Local Law Filing

(Use this form to file a local law with the Secretary of State.)

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

County
City
Town of Windham

Village

Local Law No. 5 of the year 2003

entitled "Set Back Law for Hamlets in the Town of Windham"

Insert Title

Be it enacted by the Town Board
(Insert Title)

County
City
Town of Windham

Village

as follows:

SEE TEXT ANNEXED HERETO.

(If additional space is needed, attach pages the same size as this sheet, and number each.)

DOS-239 (Rev. 7/91)
Local Law # 5 of 2003
Set Back Law for Hamlets in the Town of Windham

ARTICLE I

SHORT TITLE

This local law shall be known and may be cited as the “Set-Back Law for Hamlets in the Town of Windham”.

ARTICLE II

DEFINITIONS

For the purpose of this Local Law certain terms or words used herein shall be interpreted or defined as follows:

Words used in the present tense include the future tense, the singular number includes the plural, the plural the singular; “building” includes “structure” unless the context indicates otherwise; “to erect”, “to construct” and “to build” a building each has the same meaning and includes to “to excavate” for a building and “to relocate” a building by moving it from one location to another.

ARTICLE III

GENERAL PROVISIONS

No new building or addition to an existing building within the hamlets of Windham, Hensonsville and Maplecrest, Town of Windham, NewYork, or hereinafter defined, shall be built closer to the center of the roadway, as determined by appropriate town, County of State Highway authority, than the distance as calculated under one of the three following rules, applying the rules which produces the greatest amount of distance:

1. No new building or addition to an existing building shall be built closer to the center of the roadway than at a distance of 33 feet.

2. No new building shall be built closer to the center of the roadway than the more further set back of the existing building next adjacent to said new building.

3. No additions shall be made to existing buildings which additions diminish the existing set back of the building.

“Building” as used in this Article shall include stoops, steps and landscaped earth which has been raised more than 6 inches above original ground level, when the word
“building” is used in reference to the subject building. However, “building” as used in this Article shall refer to the exterior surface of the wall of a building when used in reference to an adjacent building.

The provisions of this local law shall not prohibit the rebuilding of a structure destroyed by fire or natural disaster, at a set back distance equal to, or greater than, the set back distance of the structure being replaced.

“Hamlet” boundaries are as follows:

WINDHAM HAMLET:

The length of State Route 23 bounded on the East by the intersection of State Route 23 and County Route #21 a/k/a Mitchell Hollow Road; and on the west by the intersection of State Route 23 and Town Road #103 a/k/a Hickory Hill Road.

The entire length of County Road #79 a/k/a Church Street.

The entire length of Town Road #11 a/k/a Library Road.

Beginning at a point marked by the intersection of State Route 23 and Town Road #3 a/k/a Mill Road; thence continuing along Town Road #3 a/k/a Mill Road to a point marked by the foot of Factory Hill.

Beginning at a point marked by the intersection of State Route 23 and County Route #21 a/k/a Mitchell Hollow Road; thence continuing in a northerly direction along Country Route #21 a/k/a Mitchell Hollow Road to a point marked by the intersection of County Route #21 a/k/a Mitchell Hollow Road and Town Road #113 a/k/a Maplewood Avenue.

HENSONVILLE HAMLET:

Beginning at a point marked by the intersection of State Route 296 and County Route #40; thence continuing in a southerly direction along State Route 296 to a point marked by the southerly terminus of County Route #65.

Beginning at a point marked by the southern terminus of County Route #65; thence continuing along County Route #65; thence continuing along County Route #65 in a northerly direction to a point marked by the intersection of County Route #65 with County Route #65A.

Beginning at a point marked by the intersection of State Route 296 and County Route #40; thence continuing along State Route 296 in a westerly direction 700 feet.

MAPLECREST HAMLET:

Beginning at a point marked by the intersection of County Route #40 and County Route #56; thence continuing in a northerly direction along County Route #56 to the point
marked by the intersection of said County Route #56 and Town Road #111 a/k/a Slater Road.

Beginning at a point marked by the intersection of County Route #40 and County Route #56; thence continuing in a southerly direction along County Route #40 525 feet.

Beginning at a point marked by the intersection of County Route #40 and County Route #56; thence continuing in a westerly direction along County Route #40 125 feet.

ARTICLE IV
ADMINISTRATION

Section 1. Interpretation and Application:

In interpretation and application, the provisions of this local law shall be held to be minimum requirement adopted for the promotion of the public health, safety, morals, general welfare and other purposes enumerated in the enactment clause of this local law. It is not intended by this local law to repeal, abrogate, annul, or in any way to impair or interfere with any easements, covenants, or other agreements between parties, or any existing provisions of law, provided, however, that where the provisions of this local law require a greater set-back than is required in any such statute or local ordinance or regulation, or easement, covenant, or agreement, the provisions of this local law shall govern, but whenever the provisions of any other statute or local ordinance or regulation require a greater set-back than is required by the provisions of this local law, then the provisions of such other statute or local ordinance or regulation shall govern.

Section 2. Enforcement:

A. Code Enforcement Officer

This local law shall be enforced by a Code Enforcement Officer to be appointed by the Town Board. It shall be his duty to:

1. Issue building permits and certificates of occupancy where compliance is made with the provisions of this local law, and refuse to issue the same in the event of non-compliance, giving prompt written notice of such refusal and the reason therefore to the owner and occupant of the premises.

2. Keep the Board of Appeals advised of all matters other than routine duties, pertaining to the enforcement of this local law, and keep all records necessary and appropriate to his office and to file them in the office of the Town Clerk, including records of all permits and certificates of occupancy issued or withheld; and

3. Submit a report each month to the Town Board enumerating the applications received, inspections made and stating action taken.
B. Building Permits:

1. No new building shall be erected, or relocated until a permit heretofore had been issued, and no additions to or alterations of a building shall be undertaken until a permit therefore has been issued.

2. There shall be submitted with each application for a building permit, duplicate written copies of all the information, building plans and plot plans necessary to enable the Code Enforcement Officer to determine whether the proposed building or addition complies with the provisions of this Local Law.

3. One copy of such submitted information or plans shall be returned to the applicant when approved by the Code Enforcement Officer, or by the Board of Appeals, when its approval is necessary, together with such permit.

C. Certificate of Occupancy:

1. Where a building permit therefore is required, no building hereafter erected or relocated, and no addition to or structural alteration of any building shall be used or occupied for any purpose until a certificate of occupancy shall have been issued stating that the building or addition to the building complies with the provisions of this local law.

2. A certificate of occupancy shall be issued within ten (10) days after any building erected, added to, altered or relocated, shall have been approved as complying with the provisions of this ordinance. A new certificate of occupancy voids any certificate of prior date for the same premises.

3. Under such rules and regulations as may be established by the Board of Appeals and filed with the Town Clerks a temporary certificate of occupancy for not more than thirty (30) days for part of any building or land may be issued by the Code Enforcement Officer.

Section 3. Board of Appeals:

A. Organization:

Pursuant to the provision of the Town Law applicable thereto there is hereby established a Board of Appeals of five (5) members to be appointed by the Town Board.

B. Procedure:

The Board of Appeals, consistent with the provisions of the Town Law applicable thereto, shall determine its own rules of conduct and procedures.
C. Powers:

1. Review. The Board of Appeals shall hear and decide appeals from and review any order, requirement, decision or determination made by the Code Enforcement Officer.

2. Variances on Appeal. Where there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of this local law, the Board of Appeals shall have the power in passing upon appeals, to vary or modify the application of any of the regulations or provisions of this local law relating to the construction, or alteration of buildings or structure, so that the spirit of the local law shall be observed, public safety and welfare secured and substantial justice done, particularly in those cases involving parcels vacant as a result of fires or demolition.

3. Special Permits and Variances. When, in the judgement of the Board of Appeals, the public convenience and welfare will be substantially served and the appropriate use of neighboring property will not be injured thereby, the Board of Appeals, may in appropriate and specific cases, after public notices and hearing, and subject to appropriate conditions and safeguards, determine and vary the application of the regulations of this local law in harmony with their general purposes and intent, as follows:

A. Grant a permit whenever it is provided in this local law that approval of the Board of Appeals is required, or refuse to grant the same where such action is justified, giving prompt written notice of such refusal and the reason therefore to the owner and occupant of the property concerned.

Section 4. Violation and Penalties:

The owner or general agent of a building or premises where a violation of any provision of this local law has been committed or shall exist, or the owner, general agent, lessee or tenant of any part of the building or premises in which such violation has been committed or shall exist, or the general agent, architect, builder, contractor or any other person who commits, takes part or assists in any such violation or who maintains any building or premises or any part thereof in which any violation shall exists, shall be guilty of a misdemeanor, punishable by a fine not exceeding fifty ($50.00) dollars or imprisonment for a period not to exceed six (6) months, or both.

Each day’s continued violation after notice thereof shall have been given as herein provided shall constitute a separate violation. Such notice shall be in writing, signed by the Code Enforcement Officer, and shall be served upon the person or persons committing such violations either personally or registered mail addressed to such person or persons at his or their last known address.

In addition, the Town Authorities shall have such other remedies as are provided by law to restrain, correct or abate any violation of this local law.
ARTICLE V

AMENDMENTS

The Town board may, from time to time, its own motion or on petition or on recommendation of the Board of Appeals, after public notice and hearing, amend, supplement, change, modify or repel this ordinance pursuant to provisions of the Town Law applicable there to. Every such proposed amendment shall be referred to the Board of Appeals for report prior to public hearing thereon.

ARTICLE VI

VALIDITY

The invalidity of any provision of this local law shall not invalidate any other part thereto.

ARTICLE VII

EFFECTIVE DATE

This local law shall take effect upon its filing in the office of the Secretary of State of the State of New York.