-family dwellings,” which are each discussed below.

For the purposes of this review and analysis, “multi-family” means a structure with three or more separate dwelling units, none of which are “accessory apartments.”

The physical construction of multi-family housing can take many forms including multi-story apartment buildings, townhouses (sometimes called single-family attached), dwelling units in

structures that also have commercial uses (“mixed use”) and low-rise garden apartments, “up and down” or “flat-type” buildings, which are discussed below.

The ownership of multi-family housing can take different forms. Type of ownership is rarely regulated by zoning. Just as a single-family dwelling can be either owned or rented, each multi-family housing unit may be owned separately as a condominium or in fee-simple, or multi-family housing units may be owned in multiple numbers by a single party with individual units rented to tenants. Ownership through a cooperative is also an option. The type of ownership does not change the physical definition of multi-family housing as a structure with three or more separate dwelling units.

#### **B. Two-family dwellings.**

A two-family dwelling is a building containing two dwelling units. The dwelling units can be one over the other (“flats”) or side-by-side (“semi-detached” or “twin house”). The units may or may not be on separate lots. They may be owner-occupied or rental units. However, when the term “two-family dwelling” is used in most zoning ordinances, it refers to a permitted use of two dwelling units in one structure on a single lot, neither unit being an “accessory apartment.”

For the purposes of this analysis, “two-family dwelling” means two dwelling units in one structure on a single lot, neither unit being an “accessory apartment.”

#### **C. Accessory apartments.**

An “accessory apartment” is a dwelling unit that is subordinate to a permitted principal single-family residence use in terms of size, location and appearance and located on the same lot. It is an accessory use permitted by zoning on a property that as-of-right is permitted only one dwelling unit. Some municipalities restrict accessory apartments to lots larger than a minimum area, to lots with pre-existing single-family residences or other locations and dimensional factors such as a bedroom limitation. Such factors are intended to allow the second dwelling to fit into the character of the neighborhood, i.e. maintain the single-family residence appearance. Accessory apartments are often subject to application for and approval of a special use permit. Accessory apartments are not included in the definition of multi-family housing.

#### **D. Townhouse development.**

A townhouse dwelling may be defined as a dwelling unit in a row of at least three such units in which each unit has its own access to the outside, no unit is located over another unit and each unit is separated from each other unit by one or more vertical, common fire-resistant walls. Townhouses are also sometimes referred to as townhomes or single-family attached homes.

“Townhouse” is not typically a “use” defined by a zoning ordinance. Townhouse is usually considered one building type or style of how housing may be constructed.

In more dense or urban communities, a townhouse may be considered a single-family home on a fee simple lot that has zero lot line setbacks, i.e. a common wall with one or more other units. In less

dense suburban communities, a townhouse development may be one possible configuration for a new multi-family development. In such case, ownership can be fee-simple ownership (owning all rights of the property including the land, building and air rights), condominium (the dwelling unit is owned individually but the structure and common areas are owned by all owners on a proportional, undivided basis) or cooperative (occupants own shares in the building). In Westchester, townhouses are most often owned as fee-simple or as a condominium in a larger development.

Townhouses may be developed at a lower cost than free-standing single-family homes because of shared and reduced infrastructure. Maintenance and heating costs may be less expensive for a townhouse than for a free-standing single-family home.

#### **E. Floating zones.**

A floating zone is an unmapped zoning district where all the zone requirements (e.g. permitted uses, residential or commercial density, minimum lot size, setbacks) are set forth in the zoning ordinance and the zone is mapped, or applied to specific properties, only after an application for its use is approved by the municipal legislative body. The provisions for a floating zone in the zoning ordinance typically include locational criteria that must be met. The locational criteria are usually first established by the municipal comprehensive plan.

#### **G. Overlay zones.**

An overlay zone is a zoning district that is mapped over one or more underlying zones and that imposes additional requirements above that required by the underlying zone. Overlay zones are established to deal with special situations that may not apply to all properties within the underlying zoning district(s). For example, an overlay zone may require special site plan review for development along scenic roads or on ridgelines. An overlay zone may apply special conditions for developments along a downtown street or in a historic district. An overlay zone may limit the height of buildings in the vicinity of an airport runway.

#### **H. Mixed use.**

In this review and analysis, the term “mixed use” refers to a building or property that includes or may include residential and non-residential (commercial) uses within the same building or on the same property. In Westchester, a typical mixed use property would have commercial uses on the ground floor of a building with one or more residential units on the floor or floors above. Some high-density apartment buildings might have commercial uses at street level, while a former single-family dwelling may have a retail store on a converted first floor. Zoning ordinances establish in which districts mixed use buildings can occur and may set specific requirements on parking, access and lot size. Some ordinances may allow mixed use as part of a larger, single-lot planned development with residential and other non-residential uses.

#### **I. Planned development.**

A planned development often requires a lot or several contiguous lots that can meet a specified minimum area and be planned, developed, operated and maintained according to a master plan as a

single entity. Such developments are often required to provide for a mix of residential and commercial uses. However, some provisions for planned developments require primarily residential uses with a required mix of residential construction types (Planned Residential Development or Planned Unit Development). Primarily commercial (Planned Commercial Development) or primarily industrial (Planned Industrial Development) are also possible.

**J. As-of-right use, special use and uses subject to site plan review.**

Each zoning ordinance details what types of land uses are allowed, or permitted, in each zoning district. The first level of permission is “as-of-right,” uses that are allowed without any other special zoning approval process. (Compliance with building codes and procedures, other environmental permitting and possibly site plan review may be required.)

A zoning ordinance may also permit uses “as-of-right” but make the establishment of the use subject to the approval or issuance of a special use or special exception permit. These permitted uses require “extra” evaluation. The zoning ordinance sets forth specific conditions that must be met before the permit for such use may be granted. The permit cannot be withheld if compliance with the conditions is demonstrated. The review and approval for special use permits may be assigned by the municipal legislative body to the municipality’s planning board, zoning board of appeals or itself; this approval body may vary for each special use. A less intensive review process may be established by making a use a “conditional use” and providing for an administrative review for compliance with the specified conditions.

A municipality may require through its zoning ordinance or other code provisions that a permitted use be subject to site plan review and approval. Site plan review and approval is usually only required for development over a minimum size or for certain types of land use. The site plan review process usually takes into consideration the physical location of structures, parking and driveways, lighting, landscaping and storm drainage infrastructure.

It is important to note that many zoning ordinances allow lower density residential uses in higher density residential districts as well as allowing residential uses in non-residential or commercial districts uses. For example, a two-family zoning district often permits single-family homes. A multi-family district may permit single- and two-family dwellings. A commercial district may permit single-, two- and multi-family dwellings.

#### **4. NEW YORK STATE PROVISIONS FOR CLUSTER DEVELOPMENT**

New York State laws provide authority to cities, towns and villages to approve “cluster developments.” (*New York State Town Law, Section 278: Subdivision review; approval of cluster development* and similar provisions in Village Law and General City Law.) The ability for a municipality to apply this authority is typically not cited in its zoning ordinance. However, Westchester municipalities have made use of this authority to create reduced lot size residential developments and multi-family developments in residential zoning districts that, per the zoning ordinance regulations, would appear not to allow such developments.

Cluster development, also referred to as cluster subdivisions, open space subdivision, average density zoning or conservation development, is the outcome of applying a technique that allows a tract of land to be considered in its entirety and concentrate development so as to leave a portion of the tract undeveloped for conservation or other local planning objectives. New York State law defines “cluster development” as follows:

“Cluster development” shall mean a subdivision plat or plats, approved pursuant to this article, in which the applicable zoning ordinance or local law is modified to provide an alternative permitted method for the layout, configuration and design of lots, buildings and structures, roads, utility lines and other infrastructure, parks and landscaping in order to preserve the natural and scenic qualities of open lands.

Clustering is accomplished by allowing the same number of lots as would be allowed through application of the zoning district’s minimum lot size requirements but reducing the size of lots, setbacks, yards and other dimensional requirements. Besides the protection of open space, cluster developments can provide an economic benefit by reducing the amount of required infrastructure, roads, water and sewer lines. Although clustering authority does not provide for a change in the permissible use of land as provided in the zoning ordinance, the ability to modify dimensional requirements enables townhouse-style (zero lot-line) construction to be accomplished in zoning districts where otherwise it would not be permitted.

Figure 3: Cluster Development – Hunt Farm and Figure 4: Cluster Development – Green Briar illustrate two large residential developments in northern Westchester approved under cluster development authority in single-family residential zoning districts. The land area shown in red is the preserved open space lands. The homes are located on lots that are significantly smaller than the minimum lot area required by the zoning district.



**Figure 3: Cluster Development – Hunt Farm**

**WCDP 2/27/2012**



Figure 4: Cluster Development – Green Briar

WCDP 2/27/2012

## **5. REVIEW OF MUNICIPAL ZONING ORDINANCES**

The review of 43 municipal zoning ordinances produced 43 tables of data, one per municipality. One horizontal column has been created for each zoning district that is currently established by municipal zoning ordinances, a county-wide combined total of 853 distinct zoning districts. Each table has 31 vertical columns that record specific data for each district. The tables are included in an appendix to this report. The analysis of the data in each table is presented in Chapter 7 of this report, by municipality.

**Figure 5: Zoning Review Table Columns** identifies the subjects researched and reported in the 31 vertical columns.

In summary, four columns provide identification information on the municipality and district name and identification. The fifth column reports on whether or not residential development is a permitted use. The sixth column identifies the minimum area required for a lot.

Nine columns report on the types of residential use permitted in each zoning district. Uses reported on are single-family, two-family, three-family, four-family, multi-family, accessory housing unit and mixed use. Also reported in these columns is whether each use is permitted as-of-right without conditions or as a special use subject to issuance of a special use permit.

Two columns report on any requirements that set a minimum or maximum on number of bedrooms per residential unit.

One column reports on whether or not townhouse/zero lot-line setback development is permitted. Another column reports on whether the zoning district regulations set restrictions on building type for multi-family development.

Seven columns report on distinct dimensional requirements that are set for development in each district. The subjects covered are: minimum front and side yard setbacks, maximum permitted density, maximum permitted building coverage, maximum permitted lot coverage, minimum floor area per residential dwelling and maximum floor area ratio.

A comments column allows for explanatory notes on data in other columns as well as notation on unique characteristics of the district regulations that may not be captured in the other columns.

The final four columns report the results of word searches in each municipal code for the terms "HUD," "Section 8," "Source Income" and "Choice Voucher."

**Figure 6: Summary of Municipal Zoning Analysis Tables** provides an overview of some key information on a municipal basis. This information is expanded upon in the individual municipal analyses included in Chapter 7.

**Figure 5: Zoning Review Table Columns**

<b>T/C/V</b>	<b>Designation of municipality as Town, City or Village</b>
<b>Municipality</b>	<b>Name of municipality</b>
<b>Zoning District</b>	<b>Abbreviation of zoning district</b>
<b>Name of District</b>	<b>Name of zoning district</b>
<b>District Mapped</b>	<b>zoning district located on the zoning map</b>
<b>Minimum lot area</b>	<b>the minimum size lot required within a zoning district</b>
<b>Single Family</b>	<b>One dwelling unit per lot a permitted land use within zoning district</b>
<b>2 Family</b>	<b>2 dwelling units per lot a permitted land use within zoning district</b>
<b>3 Family</b>	<b>3 dwelling units per lot a permitted land use within zoning district</b>
<b>4 Family</b>	<b>4 dwelling units per lot a permitted land use within zoning district</b>
<b>Multi-family</b>	<b>multiple dwelling units per lot a permitted land use within zoning district. Number of dwelling units vary by municipality.</b>
<b>Definition of Multifamily</b>	<b>The definition of multifamily as defined in the zoning ordinance</b>
<b>Accessory Unit Permitted</b>	<b>A dwelling unit that is an accessory use to a primary use.</b>
<b>Restriction on Accessory Unit</b>	<b>Any zoning ordinance restrictions for accessory units</b>
<b>Mixed Use Residential Component</b>	<b>The allowing of commercial and residential uses on the same lot regardless if they are in the same structure or not.</b>
<b>Maximum Number of Bedrooms</b>	<b>The maximum number of bedrooms allowed per dwelling unit or lot</b>
<b>Minimum Number of Bedrooms</b>	<b>The minimum number of bedrooms allowed per dwelling unit or lot</b>
<b>Townhouse development</b>	<b>Permitting townhouse development with townhouse being defined as a one-family dwelling in a row of at least three such units in which each unit has its own front and rear access to the outside, no unit is located over another unit and each unit is separated from any other unit by one or more vertical common fire-resistant walls.</b>
<b>Restriction on Building Type for Multifamily Development</b>	<b>Building-type restrictions on multifamily development</b>
<b>Front Yard Setback</b>	<b>The distance a structure must be set back from the front yard lot line.</b>
<b>Side Yard Setback</b>	<b>The distance a structure must be set back from the side yard lot line.</b>
<b>Maximum density Allowed</b>	<b>The maximum dwelling units per acre permitted</b>
<b>Maximum Building Coverage</b>	<b>The maximum amount of lot area that all structures can cover a lot.</b>
<b>Maximum Lot Coverage</b>	<b>The maximum amount of lot area that all impervious surfaces may cover a lot</b>

**Figure 5: Zoning Review Table Columns**

<b>Minimum Floor Area/Dwelling</b>	<b>The minimum amount of floor area that must be provided per dwelling unit</b>
<b>F.A.R.</b>	<b>Floor Area Ratio (F.A.R.) is the total floor to lot area ratio</b>
<b>Comments</b>	<b>Comments are details the reviewer may have to explain any asterisks noted in the chart</b>
<b>HUD</b>	<b>Reference to Housing Urban Development</b>
<b>Section 8</b>	<b>Reference to Section 8 housing</b>
<b>Choice Voucher</b>	<b>Reference to the housing choice voucher program</b>
<b>Source Income</b>	<b>Reference to source of income to be used considered for dwelling unit rent or purchase</b>

Figure 8: Summary of Municipal Zoning Data Tables

Municipality	Eligibility	Number of Districts		Total	Two Family		Comments	Accessory Apartment
		Allowing Resident at Use	Not Allowing Resident at Use		Permitted	As of Right		
ANDRELEY	A	8	2	10	As of Right	As of Right		No
BEDFORD	A	15	4	19	As of Right	As of Right		Special Use
BRIARCLIFF MANOR	A	14	3	17	As of Right	As of Right*	*200 square feet of enclosed, suitable surface play area for small children is required per dividing unit	No
BROOKVILLE	A	6	2	10	As of Right	As of Right		Special Use
BUCHANAN	A	7	2	9	As of Right*	As of Right*		Special Use
CORTLANDT	B	19	4	23	Special Use**	As of Right* (Special Use	*Only allowed as component of mixed use	Special Use
CROTON-ON-HUDSON	B	14	8	22	As of Right	As of Right	*Limited to 2 bedroom units (no bedroom limit for MF- w/SUP). **Permitted if constructed prior to 1994	Special Use
DOBBS FERRY	B	21	4	25	As of Right	As of Right		Special Use
EASTCHESTER	A	18	0	18	As of Right	As of Right		No
ELMSFORD	NA	8	0	8	As of Right	As of Right		No
GREENBURGH	NA	28	2	30	As of Right	As of Right	Public and semi public and publicly funded housing limited to certain districts	No
HARRISON*	A	12	7	19	As of Right	As of Right		No
HASTINGS-ON-HUDSON	A	18	7	25	As of Right	As of Right		No
IRVINGTON	A	6	1	7	As of Right	As of Right		As of Right
LARCHMONT	A	11	0	11	As of Right	As of Right		As of Right
LEWISBORO	A	13	0	13	As of Right	As of Right		No
MAMARONECK (N)	NA	16	5	21	As of Right	As of Right		Special Use
MAMARONECK (T)	NA	12	5	17	As of Right	As of Right		No
MOUNT KISCO	NA	11	14	25	As of Right	As of Right		No
MOUNT PLEASANT	A	28	6	32	As of Right	As of Right		As of Right
MOUNT VERNON	NA	12	7	19	As of Right	As of Right		Special Use
NEW CASTLE	A	12	4	16	As of Right**	As of Right**	*Two family As of Right for APFH units only	As of Right
NEW ROCHELLE	NA	38	7	45	As of Right	As of Right		As of Right
NORTH CASTLE	A	20	10	30	As of Right	As of Right		No
NORTH SALEM	A	12	2	14	Defined as MF*	As of Right	*Two family considered multifamily	Special Use
OSSINING (V)	NA	21	4	25	As of Right	As of Right		Special Use
OSSINING (T)	B	13	3	16	Special Use	As of Right		No
PEEKSKILL	NA	14	8	22	As of Right	As of Right		Special Use
PELHAM	A	11	1	12	As of Right	As of Right		No
PELHAM MANOR	A	5	5	10	As of Right	As of Right		No
PLEASANTVILLE	A	18	4	22	As of Right	As of Right		Special Use
PORT CHESTER	NA	14	12	26	As of Right	As of Right		Special Use
POUND RIDGE	A	7	0	7	As of Right*	As of Right*	*only as mixed use component with first floor being commercial or senior citizen development	As of Right
RYE	A	23	6	29	As of Right	As of Right		As of Right
RYE BROOK	A	22	1	23	As of Right	As of Right		No
SCARSDALE	A	10	8	18	As of Right	As of Right		As of Right
SLEEPY HOLLOW	NA	11	6	17	As of Right	As of Right		As of Right
SOMERS	A	14	2	16	No	As of Right		Special Use
TARRYTOWN	C	21	3	24	As of Right	As of Right		No
TUCKAHOE	C	5	3	8	As of Right	As of Right		Special Use
WHITE PLAINS	NA	27	3	30	As of Right	As of Right		No
YONKERS	NA	24	7	31	As of Right	As of Right		Special Use
YORKTOWN	A	15	18	33	As of Right*	As of Right*	*dimensional conditions	Special Use
TOTALS		553	200	853				Special Use

The compilation of data on each zoning district in Westchester County shows that the zoning regulations in place provide for essentially all types of development, both residential and non-residential. This is evident both on a county-wide basis and on a municipal level basis. The levels of density permitted cover a very wide range, providing opportunity for a variety of residential development types. The zoning districts and their standards reflect historic development patterns, the availability of supporting infrastructure and natural physical conditions. The types of detailed regulation identified in the table columns reflect typical zoning practice that can be found in most every zoning ordinance nationwide.

## **6. LIMITATIONS DIRECTED AT SECTION 8 HOUSING CHOICE VOUCHERS**

As a component of this review and analysis, an electronic word search was made of 42 municipal codes. (The code of one “non-eligible municipality,” the Village of Sleepy Hollow, was not searched as the code is not in an easily searchable format.) The purpose of this search was to identify any code provisions that in any way may limit, or appear to limit, the use of Section 8 housing vouchers. The search addressed zoning ordinance provisions – searching for permitted uses, special permit provisions, prohibited uses and detailed requirements in a municipality’s various districts – as well finding any references to Section 8 anywhere within the municipal codes. To ensure an exhaustive search for possible limitations on Section 8 within the codes, additional “key words” were searched in addition to “Section 8” – these words were: “HUD,” “source income” and “choice voucher.”

It was found that several municipalities do make reference to Section 8 and the other terms searched. These references were found to be either 1) references to the administration of the Section 8 Housing Choice Voucher program within the municipality or 2) the use of HUD and Section 8 program elements as tools for a municipality’s affordable housing ordinance provisions (e.g. references to income limits). Therefore, the only references to Section 8 in the 41 municipal codes were in the context of administering fair and affordable housing and housing programs. No ordinance provisions were found in the search of the ordinances that could be interpreted as limiting the use of Section 8 housing choice vouchers.

## **7. ANALYSES OF 43 MUNICIPAL ZONING ORDINANCES FOR RESTRICTIVE PRACTICES**

The following pages present an analysis of each of the 43 municipal zoning ordinances in Westchester County in alphabetical order by name of municipality. For each of the six “Restrictive Practices” identified by the Monitor (see Chapter 1 of this report), there is an analysis of the practice as it may be applied in each zoning ordinance. At the end of each municipal analysis, there is a discussion of other considerations, as appropriate.

The analysis has not identified specific local zoning practices that have exclusionary impacts.

**APPENDIX**

**COMPENDIUM DATA TABLES OF 43 MUNICIPAL ZONING  
ORDINANCES**

*(Included in separate binding.)*

Town/City/Village	Municipality	Zoning District	Name of District	Residential Use Allowed in District (yes answers left blank)	District Mapped	Minimum Lot Area (SQ feet)	Single Family (As of Right, Special Use, No)
Town	Bedford	R-4A	Residence 4-Acre District (Single Family)		Yes	174,240 SF	As of Right
Town	Bedford	R-2A	Residence 2-Acre District (Single Family)		Yes	87,120 SF	As of Right
Town	Bedford	R-1A	Residence 1-Acre District (Single Family)		Yes	40,000 SF	As of Right
Town	Bedford	R-1/2A	Residence 1/2-Acre District (Single Family)		Yes	20,000 SF	As of Right
Town	Bedford	R-1/4A	Residence 1/4-Acre District (Single Family)		Yes	10,000 SF	As of Right

Town	Bedford	TF	Residence 2-Family District		Yes	10,000 SF per lot; 5,000 SF per unit	As of Right
Town	Bedford	VA	Residence Village Apartment District		Yes	3,500 SF per unit; minimum lot area not applicable	As of Right
Town	Bedford	MF	Residence Multifamily District		Yes	Minimum lot area is 2 acres. Min. lot area/unit = Efficiency - 3,500 SF; 1 Bedroom - 4,000 SF; 2 Bedroom - 5,500 SF; 3 Bedroom - 7,000 SF; 4 Bedroom - 8,500 SF	As of Right
Town	Bedford	EL	Housing for Elderly District		Yes	217,800 SF. Minimum square footage per unit is 6,000.	No
Town	Bedford	DH	Diversified Housing		Yes	217,800 SF. Min. lot area/unit = Efficiency - 3,500 SF; 1 Bedroom - 4,000 SF; 2 Bedroom - 4,750 SF; 3 Bedroom - 7,000 SF; 4 Bedroom - 8,500 SF (based upon gross parcel area)	As of Right*
Town	Bedford	RO	Research Office	No	Yes	1089000 SF	No*
Town	Bedford	PB-O	Planned Business Office	No	Yes	43560 SF	No
Town	Bedford	PB-O(K)	Planned Business Office (Katonah) (added 1985)		Yes	20,000 SF	As of Right
Town	Bedford	PB-R	Planned Business Retail	No	Yes	43,560 SF	No

Town	Bedford	NB	Neighborhood Business		Yes	Not Applicable	As of Right
Town	Bedford	CB	Central Business		Yes	Not Applicable	As of Right
Town	Bedford	RB	Roadside Business		Yes	Not Applicable	As of Right
Town	Bedford	LI	Light Industrial	No	Yes	20,000 SF	No
Town	Bedford		Aquifer Protection Overlay		Yes	UNDERLYING DISTRICT	UNDERLYING DISTRICT

**PERMITTED USES**

2 Family (As of Right, Special Use, No)	3 Family (As of Right, Special Use, No)	4 Family (As of Right, Special Use, No)	Multi-family (As of Right, Special Use, No)	Definition Multi-family	Accessory Unit Permitted (As of Right, Special Use, No)	Restrictions on Accessory Unit
As of Right*	As of Right*	As of Right*	As of Right*	Multifamily dwelling: A dwelling containing three or more dwelling units.	Special Use for Accessory Apartment and Cottage	Allowed by special permit in existing single family residences** Cottages have specific regulations***
As of Right*	As of Right*	As of Right*	As of Right*		Special Use for Accessory Apartment and Cottage	Allowed by special permit in existing single family residences** Cottages have specific regulations***
As of Right*	As of Right*	As of Right*	As of Right*		Special Use	Allowed by special permit in existing single family residences**
As of Right*	As of Right*	As of Right*	As of Right*		Special Use	Allowed by special permit in existing single family residences**
As of Right*	As of Right*	As of Right*	As of Right*		Special Use	Allowed by special permit in existing single family residences**

As of Right	As of Right*	As of Right*	As of Right*		Special Use	Allowed by special permit in existing single family residences**
As of Right	As of Right	As of Right	As of Right		Special Use	Allowed by special permit in existing single family residences**
As of Right	As of Right	As of Right	As of Right		Special Use	Allowed by special permit in existing single family residences**
No	No	No	No		Special Use	Allowed by special permit in existing single family residences**
As of Right*	As of Right*	As of Right*	As of Right*		NOT LISTED	NOT LISTED
No*	No*	No*	No*		No*	
No	No	No	No		No	
Special Use*	Special Use**	Special Use**	Special Use**		No	
No	No	No	No		No	

As of Right	As of Right	As of Right	As of Right		No	
As of Right	As of Right	As of Right	As of Right		No	
As of Right	As of Right	As of Right	As of Right		No	
No	No	No	No		No	
<b>UNDERLYING DISTRICT</b>	<b>UNDERLYING DISTRICT</b>	<b>UNDERLYING DISTRICT</b>	<b>UNDERLYING DISTRICT</b>		<b>UNDERLYING DISTRICT</b>	<b>UNDERLYING DISTRICT</b>

Mixed Use Residential Component	Maximum Number of Bedrooms	Minimum Number of Bedrooms	Townhouse (zero lot line) Development	Restrictions on Building Type for Multifamily Development
No	No Reference	No Reference	As of Right*	No Reference
No	No Reference	No Reference	As of Right*	No Reference
No	No Reference	No Reference	As of Right*	No Reference
No	No Reference	No Reference	As of Right*	No Reference
No	No Reference	No Reference	As of Right*	No Reference

No	No Reference	No Reference	As of Right*	No Reference
No	No Reference	No Reference	As of Right	No Reference
No	No Reference	No Reference	As of Right	No Reference
No	No Reference	No Reference	As of Right	No Reference
No	No Reference	No Reference	As of Right	No Reference
No*	No Reference	No Reference	As of Right	No Reference
No	No Reference	No Reference	As of Right	No Reference
Yes	No Reference	No Reference	As of Right	No Reference
No	No Reference	No Reference	As of Right	No Reference

<b>Yes</b>	<b>No Reference</b>	<b>No Reference</b>	<b>As of Right</b>	<b>No Reference</b>
<b>Yes</b>	<b>No Reference</b>	<b>No Reference</b>	<b>As of Right</b>	<b>No Reference</b>
<b>Yes</b>	<b>No Reference</b>	<b>No Reference</b>	<b>As of Right</b>	<b>No Reference</b>
<b>No</b>	<b>No Reference</b>	<b>No Reference</b>	<b>As of Right</b>	<b>No Reference</b>
<b>UNDERLYING DISTRICT</b>	<b>UNDERLYING DISTRICT</b>	<b>UNDERLYING DISTRICT</b>	<b>UNDERLYING DISTRICT</b>	<b>No Reference</b>

Front Yard Setback (feet)	Side Yard Setback (feet)	Maximum Density Allowed	Maximum Building Coverage	Maximum Lot Coverage	Minimum Floor Area/ Dwelling (SF)
75 feet	50 feet/100 feet	No Reference	3% of lot area		
50 feet	40 feet/80 feet	No Reference	6% of lot area		
35 feet	30 feet/60 feet	No Reference	10% of lot area		
35 feet	20 feet/45 feet	No Reference	15% of lot area		
35 feet	15 feet/35 feet	No Reference	20% of lot area		

35 feet	15 feet/35 feet	No Reference	20% of lot area		
50 feet	50 feet/100 feet	No Reference	20% of lot area		
50 feet	50 feet/100 feet	No Reference	15% of lot area		
50 feet	50 feet/100 feet	No Reference	20% of lot area		
20 feet	1 foot	No Reference	15% of lot area		
200 feet	1-story building - 100 feet; 2-story building - 150 feet; 3-story building - 200 feet; adjacent to a residential district - 250 feet	No Reference	5%		
35 feet	20 feet/45 feet	No Reference	15%		
35 feet	20 feet/45 feet	No Reference	15%		
150 feet	35 feet	No Reference	20%		



F.A.R.

0.1
0.3
0.3
Not Applicable

**Not  
Applicable**

**Not  
Applicable**

**Not  
Applicable**

**Not  
Applicable**

**UNDERLYIN  
G DISTRICT**

**COMMENTS**

\*Use permitted in all residential districts if approved as a conservation subdivision under Part 281 of the Town Law or as a conservation development. These laws are saved on the server. \*\*In a residence districts, the Planning Board may grant a special permit to create an accessory apartment in an existing single-family dwelling, but not in an accessory structure. The owner of the lot on which the accessory apartment is located shall occupy at least one of the dwelling units on the premises. No more than five persons shall occupy the lot. There should be no more than one accessory apartment per lot. The accessory apartment shall contain at least 400 square feet and not more than 800 SF of gross floor area but shall not exceed 25% of the total floor area of the principal residence structure unless, in the opinion of the Planning Board, a greater or lesser amount of floor area is warranted by the specific circumstances of the particular building. Detailed accessory apartment regulations are saved in the server folder. \*\*\*In R-2A and R-4A Districts, the Planning Board may grant a special permit to create a cottage in an existing acc

In any residence district, the Town Board may grant a special permit for the operation of a group-care facility. The minimum lot area required for the establishment of a group-care facility shall be the same as that required for other dwellings in the district in which it is located, except that the minimum lot area requirement shall be increased by 10% for each nonsupervisory resident in the excess of six up to the maximum permitted number of 12.

Conservation Development: The Town of Bedford has detailed Conservation Development regulations. They are saved in the server folder. The use of the conservation development procedure shall apply to lots without residence structures in the R-4A, R-2A, R-1A, R-1/2A and R-1/4A Districts which have a minimum contiguous area of 10 acres or five times the minimum lot size of the zoning district in which they are located, whichever is greater. In a conservation development, there are specific restrictions for maximum density, attached dwelling units size and type, and dimensional requirements. The permitted number of dwelling units may be increased by not more than 25% if the applicant constructs the additional units as middle-income dwelling units for sale or for rent. There are specific min. floor area requirements, occupancy standards, and pricing standards for multiple-dwelling units. Bedford municipal employees, firemen, emergency personnel, and school employees are given priority for middle-income units.

**\*The purpose of the EL District is to provide increased housing opportunities for the elderly population of the Town of Bedford. At least 20% of the dwelling units constructed in the EL District shall be middle-income dwelling units as defined in this code.**

**\*The purpose of the DH District is to provide increased housing opportunities in the Town of Bedford for an economically diverse population who, because of reasons of cost, are presently excluded from purchasing residences in the Town of Bedford. At least 20% of the dwelling units constructed in the DH District shall be middle-income dwelling units as defined in this code. The maximum price which may be charged for the 20% of shall be determined by a formula described in the zoning code saved in the folder on the server. Middle-income dwelling units are defined as a dwelling unit the rental or sales price of which does not exceed the maximum allowable level as defined in Section 125-56.**

**\*Any use permitted in and subject to the regulations of the most restrictive residence district which abuts the perimeter of a Research Office District are permitted. For the purposes of this use, property across a public street from Research Office District shall be considered as abutting the perimeter of the district.**

**\*2-family dwellings allowed via special use permit in buildings existing prior to September 1, 1985.  
\*\*Multifamily dwellings allowed via special use permit in residences existing prior to September 1, 1985 on lots of less than 20,000 SF. (the ordinance text says this is 2-family dwelling units)**

<p><b>*The Aquifer Protection Overlay District limits wastewater discharge from on-site sewage disposal systems and use of substances that could affect the groundwater.</b></p>

**Word Search**

**HUD**

**Section 8**

**Source Income**

**Choice Voucher**

No reference No reference No reference No reference

No reference No reference No reference No reference

No reference No reference No reference No reference

No reference No reference No reference No reference

No reference No reference No reference No reference



No reference	No reference	No reference	No reference
No reference	No reference	No reference	No reference
No reference	No reference	No reference	No reference
No reference	No reference	No reference	No reference
No reference	No reference	No reference	No reference

## TOWN OF BEDFORD

The Town of Bedford Zoning Ordinance identifies 19 zoning districts mapped within the Town. One of the districts is an overlay district that encompasses underlying districts and imposes additional requirements above that required by the underlying district. Residential development is permitted in 14 districts; four zoning districts exclude residential development.

### **A. Six Restrictive Practices**

#### **1. Restrictions that limit or prohibit multifamily housing development.**

*Analysis:* The Town Zoning Ordinance permits as-of-right multi-family housing in 12 distinct zoning districts. The Town Zoning Ordinance does not permit as-of-right multi-family housing in six distinct zoning districts.

It is to be expected that every municipal zoning ordinance will permit certain uses in some districts and not in other districts as the regulation of land uses is the basic function of zoning. The key observation to be made is whether a zoning ordinance permits a wide range of uses that would reasonably be expected to locate in the specific geographic area. This ordinance meets that test.

#### **2. Limitations on the size of a development.**

*Analysis:* Each Bedford zoning district establishes a limit on the size of a development, primarily by requiring a minimum amount of land area per dwelling unit. The minimum amount of land area per dwelling unit varies by zoning district ranging from the lowest density at one single-family residence per 174,240 square feet (four acres) of land to the highest density of one dwelling unit per 3,500 square feet (0.08 acre). Multi-family residences are defined as three or more dwelling units.

It is to be expected that every municipal zoning ordinance will establish a maximum permitted density of development. The key observation to be made is whether a zoning ordinance provides for a range of density appropriate to the geographic area and supportable by existing or new infrastructure. This ordinance meets that test.

#### **3. Limitations directed at Section 8 or other affordable housing, including limitations on such developments in a municipality.**

*Analysis:* The Town Zoning Ordinance does not establish any limitation or restriction of any type on the use of Section 8 housing choice vouchers or other form of housing subsidy.

#### **4. Restrictions that directly or indirectly limit the number of bedrooms in a unit.**

*Analysis:* None of the Town's 19 zoning districts includes any limits on the number of bedrooms that may be created in a dwelling unit, single-family through multi-family dwellings. (See B. **Other Considerations** for discussion of a limit on the number of persons per lot within the Town's accessory apartment regulations.)

**5. Restrictions on lot size or other density requirements that encourage single-family housing or restrict multifamily housing.**

*Analysis:* As discussed under #1 and #2 above, the Town Zoning Ordinance permits as-of-right multi-family housing in 12 distinct zoning districts and establishes a wide range of minimum land area per dwelling unit requirements. The ordinance does not encourage any particular form or type of development; the ordinance establishes “permitted uses” in the categories of “principal uses,” “accessory uses” and “special exception uses.” The ordinance does not “restrict” any use except as it may be perceived to do so by designating specific zoning districts in which every use – multi-family, single-family, retail, industrial, etc. – is permitted.

It is to be expected that every municipal zoning ordinance will establish a minimum lot size and a maximum permitted density for every type of development. The key observation to be made is whether a zoning ordinance provides for a range of housing types and a range of density that is appropriate to the geographic area and supportable by existing or new infrastructure. This ordinance meets these tests.

**6. Limitations on townhouse development.**

*Analysis:* The Town Zoning Ordinance does not establish any limitation on building type for multi-family residential development. Townhouses are permitted in the 14 districts allowing residences. The townhouse design type of construction is one form of construction that is available for multi-family development.

**B. Other Considerations**

The Town’s regulations on accessory apartments located within an existing single-family dwelling include a unique special permit standard, not found in other ordinances. This standard states: “No more than five persons shall occupy the lot.” This appears to limit the total number of persons who may reside on a single-family lot that has an accessory apartment located within an existing single-family dwelling to five – including those persons within the main residence and those within the accessory apartment. This total occupancy standard does not apply when the accessory apartment is located in an accessory building – such units are defined as “cottages” under the Bedford Zoning Ordinance. All of the other special permit requirements are typical of such regulations.