

2017

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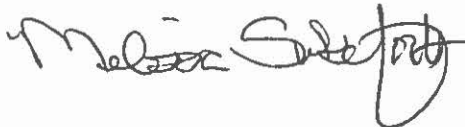
**FLOODPLAIN MANAGEMENT  
ORDINANCE  
FOR THE  
TOWN OF WARREN, MAINE**

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ENACTED: June 21, 2016

EFFECTIVE: June 22, 2016

CERTIFIED BY:



CERTIFIED BY:

Melissa A. Sukeforth  
Town Clerk





# **FLOODPLAIN MANAGEMENT ORDINANCE**

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## **ARTICLE I - PURPOSE AND ESTABLISHMENT**

Certain areas of the Town of Warren, Maine are subject to periodic flooding, causing serious damages to properties within these areas. Relief is available in the form of flood insurance as authorized by the National Flood Insurance Act of 1968.

Therefore, the Town of Warren, Maine has chosen to become a participating community in the National Flood Insurance Program, and agrees to comply with the requirements of the National Flood Insurance Act of 1968 (P.L. 90-488, as amended) as delineated in this Floodplain Management Ordinance.

It is the intent of the Town of Warren, Maine to require the recognition and evaluation of flood hazards in all official actions relating to land use in the floodplain areas having special flood hazards.

The Town of Warren has the legal authority to adopt land use and control measures to reduce future flood losses pursuant to Title 30-A MRSA, Sections 3001-3007, 4352, 4401-4407, and Title 38 MRSA, Section 440.

The National Flood Insurance Program, established in the aforesaid Act, provides that areas of the Town of Warren having a special flood hazard be identified by the Federal Emergency Management Agency and that floodplain management measures be applied in such flood hazard areas. This Ordinance establishes a Flood Hazard Development Permit system and review procedure for development activities in the designated flood hazard areas of the Town of Warren, Maine.

The areas of special flood hazard, Zones A and AE, for the Town of Warren, Knox County, Maine, identified by the Federal Emergency Management Agency in a report entitled "Flood Insurance Study – Knox County, Maine," dated July 6, 2016 with accompanying "Flood Insurance Rate Map" dated July 6, 2016 with panels: 140D, 142D, 144D, 145D, 155D, 160D, 161D, 162D, 163D, 164D, 170D, 310D, 320D, 326D, 327D, 328D, 329D, 335D, and 336D, derived from the county wide digital Flood Insurance Rate Map entitled "Digital Flood Insurance Rate Map, Knox County, Maine," are hereby adopted by reference and declared to be a part of this Ordinance.

## **ARTICLE II - PERMIT REQUIRED**

Before any construction or other development (as defined in Article XIII), including the placement of manufactured homes, begins within any areas of special flood hazard established in Article I, a Flood Hazard Development Permit shall be obtained from the Code Enforcement Officer. This permit shall be in addition to any other permits which may be required pursuant to the codes and ordinances of the Town of Warren, Maine.

## **ARTICLE III - APPLICATION FOR PERMIT**

The application for a Flood Hazard Development Permit shall be submitted to the Code Enforcement Officer and shall include:

- A. The name, address and phone number of the applicant, owner, and contractor;
- B. An address and a map indicating the location of the construction site;
- C. A site plan showing location of existing and/or proposed development, including but not limited to structures, sewage disposal facilities, water supply facilities, areas to be cut and filled, and lot dimensions;
- D. A statement of the intended use of the structure and/or development;
- E. A statement of the cost of the development including all materials and labor;
- F. A statement as to the type of sewage system proposed;
- G. Specification of dimensions of the proposed structure and/or development;

[Items H-K.2 apply only to new construction and substantial improvements.]

- H. The elevation in relation to the National Geodetic Vertical Datum (NGVD), North American Vertical Datum (NAVD) or to a locally established datum in Zone A only, of the:
  - 1. base flood at the proposed site of all new or substantially improved structures, which is determined:
    - a. in Zone AE, from data contained in the "Flood Insurance Study - Knox County, Maine," as described in Article I; or,
    - b. in Zone A:
      - (1) from any base flood elevation data from federal, state, or other technical sources (such as FEMA's Quick-2 model), including information obtained pursuant to Article VI.K. and VIII.D.;
      - (2) from the contour elevation extrapolated from a best fit analysis of the floodplain boundary when overlaid onto a USGS Quadrangle Map or other topographic map prepared by a Professional Land Surveyor or registered professional engineer, if the floodplain boundary has a significant correlation to the elevation contour line(s); or, in the absence of all other data,
      - (3) to be the elevation of the ground at the intersection of the floodplain boundary and a line perpendicular to the shoreline which passes along the ground through the site of the proposed building.
  - 2. highest and lowest grades at the site adjacent to the walls of the proposed building;

3. lowest floor, including basement; and whether or not such structures contain a basement; and,
  4. level, in the case of non-residential structures only, to which the structure will be floodproofed;
- I. A description of an elevation reference point established on the site of all developments for which elevation standards apply as required in Article VI;
  - J. A written certification by a Professional Land Surveyor, registered professional engineer or architect, that the base flood elevation and grade elevations shown on the application are accurate;
  - K. The following certifications as required in Article VI by a registered professional engineer or architect:
    1. a Floodproofing Certificate (FEMA Form 81-65, as amended), to verify that the floodproofing methods for any non-residential structures will meet the floodproofing criteria of Article III.H.4.; Article VI.G.; and other applicable standards in Article VI;
    2. a Hydraulic Openings Certificate to verify that engineered hydraulic openings in foundation walls will meet the standards of Article VI.L.2.a.;
    3. a certified statement that bridges will meet the standards of Article VI.M.;
    4. a certified statement that containment walls will meet the standards of Article VI.N.;
  - L. A description of the extent to which any water course will be altered or relocated as a result of the proposed development; and,
  - M. A statement of construction plans describing in detail how each applicable development standard in Article VI will be met.

#### **ARTICLE IV - APPLICATION FEE AND EXPERT'S FEE**

Applications shall be submitted to the Town Clerk accompanied by the prescribed application fee. The application fee shall be determined by the Board of Selectmen upon recommendation of the Planning of Board. The fee shall be designed to approximate the costs incurred by the Town for administering the ordinance. Upon receipt of an application and the required fee, the Town Clerk will stamp the application with the date of receipt and forward the application to the Code Enforcement Officer.

An additional fee may be charged if the Code Enforcement Officer and/or Board of Appeals needs the assistance of a professional engineer or other expert. The expert's fee shall be paid in full by the applicant within 10 days after the town submits a bill to the

applicant. Failure to pay the bill shall constitute a violation of the ordinance and be grounds for the issuance of a stop work order. An expert shall not be hired by the municipality at the expense of an applicant until the applicant has either consented to such hiring in writing or been given an opportunity to be heard on the subject. An applicant who is dissatisfied with a decision to hire expert assistance may appeal that decision to the Board of Appeals.

## **ARTICLE V - REVIEW STANDARDS FOR FLOOD HAZARD DEVELOPMENT PERMIT APPLICATIONS**

The Code Enforcement Officer shall:

- A. Review all applications for the Flood Hazard Development Permit to assure that proposed developments are reasonably safe from flooding and to determine that all pertinent requirements of Article VI (Development Standards) have been, or will be met;
- B. Utilize, in the review of all Flood Hazard Development Permit applications:
  - 1. the base flood and floodway data contained in the "Flood Insurance Study - Knox County, Maine," as described in Article I;
  - 2. in special flood hazard areas where base flood elevation and floodway data are not provided, the Code Enforcement Officer shall obtain, review and reasonably utilize any base flood elevation and floodway data from federal, state, or other technical sources, including information obtained pursuant to Article III.H.1.b.; Article VI.K.; and Article VIII.D., in order to administer Article VI of this Ordinance; and,
  - 3. when the community establishes a base flood elevation in a Zone A by methods outlined in Article III.H.1.b., the community shall submit that data to the Maine Floodplain Management Program.
- C. Make interpretations of the location of boundaries of special flood hazard areas shown on the maps described in Article I of this Ordinance;
- D. In the review of Flood Hazard Development Permit applications, determine that all necessary permits have been obtained from those federal, state, and local government agencies from which prior approval is required by federal or state law, including but not limited to Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1344;
- E. Notify adjacent municipalities, the Department of Environmental Protection, and the Maine Floodplain Management Program prior to any alteration or relocation of a water course and submit copies of such notifications to the Federal Emergency Management Agency;

- F. If the application satisfies the requirements of this Ordinance, approve the issuance of one of the following Flood Hazard Development Permits based on the type of development:
1. A two part Flood Hazard Development Permit for elevated structures. Part I shall authorize the applicant to build a structure to and including the first horizontal floor only above the base flood level. At that time the applicant shall provide the Code Enforcement Officer with an Elevation Certificate completed by a Professional Land Surveyor, registered professional engineer or architect based on the Part I permit construction, "as built", for verifying compliance with the elevation requirements of Article VI, paragraphs F, G, or H. Following review of the Elevation Certificate data, which shall take place within 72 hours of receipt of the application, the Code Enforcement Officer shall issue Part II of the Flood Hazard Development Permit. Part II shall authorize the applicant to complete the construction project; or,
  2. A Flood Hazard Development Permit for Floodproofing of Non-Residential Structures that are new construction or substantially improved non-residential structures that are not being elevated but that meet the floodproofing standards of Article VI.G.1.a., b., and c. The application for this permit shall include a Floodproofing Certificate signed by a registered professional engineer or architect; or,
  3. A Flood Hazard Development Permit for Minor Development for all development that is not new construction or a substantial improvement, such as repairs, maintenance, renovations, or additions, whose value is less than 50% of the market value of the structure. Minor development also includes, but is not limited to: accessory structures as provided for in Article VI.J., mining, dredging, filling, grading, paving, excavation, drilling operations, storage of equipment or materials, deposition or extraction of materials, public or private sewage disposal systems or water supply facilities that do not involve structures; and non-structural projects such as bridges, dams, towers, fencing, pipelines, wharves and piers.
- G. Maintain, as a permanent record, copies of all Flood Hazard Development Permit Applications, corresponding Permits issued, and data relevant thereto, including reports of the Board of Appeals on variances granted under the provisions of Article IX of this Ordinance, and copies of Elevation Certificates, Floodproofing Certificates, Certificates of Compliance and certifications of design standards required under the provisions of Articles III, VI, and VII of this Ordinance.

## **ARTICLE VI - DEVELOPMENT STANDARDS**

All developments in areas of special flood hazard shall meet the following applicable standards:

- A. **All Development** - All development shall:

1. be designed or modified and adequately anchored to prevent flotation (excluding piers and docks), collapse or lateral movement of the development resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
  2. use construction materials that are resistant to flood damage;
  3. use construction methods and practices that will minimize flood damage; and,
  4. use electrical, heating, ventilation, plumbing, and air conditioning equipment, and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during flooding conditions.
- B. **Water Supply** - All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the systems.
- C. **Sanitary Sewage Systems** - All new and replacement sanitary sewage systems shall be designed and located to minimize or eliminate infiltration of flood waters into the system and discharges from the system into flood waters.
- D. **On Site Waste Disposal Systems** - On site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during floods.
- E. **Watercourse Carrying Capacity** - All development associated with altered or relocated portions of a watercourse shall be constructed and maintained in such a manner that no reduction occurs in the flood carrying capacity of the watercourse.
- F. **Residential** - New construction or substantial improvement of any residential structure located within:
1. Zone AE shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation.
  4. Zone A shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation utilizing information obtained pursuant to Article III.H.1.b.; Article V.B; or Article VIII.D.
- G. **Non Residential** - New construction or substantial improvement of any non-residential structure located within:
1. Zone AE shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation, or together with attendant utility and sanitary facilities shall:



- a. be floodproofed to at least one foot above the base flood elevation so that below that elevation the structure is watertight with walls substantially impermeable to the passage of water;
  - b. have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and,
  - c. be certified by a registered professional engineer or architect that the floodproofing design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this section. Such certification shall be provided with the application for a Flood Hazard Development Permit, as required by Article III.K. and shall include a record of the elevation above mean sea level to which the structure is floodproofed.
2. Zone A shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation utilizing information obtained pursuant to Article III.H.1.b.; Article V.B; or Article VIII.D., or
- a. together with attendant utility and sanitary facilities meet the floodproofing standards of Article VI.G.1.

**H. Manufactured Homes** - New or substantially improved manufactured homes located within:

1. Zone AE shall:
- a. be elevated such that the lowest floor (including basement) of the manufactured home is at least one foot above the base flood elevation;
  - b. be on a permanent foundation, which may be poured masonry slab or foundation walls, with hydraulic openings, or may be reinforced piers or block supports, any of which support the manufactured home so that no weight is supported by its wheels and axles; and,
  - c. be securely anchored to an adequately anchored foundation system to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to:
    - (1) over-the-top ties anchored to the ground at the four corners of the manufactured home, plus two additional ties per side at intermediate points (manufactured homes less than 50 feet long require one additional tie per side); or by,
    - (2) frame ties at each corner of the home, plus five additional ties along each side at intermediate points (manufactured homes less than 50 feet long require four additional ties per side).



- (3) all components of the anchoring system described in Article VI.H.1.c.(1) & (2) shall be capable of carrying a force of 4800 pounds.

2. Zone A shall:

- a. be elevated on a permanent foundation, as described in Article VI.H.1.b., such that the lowest floor (including basement) of the manufactured home is at least one foot above the base flood elevation utilizing information obtained pursuant to Article III.H.1.b.; Article V.B; or Article VIII.D.; and
- b. meet the anchoring requirements of Article VI.H.1.c.

I. **Recreational Vehicles** - Recreational Vehicles located within:

1. Zones A and AE shall either:

- a. be on the site for fewer than 180 consecutive days,
- b. be fully licensed and ready for highway use. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; or,
- c. be permitted in accordance with the elevation and anchoring requirements for "manufactured homes" in Article VI.H.1.

J. **Accessory Structures** - Accessory Structures, as defined in Article XIII, located within Zones A and AE, shall be exempt from the elevation criteria required in Article VI.F. & G. above, if all other requirements of Article VI and all the following requirements are met. Accessory Structures shall:

1. have unfinished interiors and not be used for human habitation;
2. have hydraulic openings, as specified in Article VI.L.2., in at least two different walls of the accessory structure;
3. be located outside the floodway;
4. when possible be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters and be placed further from the source of flooding than is the primary structure; and,
5. have only ground fault interrupt electrical outlets. The electric service disconnect shall be located above the base flood elevation and when possible outside the Special Flood Hazard Area.

K. **Floodways** -

1. In Zone AE riverine areas, encroachments, including fill, new construction, substantial improvement, and other development shall not be permitted within a regulatory floodway which is designated on the community's Flood Insurance Rate Map, unless a technical evaluation certified by a registered professional engineer is provided demonstrating that such encroachments will not result in any increase in flood levels within the community during the occurrence of the base flood discharge.
  2. In Zones A and AE, riverine areas for which no regulatory floodway is designated, encroachments, including fill, new construction, substantial improvement, and other development shall not be permitted in the floodway as determined in Article VI.K.3. unless a technical evaluation certified by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing development and anticipated development:
    - a. will not increase the water surface elevation of the base flood more than one foot at any point within the community; and,
    - b. is consistent with the technical criteria contained in FEMA's guidelines and standards for flood risk analysis and mapping.
  3. In Zones A and AE riverine areas, for which no regulatory floodway is designated, the regulatory floodway is determined to be the channel of the river or other water course and the adjacent land areas to a distance of one-half the width of the floodplain as measured from the normal high water mark to the upland limit of the floodplain.
- L. Enclosed Areas Below the Lowest Floor** - New construction or substantial improvement of any structure in Zones A and AE that meets the development standards of Article VI, including the elevation requirements of Article VI, paragraphs F, G, or H and is elevated on posts, columns, piers, piles, "stilts," or crawlspace may be enclosed below the base flood elevation requirements provided all the following criteria are met or exceeded:
1. Enclosed areas are not "basements" as defined in Article XIII;
  2. Enclosed areas shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of flood water. Designs for meeting this requirement must either:
    - a. be engineered and certified by a registered professional engineer or architect; or,
    - b. meet or exceed the following minimum criteria:

- (1) a minimum of two openings having a total net area of not less than one square inch for every square foot of the enclosed area;
  - (2) the bottom of all openings shall be below the base flood elevation and no higher than one foot above the lowest grade; and,
  - (3) openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the entry and exit of flood waters automatically without any external influence or control such as human intervention, including the use of electrical and other non-automatic mechanical means;
3. The enclosed area shall not be used for human habitation; and,
4. The enclosed areas are usable solely for building access, parking of vehicles, or storage.
- M. **Bridges** - New construction or substantial improvement of any bridge in Zones A and AE shall be designed such that:
  1. when possible, the lowest horizontal member (excluding the pilings, or columns) is elevated to at least one foot above the base flood elevation; and
  2. a registered professional engineer shall certify that:
    - a. the structural design and methods of construction shall meet the elevation requirements of this section and the floodway standards of Article VI.K.; and
    - b. the foundation and superstructure attached thereto are designed to resist flotation, collapse and lateral movement due to the effects of wind and water loads acting simultaneously on all structural components. Water loading values used shall be those associated with the base flood.
- N. **Containment Walls** - New construction or substantial improvement of any containment wall located within:
  1. Zones A and AE shall:
    - a. have the containment wall elevated to at least one foot above the base flood elevation;
    - b. have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and,
    - c. be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of

practice for meeting the provisions of this section. Such certification shall be provided with the application for a Flood Hazard Development Permit, as required by Article III.K.

- O. **Wharves, Piers and Docks** - New construction or substantial improvement of wharves, piers, and docks are permitted in Zones A and AE in and over water if the following requirements are met:
1. wharves, piers, and docks shall comply with all applicable local, state, and federal regulations; and
  2. for commercial wharves, piers, and docks, a registered professional engineer shall develop or review the structural design, specifications, and plans for the construction.

## **ARTICLE VII - CERTIFICATE OF COMPLIANCE**

No land in a special flood hazard area shall be occupied or used and no structure which is constructed or substantially improved shall be occupied until a Certificate of Compliance is issued by the Code Enforcement Officer subject to the following provisions:

- A. For New Construction or Substantial Improvement of any elevated structure the applicant shall submit to the Code Enforcement Officer an Elevation Certificate completed by a Professional Land Surveyor, registered professional engineer, or architect, for compliance with Article VI, paragraphs F, G, or H.
- B. The applicant shall submit written notification to the Code Enforcement Officer that the development is complete and complies with the provisions of this ordinance.
- C. Within 10 working days, the Code Enforcement Officer shall:
  1. review the Elevation Certificate and the applicant's written notification; and,
  2. upon determination that the development conforms with the provisions of this ordinance, shall issue a Certificate of Compliance.

## **ARTICLE VIII - REVIEW OF SUBDIVISION AND DEVELOPMENT PROPOSALS**

The Planning Board shall, when reviewing subdivisions and other proposed developments that require review under other federal law, state law or local ordinances or regulations and all projects on 5 or more disturbed acres, or in the case of manufactured home parks divided into two or more lots, assure that:

- A. All such proposals are consistent with the need to minimize flood damage.
- B. All public utilities and facilities, such as sewer, gas, electrical and water systems are located and constructed to minimize or eliminate flood damages.

- C. Adequate drainage is provided so as to reduce exposure to flood hazards.
- D. All proposals include base flood elevations, flood boundaries, and, in a riverine floodplain, floodway data. These determinations shall be based on engineering practices recognized by the Federal Emergency Management Agency.
- E. Any proposed development plan must include a condition of plan approval requiring that structures on any lot in the development having any portion of its land within a Special Flood Hazard Area are to be constructed in accordance with Article VI of this ordinance. Such requirement will be included in any deed, lease, purchase and sale agreement, or document transferring or expressing an intent to transfer any interest in real estate or structure, including but not limited to a time-share interest. The condition shall clearly articulate that the municipality may enforce any violation of the construction requirement and that fact shall also be included in the deed or any other document previously described. The construction requirement shall also be clearly stated on any map, plat, or plan to be signed by the Planning Board or local reviewing authority as part of the approval process.

## **ARTICLE IX - APPEALS AND VARIANCES**

The Board of Appeals of the Town of Warren may, upon written application of an aggrieved party, hear and decide appeals where it is alleged that there is an error in any order, requirement, decision, or determination made by, or failure to act by, the Code Enforcement Officer or Planning Board in the administration or enforcement of the provisions of this Ordinance.

The Board of Appeals may grant a variance from the requirements of this Ordinance consistent with state law and the following criteria:

- A. Variances shall not be granted within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result.
- B. Variances shall be granted only upon:
  - 1. a showing of good and sufficient cause; and,
  - 2. a determination that should a flood comparable to the base flood occur, the granting of a variance will not result in increased flood heights, additional threats to public safety, public expense, or create nuisances, cause fraud or victimization of the public or conflict with existing local laws or ordinances; and,
  - 3. a showing that the issuance of the variance will not conflict with other state, federal or local laws or ordinances; and,
  - 4. a determination that failure to grant the variance would result in "undue hardship," which in this sub-section means:

- a. that the land in question cannot yield a reasonable return unless a variance is granted; and,
  - b. that the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood; and,
  - c. that the granting of a variance will not alter the essential character of the locality; and,
  - d. that the hardship is not the result of action taken by the applicant or a prior owner.
- C. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief, and the Board of Appeals may impose such conditions to a variance as it deems necessary.
- D. Variances may be issued for new construction, substantial improvements, or other development for the conduct of a functionally dependent use provided that:
  - 1. other criteria of Article IX and Article VI.K. are met; and,
  - 2. the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.
- E. Variances may be issued for the repair, reconstruction, rehabilitation, or restoration of Historic Structures upon the determination that:
  - 1. the development meets the criteria of Article IX, paragraphs A. through D. above; and,
  - 2. the proposed repair, reconstruction, rehabilitation, or restoration will not preclude the structure's continued designation as a Historic Structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
- F. Any applicant who meets the criteria of Article IX, paragraphs A. through E. shall be notified by the Board of Appeals in writing over the signature of the Chairman of the Board of Appeals that:
  - 1. the issuance of a variance to construct a structure below the base flood level will result in greatly increased premium rates for flood insurance up to amounts as high as \$25 per \$100 of insurance coverage;
  - 2. such construction below the base flood level increases risks to life and property; and,

3. the applicant agrees in writing that the applicant is fully aware of all the risks inherent in the use of land subject to flooding, assumes those risks and agrees to indemnify and defend the municipality against any claims filed against it that are related to the applicant's decision to use land located in a floodplain and that the applicant individually releases the municipality from any claims the applicant may have against the municipality that are related to the use of land located in a floodplain.

**G. Appeal Procedure for Administrative and Variance Appeals**

1. An administrative or variance appeal may be taken to the Board of Appeals by an aggrieved party within thirty days after receipt of a written decision of the Code Enforcement Officer or Planning Board.
2. Upon being notified of an appeal, the Code Enforcement Officer or Planning Board, as appropriate, shall transmit to the Board of Appeals all of the papers constituting the record of the decision appealed from.
3. The Board of Appeals shall hold a public hearing on the appeal within thirty-five days of its receipt of an appeal request.
4. The person filing the appeal shall have the burden of proof.
5. The Board of Appeals shall decide all appeals within thirty-five days after the close of the hearing, and shall issue a written decision on all appeals.
6. The Board of Appeals shall submit to the Code Enforcement Officer a report of all variance actions, including justification for the granting of the variance and an authorization for the Code Enforcement Officer to issue a Flood Hazard Development Permit, which includes any conditions to be attached to said permit.
7. Any aggrieved party who participated as a party during the proceedings before the Board of Appeals may take an appeal to Superior Court in accordance with State laws within forty-five days from the date of any decision of the Board of Appeals.

**ARTICLE X - ENFORCEMENT AND PENALTIES**

- A. It shall be the duty of the Code Enforcement Officer to enforce the provisions of this Ordinance pursuant to Title 30-A MRSA § 4452.
- B. The penalties contained in Title 30-A MRSA § 4452 shall apply to any violation of this Ordinance.
- C. In addition to any other actions, the Code Enforcement Officer, upon determination that a violation exists, may submit a declaration to the Administrator of the Federal



Insurance Administration requesting a denial of flood insurance. The valid declaration shall consist of;

1. the name of the property owner and address or legal description of the property sufficient to confirm its identity or location;
2. a clear and unequivocal declaration that the property is in violation of a cited State or local law, regulation, or ordinance;
3. a clear statement that the public body making the declaration has authority to do so and a citation to that authority;
4. evidence that the property owner has been provided notice of the violation and the prospective denial of insurance; and,
5. a clear statement that the declaration is being submitted pursuant to Section 1316 of the National Flood Insurance Act of 1968, as amended.

#### **ARTICLE XI - VALIDITY AND SEVERABILITY**

If any section or provision of this Ordinance is declared by the courts to be invalid, such decision shall not invalidate any other section or provision of this Ordinance.

#### **ARTICLE XII - CONFLICT WITH OTHER ORDINANCES**

This Ordinance shall not in any way impair or remove the necessity of compliance with any other applicable rule, ordinance, regulation, bylaw, permit, or provision of law. Where this Ordinance imposes a greater restriction upon the use of land, buildings, or structures, the provisions of this Ordinance shall control.

#### **ARTICLE XIII - DEFINITIONS**

Unless specifically defined below, words and phrases used in this Ordinance shall have the same meaning as they have at common law and to give this Ordinance its most reasonable application. Words used in the present tense include the future, the singular number includes the plural, and the plural number includes the singular. The word "may" is permissive; "shall" is mandatory and not discretionary.

**Accessory Structure** - means a small detached structure that is incidental and subordinate to the principal structure.

**Adjacent Grade** - means the natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

**Area of Special Flood Hazard** - means the land in the floodplain having a one percent or greater chance of flooding in any given year, as specifically identified in the Flood Insurance Study cited in Article I of this Ordinance.



**Base Flood** - means the flood having a one percent chance of being equaled or exceeded in any given year, commonly called the 100-year flood.

**Basement** - means any area of the building having its floor subgrade (below ground level) on all sides.

**Building** - see **Structure**.

**Certificate of Compliance** - A document signed by the Code Enforcement Officer stating that a structure is in compliance with all of the provisions of this Ordinance.

**Code Enforcement Officer** - A person certified under Title 30-A MRSA, Section 4451 (including exceptions in subsection 4451, paragraph 1) and employed by a municipality to enforce all applicable comprehensive planning and land use laws and ordinances.

**Development** - means any man made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation, drilling operations or storage of equipment or materials.

**Digital Flood Insurance Rate Map (FIRM)** – see **Flood Insurance Rate Map**

**Elevated Building** - means a non-basement building

- a. built, in the case of a building in Zones A or AE, to have the top of the elevated floor elevated above the ground level by means of pilings, columns, post, piers, or "stilts;" and
- b. adequately anchored so as not to impair the structural integrity of the building during a flood of up to one foot above the magnitude of the base flood.

In the case of Zones A or AE, **Elevated Building** also includes a building elevated by means of fill or solid foundation perimeter walls with hydraulic openings sufficient to facilitate the unimpeded movement of flood waters, as required in Article VI.L..

**Elevation Certificate** - An official form (FEMA Form 81-31, as amended) that:

- a. is used to verify compliance with the floodplain management regulations of the National Flood Insurance Program; and,
- b. is required for purchasing flood insurance.

**Flood or Flooding** - means:

- a. A general and temporary condition of partial or complete inundation of normally dry land areas from:
  1. The overflow of inland or tidal waters.

2. The unusual and rapid accumulation or runoff of surface waters from any source.
- b. The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in paragraph a.1. of this definition.

**Flood Elevation Study** - means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations.

**Flood Insurance Rate Map (FIRM)** - means an official map of a community, on which the Federal Insurance Administrator has delineated both the special hazard areas and the risk premium zones applicable to the community.

**Flood Insurance Study** - see **Flood Elevation Study**.

**Floodplain or Flood-prone Area** - means any land area susceptible to being inundated by water from any source (see flooding).

**Floodplain Management** - means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works, and floodplain management regulations.

**Floodplain Management Regulations** - means zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance, and erosion control ordinance) and other applications of police power. The term describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

**Floodproofing** - means any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and contents.

**Floodway** - see **Regulatory Floodway**.

**Floodway Encroachment Lines** - mean the lines marking the limits of floodways on federal, state, and local floodplain maps.

**Freeboard** - means a factor of safety usually expressed in feet above a flood level for purposes of floodplain management. Freeboard tends to compensate for the many unknown factors, such as wave action, bridge openings, and the hydrological effect of urbanization of the watershed that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions.

**Functionally Dependent Use** - means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

**Historic Structure** - means any structure that is:

- a. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- b. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary of the Interior to qualify as a registered historic district;
- c. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- d. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
  1. By an approved state program as determined by the Secretary of the Interior, or
  2. Directly by the Secretary of the Interior in states without approved programs.

**Locally Established Datum** - means, for purposes of this ordinance, an elevation established for a specific site to which all other elevations at the site are referenced. This elevation is generally not referenced to the National Geodetic Vertical Datum (NGVD), North American Vertical Datum (NAVD) or any other established datum and is used in areas where Mean Sea Level data is too far from a specific site to be practically used.

**Lowest Floor** - means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements described in Article VI.L. of this ordinance.

**Manufactured Home** - means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes the term manufactured home also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days.

**Manufactured Home Park or Subdivision** - means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

**Mean Sea Level** - means, for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929, North American Vertical Datum (NAVD) or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

**Minor Development** - means all development that is not new construction or a substantial improvement, such as repairs, maintenance, renovations, or additions, whose value is less than 50% of the market value of the structure. It also includes, but is not limited to: accessory structures as provided for in Article VI.J., mining, dredging, filling, grading, paving, excavation, drilling operations, storage of equipment or materials, deposition or extraction of materials, public or private sewage disposal systems or water supply facilities that do not involve structures; and non-structural projects such as bridges, dams, towers, fencing, pipelines, wharves, and piers.

**National Geodetic Vertical Datum (NGVD)** - means the national vertical datum, whose standard was established in 1929, which is used by the National Flood Insurance Program (NFIP). NGVD was based upon mean sea level in 1929 and also has been called "1929 Mean Sea Level (MSL)".

**New Construction** - means structures for which the "start of construction" commenced on or after the effective date of the initial floodplain management regulations adopted by a community and includes any subsequent improvements to such structures.

**North American Vertical Datum (NAVD)**- means the national datum whose standard was established in 1988, which is the new vertical datum used by the National Flood Insurance Program (NFIP) for all new Flood Insurance Rate Maps. NAVD is based upon vertical datum used by other North American countries such as Canada and Mexico and was established to replace NGVD because of constant movement of the earth's crust, glacial rebound, and subsidence and the increasing use of satellite technology.

**100-year flood** - see **Base Flood**.

**Recreational Vehicle** - means a vehicle which is:

- a. built on a single chassis;
- b. 400 square feet or less when measured at the largest horizontal projection, not including slideouts;
- c. designed to be self-propelled or permanently towable by a motor vehicle; and
- d. designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

**Regulatory Floodway** -

- a. means the channel of a river or other water course and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot, and
- b. when not designated on the community's Flood Insurance Rate Map, it is considered to be the channel of a river or other water course and the adjacent land areas to a distance of one-half the width of the floodplain, as measured from the normal high water mark to the upland limit of the floodplain.

**Riverine** - means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

**Special Flood Hazard Area** - see **Area of Special Flood Hazard**.

**Start of Construction** - means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, substantial improvement or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, or modification of any construction element, whether or not that alteration affects the external dimensions of the building.

**Structure** - means, for floodplain management purposes, a walled and roofed building. A gas or liquid storage tank that is principally above ground is also a structure.

**Substantial Damage** - means, damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damage condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

**Substantial Improvement** - means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the start of construction of the improvement. This term includes structures which have incurred substantial damage, regardless of the actual repair work performed. The term does not, however, include either:

- a. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or

- b. Any alteration of a Historic Structure, provided that the alteration will not preclude the structure's continued designation as a historic structure, and a variance is obtained from the community's Board of Appeals.

**Variance** - means a grant of relief by a community from the terms of a floodplain management regulation.

**Violation** - means the failure of a structure or development to comply with a community's floodplain management regulations.

#### **ARTICLE XIV - ABROGATION**

This ordinance repeals and replaces any municipal ordinance previously enacted to comply with the National Flood Insurance Act of 1968 (P.L. 90-488, as amended).

60.3 (d) Rev. 01/16  
Prepared by DACF/JP

TOWN OF WARREN  
HAZARDOUS WASTE ORDINANCE

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B. Conflict with other Ordinances:

1. Whenever the requirements of this ordinance are inconsistent with the requirements of any other ordinance, code or statute, the more restrictive requirements shall apply.

Section IV - Applicability

- A. This ordinance shall apply to all development proposals for new construction of hazardous waste storage, handling, processing and/or disposal facilities and shall also apply to any expansion of existing facilities.
- B. Existing facilities including commercial or industrial operation which store, handle, process, or dispose of hazardous wastes shall comply with renewal permit criteria in Section VI. C of this ordinance.

C. Exemptions:

1. Agriculture: The storage and handling of products used for agricultural purposes on working farms.
2. Household Waste: Products which are used for normal domestic housekeeping.
3. Industrial Storage: Industrial or manufacturing facilities storing less than two hundred (200) kilograms per calendar month.

Industrial or manufacturing facilities storing less than one thousand (1,000) kilograms per calendar month when such storage is within a fully enclosed secure structure with concrete retaining walls on all sides.

Section V - Application Procedure and Site Plan Content

- A. The Site Plan of Development Application shall include as a minimum:

1. A map of a convenient scale (i.e. U.S.G.S. 7 1/2 minute or 15 minute topographic) delineating the parcel, existing dwelling units, other structures, 100 year flood zones, private and public water supplies, land currently used for agricultural purposes, aquifers and aquifer recharge areas.
2. Maps and/or engineering drawings at a scale of not less than one (1) inch to fifty (50) feet and shall include:
  - a. name and address of applicant or his authorized agent and name of proposed development and any land within 500 feet of the proposed development in which the applicant has title or interest;



- c. summary of existing and proposed easements, restrictions and covenants placed on the property;
- d. erosion and sedimentation control plan;
- e. copies of letters to the abutting landowners, town manager, selectmen, road commission/public works director, fire chief, police chief, notifying them of the proposed development;
- f. statement of financial capacity which should include the names and sources of the financing parties including banks, government agencies, private corporations, partnerships and limited partnerships and whether these sources of financing are for construction loans or long term mortgages or both;
- g. list of applicable local, state and federal ordinances, statutes, laws, codes and regulations such as, but not limited to, zoning ordinances, the Resource Conservation and Recovery Act, the Toxic Substance Control Act, the Clean Water Act;
- h. the applicants evaluation of the availability and suitability of off-site public safety facilities;
- i. a description of the site utilization and a description of specific activities and all methods of operation, a list of hazardous wastes and maximum quantities on site, signed by a Professional Engineer licensed in the State of Maine;
- j. an emergency management plan approved by the Planning Board, covering fire and other potential accidents involving hazardous wastes, which shall be prepared by a qualified professional approved by the Planning Board;
- k. a spill prevention control and clean-up plan that must include at a minimum the following information:
  - i. the hazardous matter and substances covered including the reportable quantity for each hazardous matter and mixture measured in pounds or gallons;
  - ii. any containment and diversionary structures or equipment where appropriate;
  - iii. inspection, maintenance and testing procedures for storage and containment areas;
  - iv. a list of emergency response equipment and locations and a description of the capabilities of the equipment;

B. Application Procedures:

1. the application for a permit allowing hazardous waste handling, storage, processing or disposal shall be filed with the Planning Board for review and accompanied by a fee of \$5,000 for processing the application. Within thirty (30) days of the filing of an application, the Planning Board shall notify the applicant, in writing, either that the application is a complete application or, if the application is incomplete, the specific additional material needed to make a complete application. After the Planning Board has determined that a complete application has been filed, it shall notify the applicant in writing and begin its review of the proposed development.
2. The Planning Board shall hold a public hearing within thirty (30) days of the filing of the completed application. The Planning Board shall publish the time, date and place of the hearing at least two (2) times, the date of the first publication to be at least seven (7) days prior to the hearing, in a newspaper of areawide circulation. The abutting landowners shall be notified of the hearing. Public Hearings by the Planning Board shall be conducted according to the procedures outlined in Title 30-A, M.R.S.A., Section 2691.
3. Within thirty (30) days of the public hearing, the Planning Board shall either approve, approve with conditions, or disapprove the application. The time limit for review may be extended by mutual agreement between the Planning Board and the applicant.
4. Within seven (7) days of reaching their decision, the Planning Board shall notify the applicant in writing of any action taken and the reason for taking such action.

Section VI - Requirements and Performance Standards

A. Requirements:

1. Monitoring wells shall be located to adequately sample ground water for contamination. The location, construction standards and monitoring program will be recommended by a registered geologist approved by the Planning Board.
2. Applicant must acquire insurance, exclusive of legal defense costs, for claims arising out of injury to persons or property from the operations of the hazardous waste facility. The amount and duration of the insurance shall be determined by the Planning Board.
3. Applicant must provide a surety bond to the Town in an amount sufficient to cover the construction or expansion costs of the hazardous waste facility as proposed to

6. Surface Water Drainage and Soil Erosion: adequate provision shall be made for surface drainage so that removal of surface waters will not adversely affect neighboring properties, downstream water quality or public storm drainage systems. On-site absorption of runoff waters shall be utilized to minimize discharges from the site. Also unreasonable soil erosion or reduction in flow capacity of the land to hold water so that a dangerous or unhealthy condition may result shall be prevented.
  7. Water Pollution: in making this determination, the Board shall at least consider: (1) the elevation of land and its relation to flood plains, the nature of soils and subsoils and their ability to adequately support the development; (2) the applicability of any D.E.P. approved licenses; (3) the slope of the land; (4) the ground water resources including aquifer recharge areas; and (5) the applicable federal, state and local laws, ordinance codes and regulations.
  8. Air Pollution: in making this determination, the Board shall consult federal and state authorities to determine that applicable air quality laws and regulations can be met.
  9. Safety/Fire Hazards: has sufficient facilities and equipment available for the needs of the development including firefighting and spill prevention and control.
  10. Sewage Disposal: will provide for adequate sewage waste disposal.
  11. Municipal Services: the development will not have an unreasonable adverse impact on the municipal services including municipal road systems, fire department, police department, solid waste program, sewage treatment plant, open spaces, recreational programs and facilities and other municipal services and facilities.
- C. Annual Renewal Permit Standards: A yearly operations permit application shall be submitted to the Planning Board accompanied by a fee of \$250 for processing the application. The Planning Board shall grant a yearly operations permit contingent upon the findings that the following have been met:
1. Maintenance of a current operations manual;
  2. An acceptable emergency exercise;
  3. Test monitoring of wells;
  4. An acceptable facility inspection by a registered engineer;

## Section IX - Appeals

- A. If the Planning Board disapproves an application or grants approval with conditions that are objectionable to the applicant or any abutting landowner or any aggrieved party, or when it is claimed that the provisions of the ordinance do not apply, or that the true intent and meaning of the ordinance has been misconstrued or wrongfully interpreted, the applicant, an abutting landowner, or aggrieved party may appeal the decision to The Town's Zoning Board of Appeals within thirty (30) days of the Planning Board's decision. The Zoning Board of Appeals shall conduct a public hearing pursuant to 30-A M.R.S.A. Section 2691. The review by the Zoning Board of Appeals shall not be de novo, but rather shall be limited to whether the Planning Board committed an error of law or made findings of facts not supported by substantial evidence in the record.

## Section X - Amendments

- A. This ordinance may be amended by a majority vote of the Town Meeting. Amendments may be initiated by a majority vote of the Planning Board or by request of the Board of Selectmen or on petition of 10% of the votes cast in the last gubernatorial election in the town. The Planning Board shall conduct a public hearing on any proposed amendment.

## Section XI - Definitions

- A. "Hazardous Wastes" is defined as waste material which is ignitable, corrosive, reactive and/or toxic. It will include: (1) all wastes determined to be hazardous by the Resource Conservation and Recovery Act, Section 3001 and regulations promulgated pursuant to said section including 40 CFR 261; (2) wastes determined to be hazardous by the State Board of Environmental Protection pursuant 38 M.R.S.A. sec. 1303 and 1303-A.
- B. "Planning Board" shall mean the WARREN PLANNING BOARD.
- C. "Ground Water" shall mean the water present in the saturated zone of the ground.
- D. "Aquifer" shall mean geologic deposits or structures from which usable quantities of ground water are available for households, municipalities or industries.
- E. "Surface Water" shall mean a body of water whose top surface is exposed to the atmosphere including but not limited to rivers, ponds, lakes, streams, marshes and wetlands.

# **Amendments**

**Adopted March 14, 1983**

**Amended August 17, 1989**

**Amended March 14, 1994**

**Amended Dec. 12, 1994 Sec. 14. C. (“back lots” 30’ deeded right of way minimum)**

**Amended March 11, 1997 Sec 17. Sec. 18. (Signs, Definition of signs & ROW)**

**Amended March 24, 1998 Sec. 10. C. 1.**

**Amended October 21, 1999 Sec. 14. C. 1. Page 8A, Sec. 17. A. Signs, page 19A**

**Amended March 20, 2001 Sec. 13. Uses, Sec. 16. E., N., O., S., Sec. 18. C.**  
**(Definitions and numbering as required)**

**Amended March 29, 2005 Sec. 6, Sec. 12. D, Sec. 13, Sec. 14, (Remove Industrial Zone)**

**Amended March 29, 2008 Sec. 16. J. (curb cut size) V. (Planning Board)**

**Amended November 20, 2008 Sec.13, Sec 16.M, Sec. 18, (Districts, Land Use  
Standards and Definitions)**

**Amended November 10, 2009 Sec. 17 (Signs)**

**Amended August 2, 2011 Sec.16 (Land Use Standards)**

**Amended June 22, 2016 Sec 13 (Uses), Sec. 16 (Land Use Standards) and Sec 18 (Definitions)**

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**LAND USE ORDINANCE  
TOWN OF WARREN**

**Section 1. Title:** This Ordinance shall be known and may be cited as the “Land Use Ordinance of the Town of Warren, Maine.”

**Section 2. Purpose, Authority, Scope**

**A. Purpose**

The purpose of this Ordinance, pursuant to the Warren, Maine, Comprehensive Plan, is to promote the health, safety, and general welfare of the residents of the Town; to encourage the most appropriate use of the land through the Town; to promote traffic safety; to provide safety from fire and other elements; to prevent overcrowding of real estate; to prevent housing development in unsuitable areas; to conserve natural resources; to provide for adequate public services; to prevent and control water pollution; to protect spawning grounds, fish, aquatic life, birds, other wildlife habitat; to conserve the shore cover and to enhance visual and physical points of access to inland waters.

**B. Authority**

This Ordinance is adopted pursuant to Article VII-A of the Maine Constitution and Title 30 M.R.S.A., Section 4962, and as amended.

**C. Scope**

All buildings or structure hereinafter erected, reconstructed, altered, enlarged or moved, and uses of premises in the Town of Warren shall be in conformity with the provisions of this Ordinance. No building, structure, land or water area shall be used for any purpose or in any manner except as permitted within the district in which such building, structure, land or water area is located. The provisions of this Ordinance will apply to shoreland uses and be supplementary to the Shoreland Use Ordinance.

**Section 3. Effective Date** of this Ordinance shall be August 17, 1989 and shall supersede the Land Use Ordinance enacted March 14, 1983, and any amendments adopted thereafter.

**Section 4. Validity and Severability:** Should any section or provision of this Ordinance be declared by the courts to be invalid, such decision shall not invalidate any other section or provision of this Ordinance.

**Section 5. Amendments:** This Ordinance may be amended by a majority vote of the residents of the Town of Warren.

**Section 6. Districts and Land Use Map:** For the purpose of this Ordinance the Town of Warren is hereby divided into the following districts:

**Residential - Rural - Limited Commercial/Residential**

The above are shown on the Land Use Map on file in the office of the Town Clerk. The Land Use Map, and all future amendments thereto, is hereby made part of this Ordinance.

**Section 7. Conflict with Other Ordinances:** Whenever the requirements of this Ordinance differ from the requirements of any other lawfully adopted rules, regulations, ordinances, deed restrictions or covenants, the most restrictive or that imposing the higher standard shall govern.

**Section 8. Interpretation of District Boundaries:** Unless otherwise set forth on the Land Use Map, district boundary lines are property lines; the centerlines of streets, roads, and rights-of-way; and the boundaries of the districts as defined. Where uncertainty exists as to exact location of boundary lines, the Board of Appeals shall be the final authority as to location.

**Section 9. Nonconforming Uses**

**A. Definition**

Any building, structure, use of land, or portion thereof, existing at the effective date of adoption of this Ordinance, which does not conform to all the applicable provisions of this Ordinance, shall be considered a nonconforming use.

**B. Continuance of Nonconforming Uses**

1. The use of land, building or structures, lawful at the time of adoption or subsequent amendment of this Ordinance, may continue although such use does not conform to the provisions of this Ordinance.
2. Repair, Rebuilding, or Change in Nonconforming Use
  - a. A nonconforming building or structure may be repaired, maintained or improved, but the area in a nonconforming use may not be extended or expanded except in conformity with this Ordinance.
  - b. If a nonconforming building or structure is destroyed, it may be rebuilt provided that construction is commenced within two (2) years after the destruction of the building or structures and is substantially completed within three (3) years after such destruction.
3. No structure which is less than the required setback from the normal high water mark shall be expanded toward the water.

**C. Expansion of a Nonconforming Use**

A nonconforming use may not be expanded without a variance from the Board of Appeals in conformance with the following conditions:



1. The expansion of the nonconforming use may not be for the purpose of changing that use to another nonconforming use.
2. The expansion of a nonconforming use will be in accordance with any applicable Performance Standards set forth in the Warren Land Use Ordinance.

#### **D. Discontinuance of a Nonconforming Use**

A nonconforming use, which is discontinued for a period of twelve (12) consecutive months, may not be resumed. The uses of the land, building or structure shall hereafter conform to the provisions of this Ordinance.

#### **E. Rule of Precedence**

Whenever a nonconforming use is superseded by a permitted use of a structure, or structure and land use in combination, such structure, or combination of land and structure, shall thereafter conform to the provisions of this Ordinance and the nonconforming use may not thereafter be resumed.

#### **F. Transfer or Ownership**

Ownership of land and structures which remain lawful but become nonconforming by the adoption or amendment of this Ordinance may be transferred and the new owner may continue the nonconforming uses subject to the provisions of this Ordinance.

#### **G. Nonconforming Lots of Record**

1. A single lot or record, which at the effective date of this Ordinance, does not meet the area or width requirements, or both, of the district in which it is located, may be built upon provided that such lot shall be in separate ownership and not contiguous with any other lot in the same ownership and that all other provisions of this Ordinance shall be met. Variance of the yard or other requirements not involving area or width shall be obtained only by action of the Board of Appeals.
2. If two (2) or more contiguous vacant lots or parcels are in single ownership of record at the time of adoption or amendment of this Ordinance, and if all or part of the lots do not meet the dimensional requirements of this Ordinance, the lands involved shall be considered to be a single parcel for the purpose of this Ordinance and no portion of said parcel shall be built upon or sold which does not meet the dimensional requirements of this Ordinance; nor shall any division of the parcel be made which creates any dimension or area below the requirements of this Ordinance.

#### **H. Restoration of Unsafe Property**

Nothing in this Ordinance shall prevent the strengthening or restoring to safe condition any part of any building declared unsafe by the Code Enforcement Officer.

**Section 10. Administration:** Administration of this Ordinance shall be in accordance with the provisions of Section 16, Administration, of the Shoreland Use Ordinance for the Town of Warren, as amended.

**A. Code Enforcement Officer**

It shall be the duty of the Code Enforcement Officer or other person duly authorized by the Town of Warren to enforce the provisions of this Ordinance. If the Code Enforcement Officer shall find that any of the provisions of this Ordinance are being violated, he shall notify, in writing, the person responsible for such violations, indicating the nature of the violations and specifying the action necessary to correct it. He shall order discontinuance of illegal use of land, buildings, structures, additions, or work being done, or shall take any other action authorized by this Ordinance to insure compliance with or to prevent violation of its provisions.

**B. Building Permits**

No building or other structure shall be erected, moved, added to, or structurally altered without a permit therefore issued by the Code Enforcement Officer. No change of use or resumption of nonconforming use may occur without a permit issued by the Code Enforcement Officer. No building permit shall be issued except in conformity with the provisions of this Ordinance, except after written order of the Board of Appeals.

A fee schedule for building and use permits shall be established by the Selectmen.

**C. Applications**

1. All applications for building permits shall include the location and dimensions of the proposed building or alteration and the proposed sewage disposal system as certified by a registered civil engineer or a plumbing inspector appointed by the Town. The application shall include such other information as lawfully may be required by the Code enforcement Officer to determine conformance with and provide for the enforcement of this Ordinance. If the proposed building shall be or come within 200 feet of the Sanitary District Sewer Lines a completed and approved Sanitary District Permit shall be submitted with the application before it can be considered complete.
2. Upon determining that a complete application has been submitted for review, with appropriate fee(s), the Planning Board or C.E.O., at a regularly scheduled Planning Board meeting, will issue a dated receipt. This will be the official date of receipt for any application.
3. In all districts, the approval of building permit applications shall be subject to evidence of satisfactory subsurface soils conditions for drainage and sewage disposal.
4. Approval of building permit applications shall be subject to all applicable State and Local codes for health, plumbing, sanitation, conservation and pollution abatement.
5. The permit must be exercised within six (6) months and the permit expires 24 months after

issuance. A permit may be renewed subject to the provision of this Ordinance for an additional 24 months.

#### **D. Pending Applications**

Nothing in this Ordinance shall require any change in the plans, construction, size, or designated use for any building, structure, or part thereof for which application for a Building Permit has been made or a Building Permit has been issued or upon which construction commenced prior to the adoption or amendment of this Ordinance, provided construction shall start within 60 days after the issuance of such Permit.

### **Section 11. Regulations Pertaining to all Districts:**

- A. No land may be used for refuse disposal facilities except by the Town of Warren.
- B. Any use, which emits sewage, is not permitted in any zone unless it is connected to the public sewer system or is equipped with its own adequate sewage treatment facilities according to the Maine State Plumbing Code and Municipal Sewage Ordinance.
- C. When essential for public traffic safety, property owners will be required to keep vegetation, signs or other obstructions below three (3) feet from ground level in the required setback. Billboards are prohibited.

### **Section 12. Purposes and Criteria for Establishing Districts:**

- A. Residential: To protect existing residential development and encourage compatible future development of essentially family residences.
- B. Rural: To maintain the rural character of the land within the zone and to permit uses of the land compatible with this end.
- C. Limited Commercial-Residential: To encourage and protect retail businesses and services common to normal highway traffic and to protect the types of residential activity common to such businesses.

### **Section 13. Uses:** Land uses permitted in each District, in conformance with the land use standards of this Ordinance, are shown below:

KEY: Yes	Allowed (no Permit required)
No	Prohibited
CEO Permit	Requires permit issued by the Code Enforcement Officer
PB Permit	Requires Planning Board review prior to C.E.O. issuing a permit

## DISTRICTS

<b>Land Uses</b>	<b>Residential</b>	<b>Rural</b>	<b>Limited Commercial/ Residential</b>
Single-family dwelling, Two-family dwelling, Accessory	CEO Permit	CEO Permit	CEO Permit
Apartments, Conversion of existing Dwellings to apartments	PB Permit	PB Permit	PB Permit
Group Homes, Convalescent Homes, Home Occupations	PB Permit	PB Permit	PB Permit
Agriculture and Horticulture and Use, On-site sale of products	PB Permit	Yes	Yes
Campgrounds	No	PB Permit	PB Permit
Retail & Wholesale Business Services, Business & Professional Offices	PB Permit	PB Permit	PB Permit
Restaurants, Motels, Outdoor Sales & Storage	No	PB Permit	PB Permit
Manufacturing, Processing & Treatment, Warehousing, Research Facilities, Use Accessory Manufacturing, Processing and Treatment	No	PB Permit	PB Permit
Public Buildings	CEO Permit	CEO Permit	CEO Permit
Schools, Public and Private	PB Permit	PB Permit	PB Permit
Public Utility Buildings and Electrical power Transmission Services	PB Permit	PB Permit	CEO Permit
Semi-Public Buildings, Churches, other Religious Facilities, Cemeteries	PB Permit	PB Permit	PB Permit
Excavation or Gravel Pits	No	PB Permit	No

**DISTRICTS (cont.)**

	<b>Residential</b>	<b>Rural</b>	<b>Limited Commercial/ Residential</b>
Storage of Soil, Loam, Sand, Ground Rock and Other Mineral Deposits	No	PB Permit	No
Processing or Crushing	No	PB Permit	No
Quarrying	No	PB Permit	No

**DISTRICTS**

Medical Marijuana Registered Dispensary or Medical Marijuana Cultivation Facility

Land Uses	Residential	Rural	Limited Commercial / Residential
Medical Marijuana Registered Dispensary	No	PB Permit	PB Permit
Medical Marijuana Cultivation Facility	No	PB Permit	PB Permit

**Section 14. Dimensional Requirements****DISTRICTS**

	<b>Residential</b>	<b>Rural</b>	<b>Limited Commercial/ Residential</b>
Minimum Lot Size	40,000 sq. ft.	40,000 sq. ft.	40,000 sq. ft.
Minimum Lot Size Per Multi-Family Dwelling	40,000 sq. ft. for the first dwelling unit; 10,000 sq. ft. for each additional unit		
Minimum Street Frontage	150 ft.	150 ft.	200 ft.
Minimum Front Yard from edge of Right- of-Way (A)	30 ft.	30 ft.	90 ft.
Minimum Side & Rear Yard	20 ft.	20 ft.	30 ft.

<b>Maximum Bldg. Height (B)</b>			
Residential	35 ft.	35 ft.	35 ft.
Non-Residential	50 ft.	50 ft.	50 ft.
<hr/>			
Maximum Lot Coverage	20%	20%	20%
<hr/>			

- A. Where a proposed structure is abutted on both sides by structures whose setback is less than that required, the Planning Board may reduce the setback to that of the abutting structures, but in no case to less than 10 feet from the edge of the right-of-way. The front yard setback shall be required for each yard abutting a right-of-way.
- B. Features of buildings or structures, not intended for human habitation, such as chimneys, ventilators, towers, and spires, may exceed these heights but shall be set back from all lot lines a distance not less than the height of such feature of structure.
- C. Up to two (2) new “back lots” without road frontage may be created from any pre-existing lot of record provided they conform to the minimum lot size of the district. In addition, the minimum dimension of the lot shall be no less than the “minimum street frontage” dimensions shown in Section 14 of this Ordinance.”

1. Reduced to 20,000 sq. ft. if served by public sewer and water.

The right-of-way shall be adequately described in an instrument recorded at the Knox County Registry of Deeds. Said right-of-way shall not be less than 30’ wide.

For all Subdivisions approved after approval of the  
Revised Subdivision Districts (2)  
Approved at Town Meeting 10/21/99

	<b>Village</b>	<b>Rural</b>	<b>Limited Commercial/ Residential</b>
Minimum Lot Size	40,000 sq. ft. (1)	60,000 sq. ft.	60,000 sq. ft.
Minimum Lot Size for Multi-Family Dwelling	40,000 (1) 10,000	sq. ft. for the first dwelling unit, sq. ft. for each additional unit.	
Minimum Street Frontage	150 ft.	150 ft.	200 ft.
Minimum Front Yard from Edge of Right of Way	30 ft.	30 ft.	90 ft.

Minimum side and Rear Yard	20 ft.	20 ft.	30 ft.
Maximum Bldg. Height			
Residential	35 ft.	35 ft.	35 ft.
Non-residential	50 ft.	50ft.	50 ft.
Maximum Lot Coverage to Buildings	20%	20%	20%

The Village District is defined as a circular area with a radius of 3/4 mile, the center of which is the center of the Main Street Bridge over the St. George River in the Town of Warren.

(1) Reduced to 20,000 sq. ft. if served by public sewer and water.

(2) Density requirements as outlined in the Subdivision Ordinance shall apply to all Districts.

**Section 15. General Standards:** In all areas and all districts, any use which, by noxious exhalations, offensive smells or other annoyances becomes injurious and dangerous to the health, comfort, or property of individuals, or of the public, is prohibited.

#### **A. Uses Prohibited**

The following uses shall be prohibited:

1. Ammonia, bleaching powder or chlorine manufacture or refining; hydrochloric, nitric, picric, sulfuric, or sulphurous acid manufacture;
2. Creosote manufacture;
3. Blast furnace; melting or ore reduction or smelting; hot rolling mill;
4. Dextrin, glucose or starch manufacture;
5. Dye manufacture; lamp black manufacture; match manufacture;
6. Explosives or fireworks manufacture, or storage in excess of five hundred (500) pounds;
7. Fat, grease, lard or tallow manufacture, refining or rendering; fish rendering;
8. Hair manufacture;
9. Incineration, reduction or dumping of dead animals, garbage solid waste offal or refuse except by the City of its agents, or when accumulated and consumed on the same premises without the emission of odor;
10. Linoleum or oilcloth manufacture; production or refining of petroleum or other inflammable liquids;
11. Rubber manufacture, or treatment involving offensive odor;
12. Tanning or curing of raw hides or skins;
13. Tar distillation or manufacture; turpentine or varnish manufacture.

## **B. Landscaping**

Any landscaped areas shall be properly maintained thereafter in a sightly and well-kept condition. Parking and outdoor storage areas shall be effectively screened from view by a continuous landscaped area, not less than eight (8) feet in width containing evergreen shrubs, trees, fences, walls, berms, or any combination thereof forming a visual barrier not less than six (6) feet in height along lot lines abutting any residential zone, except that driveways shall be kept open to provide visibility for vehicles entering and leaving.

## **C. Industrial Wastes**

Industrial and sanitary wastes shall be discharged into private sewage disposal and public municipal sewer systems as permitted by State Statutes and Municipal Ordinances.

## **D. Air Quality: Fire and Safety Hazards**

All land uses shall conform to the applicable State Statutes and regulations governing air quality and fire and safety hazards.

## **E. Noise**

Noise is required to be muffled so as not to be objectionable due to the intermittence, beat frequency, or shrillness.

### **MAXIMUM NOISE READINGS**

	7 a.m.- 8 p.m.	8 p.m. - 7 a.m.
RESIDENTIAL	50	45
RURAL	55	45
COMMERCIAL	65	55
INDUSTRIAL	70	60

1. Noise shall be measured by a meter set on the A-weighted scale, fast response. The meter shall meet the American National Standards Institute (ANSI SI 4-1961) "American Standard Specification for General Purpose Sound Level Meters."
2. The following uses and activities shall be exempt from the sound pressure level regulations: temporary noises created by construction, timbering or agriculture.

## **F. Odor Control**

1. No person, wherever located, shall cause or allow the emission of odorous air contaminants from any source such as to result in detectable odors at the lot line of the source which are measured in excess of the following limits:



- a. For areas used for residential/rural or commercial purposes within 500 feet of the lot line of the source, it is a violation if odors are detected after the odorous air has been diluted with seven (7) or more volumes of odor free air.
  - b. In all other land use areas, it is a violation if odors are detected after the odorous air has been diluted with fifteen (15) or more volumes of odor free air.
2. For the purpose of this Regulation, two (2) odor measurements shall be made within a period of one (1) hour, these measurements being separated by at least fifteen (15) minutes. These measurements shall be made outside the property line of the property from which the emission originates.
3. The Barnebey-Cheney Scentometer suitably calibrated, or any other instrument, device, or technique equivalent may be used in the determination of the intensity of an odor and may be used as a guide in the enforcement of this performance standard.

## **Section 16. Land Use Standards:**

### **A. Accessory Buildings**

No garage or other accessory building shall be located in a required front yard. Accessory buildings not exceeding ten (10) feet in height may be located no less than one (1) foot from the side or rear lot lines for each foot of height.

### **B. Apartment Conversions**

A single-family dwelling may be converted to no more than three (3) dwelling units per lot, provided:

1. Exterior alterations shall be limited to those required to comply with applicable health, building and fire safety codes and shall not substantially alter the single-family appearance of the residence.
2. All dimensional requirements for a single-family dwelling unit shall be met.
3. If not connected to a public sewer system, the lot must contain sufficient area and suitable soil conditions for on-site disposal in accordance with the Maine State Plumbing Code, Part 2.
4. Each apartment unit shall contain the following minimum living areas:

Efficiency or studio apartments	300 square feet
1 bedroom apartment	400 square feet
2 bedroom apartment	550 square feet
3 bedroom apartment	700 square feet
4 bedroom apartment	850 square feet

5. Off-street parking shall be provided in accordance with this Ordinance.
6. No parking shall be located within the required yard areas.

### **C. Campgrounds**

Campgrounds shall conform to the provisions of Section 15, D., Shoreland Zoning Ordinance for the Town of Warren.

### **D. Convalescent Homes**

Convalescent homes, including nursing homes, extended care facilities primarily for the elderly or those requiring nursing care, shall conform to the following:

1. New buildings shall be no higher than one (1) story, 25 feet in height.
2. Existing buildings shall not be used for human occupancy above the second story.
3. All convalescent homes shall be equipped with automatic sprinklers.
4. Lots shall meet all requirements for single-family dwellings.
5. No parking shall be located within the required yard areas.
5. The Planning Board may require other conditions to fit the convalescent home harmoniously into its neighborhood.

### **E. Excavation, Gravel Pits, Processing and Storage of Soil, Loam, Sand, Gravel, Rocks, other Mineral Deposits, Processing or Crushing.**

#### **Submission Requirements:**

1. Shall include a business plan indicating the hours of operation, the number of trucks, the volume of material, route of traffic, life expectancy and erosion control. The cost of compliance with the reclamation plan shall require a performance bond.

Routing of traffic and or traffic safety studies shall be required by the Planning Board. The cost of any studies determined necessary by the Planning Board, up to, and including studies by a Certified Traffic Engineer, shall be paid by the applicant. The scope of operation in reference to traffic studies shall be based on flow of traffic to and from the site. Scrub pads or other measures deemed necessary shall be installed so that there is no tracking of dirt or mud on town ways.

#### **Performance Standards:**

1. All operations shall be conducted in accordance with the provisions of Shoreland Zoning, Section 15 – M and Q, Site Plan and Land Use Ordinances for the Town of Warren. All applicable State and Federal laws will be adhered to.

2. Permitted pit/quarries approved by the Planning Board shall be subject to review annually on April 15, to insure that they are operating within the previous permitted guidelines by the Site Plan. Pit owners/operators shall submit to the CEO details of activities including quantities of materials removed or hauled in during the past year and proposed activity for the upcoming year. Included in this information shall be a drawing showing the dimensions of the existing pit on the ground, existing roads, silt fences and other erosion control measures. It shall also include a statement of compliance, signed and dated by the owner/operator.
3. No below grade excavation shall occur within seventy-five (75) feet of a lot line. This setback may be reduced by written agreement between the pit owner and abutting property owner of record. The written agreement must be recorded at the Registry of Deeds and a certified and attested copy submitted with the Site Plan Review application. Natural vegetation shall not be disturbed or removed within the thirty (30) foot setback from all lot lines, except for those areas spelled out in the recorded written agreement.
4. Removal of sod, loam, or topsoil shall leave not less than four (4) inches of topsoil. Where sand, gravel or other minerals are to be removed, sufficient topsoil shall be stockpiled to permit compliance with the reclamation plan.
5. No excavation, filling, or storage of materials shall occur within one hundred (100) feet of the bank of any permanently flowing watercourse or of any great pond or lake. No excavation shall result in standing water unless in conformance with a final grading plan approved by the Planning Board.
6. All processing and crushing shall occur only after Planning Board approval and only at gravel pits or quarries.
7. The suggested hours of operation for any activities shall be not earlier than 7:00 a.m. and not later than 7:00 p.m. Monday thru Saturday depending on the location of the site and Planning Board review.

These conditions shall require a new Planning Board review:

1. If an existing pit/quarry is sold or if there is a transfer of ownership or operation.
2. If there is a change of use as defined in the Land Use Ordinance.
3. If the approved pit exceeds five (5) acres.
4. New gravel pits will be limited to a maximum of under five (5) acres which shall be reclaimed per original Site Plan Review before any additional area can be opened up or topsoil removed. If the owner/operator wishes to revise the reclamation plan at any time they shall go before the Planning Board for approval
5. If there is a change to the reclamation plan.
6. If there is a change in the business plan, which increases activity in the pit or the number of yards removed by 25% or more.

## **F. Group Homes**

Group homes, providing full-time staffing and residential facilities for short and long term occupancy by those not requiring nursing care, shall conform to the following:

1. New buildings shall be no higher than two (2) stories, 35 feet in height, and no group home shall be used for human occupancy above the second story.
2. All group homes shall be equipped with automatic sprinklers.
3. Lots shall meet all requirements of multi-family dwellings, with each six (6) residents, or fraction thereof, counting as an additional “family.”
4. No parking shall be located within the required yard areas.
5. The Planning Board may require other conditions to fit the group home harmoniously into its neighborhood.

## **G. Home Occupations**

Home occupations shall conform to the following:

1. The occupation or profession shall be carried on wholly within the dwelling unit or accessory building on the premises.
2. Not more than two (2) person(s) not residing in the dwelling unit shall be employed.
3. The Planning Board may require buffer or screening for storage of materials outside the dwelling or accessory building.
4. A home occupation shall not disturb the quiet possession of other homes in the neighborhood and will not cause unreasonable road congestion or unsafe traffic conditions.
5. Off-street parking shall conform to the off-street parking and loading requirements of this Ordinance.
6. The home occupation shall not utilize more than 50% of the total floor area of the dwelling unit plus accessory building.
7. If more than one (1) home occupation is to be carried on within the same dwelling, the cumulative usage of space, parking, and all other requirements may not exceed those requirements for a singular home occupation.
7. The Planning Board may require other conditions to fit the home occupation harmoniously into its neighborhood.

## **H. Manufacturing, Warehousing, Research Facilities**

Where located adjacent to residential lots, manufacturing, warehousing, and research facilities shall conform to the following:

1. Side and rear yard setbacks shall be not less than 50 feet, of which not less than 20 feet shall be maintained as yard space.
2. No parking or outdoor storage shall be located within the required 20 foot yard areas.
3. All outdoor storage of material, goods, or vehicles shall be screened from view from adjacent residential lots, as required for off-street parking and loading spaces.

## **I. Multi-Family Dwelling Units**

Multi-family (3 or more) dwelling units shall conform to the following:

1. The minimum road frontage shall be 200 feet.
2. The minimum setback from all lot lines shall be 30 feet.
3. Lots and multi-family dwelling units shall meet all other dimensional requirements for the zone in which they are located.
4. No building shall contain more than ten (10) dwelling units.
5. All units shall be connected to a common water supply and distribution system, either public or private.
6. All units shall be connected to a public sewer system, if available, or to a central collection and treatment system in accordance with the Maine State Plumbing Code.
7. No parking area shall be located within the required yard areas.

## **J. Off-Street Parking and Loading Requirements**

### **1. Basic Requirement**

In any District where permitted, no use of premises shall be authorized or extended, and no building or structure shall be constructed or enlarged unless there is provided for such extension, construction or enlargement, off-street automobile parking space within three hundred (300) feet of the principal building, structure, or use of the premises, in accordance with the following schedule of parking requirements. An area of two hundred (200) square feet appropriate for the parking of an automobile, exclusive of maneuvering space, shall be considered as one (1) off-street parking space.

No required parking space shall, for the purpose of this Ordinance, serve more than one (1) use. No non-commercial off-street parking facility shall have more than two (2) curb cuts on the same street, and no curb cut shall exceed 26 feet in width. Commercial off-street parking shall have no more than two (2) curb cuts on the same street, and no curb cut shall exceed 40 feet in width. Parking areas with more than two (2) parking spaces shall be so arranged that vehicles can be turned around within such areas and are prevented from backing into the street.

## **2. Schedule of Minimum Off-Street Parking Requirements**

- a. Two (2) spaces per dwelling unit.
- b. One (1) space for each sleeping room in a tourist home, boarding or lodging house, or motel.
- c. One (1) space for each recreational vehicle, tent or shelter site in a campground.
- d. One (1) space for each four (4) beds for institutions devoted to the board, care, or treatment of persons.
- e. One (1) space for each one hundred fifty (150) square feet or fraction thereof, of floor area of any retail, wholesale, or service establishment or office or professional building.
- f. One (1) space for each three (3) seats, permanent or otherwise, for patron use for restaurants, and other places serving food or beverage and for theaters, auditoriums, and other places of amusements or assembly.
- g. One (1) space for each person employed or anticipated to be employed on the largest shift for all types of commercial, industrial, or other permitted uses.
- h. Adequate spaces shall be provided to accommodate customers, patrons, and employees at automobile service stations, drive-in establishments, open air retail businesses and amusements and other permitted uses not specifically enumerated.

## **2. Off-Street Loading**

In any district where permitted or allowed, commercial or industrial uses shall provide, as necessary, off-street loading facilities located entirely on the same lot as the building or use to be served so that trucks, trailers and containers shall not be located for loading or storage upon any public way.

## **4. Landscaping**

Required parking and loading spaces for non-residential uses, where not enclosed within a building, shall be effectively screened from view by a continuous landscaped area not less than eight (8) feet in width containing evergreen shrubs, trees, fences, walls, berms, or any

combination thereof forming a visual barrier not less than six (6) feet in height along exterior lot lines adjoining all residential properties, except that driveways shall be kept open to provide visibility for vehicles entering and leaving.

#### **K. On-Site Sale of Products**

Agricultural or horticultural products, the major portion of which is grown or produced on the premises, may be sold from a stand not exceeding 100 square feet in area. A larger sales building shall be considered a retail or wholesale business.

#### **L. Public Buildings**

Public Buildings shall conform to the applicable off-street parking and loading requirements and to the land use standards applicable to similar, privately operated facilities.

#### **M. Public Utility Buildings and Electric power Transmission Services**

Public utility buildings shall conform to the applicable off-street parking and loading requirements. Offices shall conform to the land use standards for Retail and Wholesale Business, Services, Business and Professional Offices. Storage, manufacturing and research uses shall conform to the land use standards for Manufacturing, Warehousing and Research Facilities and/or Outdoor Storage, as applicable.

#### **N. Quarry.**

1. Quarrying operations shall be designed to have the least visible impact.
2. Setbacks shall be a minimum of one thousand (1000) feet to an existing dwelling (at time of approval) and a minimum of two hundred (200) feet from the edge of a working quarry to the property line(s) unless written permission has been given and recorded at the Registry of Deeds and a certified and attested copy submitted with the Site Plan review application.
3. All access roads to quarries shall have gates to promote safety and discourage off-hour entry.
4. No quarry, quarrying or quarry-type of operation, either existing or new, shall begin until the Planning Board has reviewed and approved the plan under Site Plan Review.

#### **O. Quarry Blasting**

Statutory Authority: Administration: Effect On Other Regulations:

1. This chapter is enacted pursuant to 30-A M.R.S.A. 3001 and shall be administered by the Planning Board of the Town of Warren.
2. The requirements of this chapter are in addition to any other ordinances, regulations and statutes, and where different standards are contained elsewhere, the more restrictive standards shall apply.
3. This chapter in no way replaces or negates the requirements pertaining to explosives as contained in the Fire Prevention Code of the American Insurance Association, 1970 edition, as the same may be amended, or any rule or regulation of any governmental agency.

**Purpose:**

1. Through the establishment of standards, notice requirements and instrument monitoring of quarry blasting operations it is intended to minimize the effects of airblast overpressure, ground vibration, dust and noise associated with quarry blasting which may be detrimental to individuals and the community in the enjoyment of life, property and the conduct of business.
2. It is intended to prevent permanent damage to the geologic, hydrogeologic and wildlife resources and ecological balance in the region, and to have a chapter, which can be effectively and efficiently administered.
3. Due to safety concerns the suggested hours of detonation shall be between 10:00 a.m. and 3:00 p.m. Monday thru Friday, excluding Federal and State holidays.

**Submission Requirements:**

1. All quarries whether existing or newly proposed shall meet blasting standards and will require Site Plan Review.
2. **Applications shall contain the following information:**
  - a. The name of the applicant
  - b. The name of the property owner/operator
  - c. The name of the blasting contractor
  - d. The location of the proposed blasting activity
  - e. The total number of cubic yards of material to be removed by blasting
  - f. An estimate of the number of blasts required to remove the specified amount of material
  - g. A description of the quarry project for which the blasting is being undertaken
  - h. Adjacent land uses
  - i. The location of adjacent structures and distance to those structures
  - j. The projected life of the quarry
  - k. A road impact and/or traffic safety study maybe required at applicant's expense
3. Any other studies or information deemed necessary by the CEO or the Planning Board which may include but is not limited to:
  - \*\*Preblast assessment
  - \*\*Hydrological studies
  - \*\*Geological studies
  - \*\*Test wells
  - \*\*Hours of blasting
  - \*\*Seismographs



**\*\*All costs for any and all studies deemed necessary by the Planning Board and/or CEO shall be paid for by the applicant**

4. **Upon receipt** of completed application the CEO shall review and forward the application to the Planning Board within 10 calendar days.
  - a. When the application is forwarded to the Planning Board, the Board shall review and act upon the application within 60 days of transmittal of a completed application.
  - b. The Board may approve, approve with conditions or deny the application based on the performance standards contained herein. The applicant must be notified in writing by first class mail within 10 days of the decision.
5. **A public hearing shall be held on the application.**
  - a. All abutting property owners and/or those property owners within 500 feet of the property line of the property for which the permit is requested shall be notified at least 10 days prior to the date of the hearing by certified mail at the applicant's expense. A list of names and mailing addresses shall be provided as part of the application. Such notification shall be the responsibility of the applicant and evidence of such notification shall be provided to the Planning Board.
  - b. Notification of the public hearing shall be given in a newspaper of local publication twice, the first time being at least seven days prior to the date of the hearing. Cost of this publication shall be paid by the applicant.

#### **6. Bond and Proof of Insurance**

- a. The applicant and/or blaster shall be required to post a performance bond in an amount to be determined by the Planning Board for those cases reviewed by the Board.
- b. The applicant and/or the blaster shall present proof of liability insurance in a minimum amount of \$1,000,000 combined with single limit per occurrence, except for agricultural purposes by an individual on his own property using binary explosives.

#### **7. Effective Period**

Permits shall be effective for no more than 365 days from the date of approval. For quarry blasting operations the scope of which exceeds one year, renewal of the permit shall be accomplished by reapplying in accordance with the procedure for a new permit, except that a public hearing may be held to review past compliance with the standards contained herein and any effects on existing uses and property owners in the vicinity of such quarry blasting operations.

#### **Performance Standards:**

The requirements established herein apply to any property of concern as determined by the CEO or Planning Board, but no closer than the property line of property under the control, through ownership or lease or other contractual arrangement, or persons having blasting operations performed.

1. Water is a precious resource and measures shall be taken to protect groundwater quality. Water quality shall be as found in the nearest test well within 250 feet from the working edge

of the quarry or as determined by the Planning Board from pre- and post-blast testing results. Post-blast testing shall be done no sooner than 24 hours or no later than 48 hours following a blast. Turbidity in wells tested shall be no greater than that which existed prior to the blasting as established in the preblast survey.

2. Due to safety concerns the hours of detonation shall be between 10:00 a.m. and 3:00 p.m. Monday thru Friday excluding federal and state holidays.
3. Notices
  - a. All quarry blasting operations shall have notice of such blasting published in a newspaper of local publication and mailed by certified mail to all property owners within 500 feet of the blasting property five (5) working days prior to the intended date of the commencement of blasting. Notice shall include the description of the blasting signals to be used during the operation and an address and telephone number where property owners may request further information and notification. Any property owner requesting further notification shall do so in writing to the CEO and the owner/operator conducting the quarry blasting operation.
  - b. Prior to any blast, the owner/operator responsible for the blast shall inform all property owners who have requested in writing to be so informed of the impending blast. Such notification shall be given by telephone 24 hours prior to the blast, stating the time of the blast +/- one hour. The burden of proof as to whether the notification was in fact received rests with the person responsible for the blasting operation.

#### **4. Ground Vibration**

- A. Peak particle velocity limits (inches per second) not to be exceeded at any time:

##### **Quarries:**

- a. Up to 30 hertz: 0.5 inches per second
  - b. More than 30 Hertz: 1.0 inches per second
- B. Ground vibration shall be measured as particle velocity. Particle velocity shall be recorded in three mutually perpendicular directions. The maximum allowable peak particle velocity shall apply to each of the three measurements.
  - C. A seismographic record shall be provided for each blast, as required by the CEO and/or the Planning Board. The applicant shall be responsible for such record and for providing proper instrumentation as specified in this chapter. Personnel conducting such monitoring shall be properly trained in the operation of the equipment being used.

#### **5. Airblast Overpressure:**

- A. Level not to exceed at any time: 133 peak dB (linear) two Hertz high-pass system.

#### **6. Instrumentation**

All seismographs used for compliance with this chapter shall meet the following minimum specifications:

- A. Seismic frequency range: two to 200 Hz (+/- three +/- Hz).
- B. Acoustic frequency range: two to 200 Hz (+/- one +/- db).
- C. Velocity range: 0.02 to 4.0 inches per second.
- D. Sound range: 110 to 140 db linear.
- E. Transducers: three mutually perpendicular axes.
- F. Recording: provide time-history of waveform.
- G. Calibration: be laboratory-calibrated as often as necessary, but at least once every 12 months according to manufacturers recommendations.

**7. Inspection and Monitoring:**

The CEO may conduct tests and observe any authorized blasting operations~ and may also order that additional ground vibration and blast overpressure measurements using approved instrumentation be made by persons responsible for blasting operations to ensure that the limits specified are not exceeded.

**8. Records:**

Persons responsible for blast operations shall maintain a record of each blast. All records shall be retained at least three years following cessation of the blasting operation, and shall be available for inspection by the CEO and shall contain the following minimum data:

- A. The name of the person or company responsible for the blasting operation.
- B. The location, date and time of the blast.
- C. The name of the blaster in charge.
- D. The type of material blasted.
- E. The number of holes, burden and spacing.
- F. The diameter and depth of holes.
- G. The types of explosives used.
- H. The amount of explosives used.
- I. The maximum amount of explosives per delay period of eight milliseconds or greater.
- J. The maximum number of holes per delay period of eight milliseconds or greater.
- K. The method of firing and type of circuit.
- L. The weather conditions (including such factors as wind direction, cloud cover, etc.).
- M. The height or length of stemming.
- N. If mats or other protection were used.
- O. The type of detonators used and delay periods used.
- P. Seismograph and airblast readings--when measured and from where measured.

9. The applicant shall also comply with all standards and conditions contained in other permits issued for such projects, and local, state and federal statutes and regulations. The requirements established herein shall be measured at the property line of the applicant or at the closest building(s) on abutting properties as determined by the CEO and the Planning Board.

#### **10. Violations and Penalties:**

The submission of false information required by this chapter or the violation of this chapter or the violation of any condition attached to a permit granted under this chapter shall constitute a land use violation and be penalized in accordance with Title 30-A M.R.S.A. 4452.

#### **Severability:**

If any provision of this chapter is declared unconstitutional or held invalid, it shall not affect any other section, clause or provision thereof, but the same shall remain in full force and effect.

#### **P. Restaurants**

Restaurants shall conform to the following:

1. Lots shall meet all requirements for single family dwellings.
2. No parking shall be located within ten (10) feet of any lot line.
3. Refuse containers not within a building shall be placed not less than 30 feet from any lot line and shall be screened from view and maintained so as to prevent access by flies and vermin.
4. Restaurants serving “take out” food or providing outdoor dining on the premises shall provide suitable waste receptacles for use by customers.
5. The Planning Board may require other conditions to fit the restaurant harmoniously into its neighborhood.

#### **Q. Motels**

Motels shall conform to the following:

1. Lots shall meet all requirements for single-family dwellings and shall have an area of not less than 5,000 square feet per sleeping room.
2. New buildings shall be no higher than one (1) story, 25 feet in height.
3. No parking shall be located within ten (10) feet of any lot line.
4. The Planning Board may require other conditions to fit the motel harmoniously into its neighborhood.

**R. Outdoor Sales and Storage shall conform to the following:**

1. Lots shall meet all requirements for single family dwellings.
2. No parking or storage shall be located within 20 feet from any lot line.
3. All outdoor storage of material, goods, or vehicles shall be screened from view from adjacent residential lots, as required for off-street parking and loading spaces.
4. The Planning Board may require other conditions to fit the facility harmoniously into its neighborhood.

**S. Retail and Wholesale Business, Services, Business and Professional Offices.**

Where located adjacent to residential lots, retail and wholesale businesses, services, business and professional offices shall conform to the following:

1. Side and rear yard setbacks shall be not less than 30 feet, or which not less than ten (10) feet shall be maintained as yard space.
2. No parking or outdoor storage shall be located within ten (10) feet of any lot line.
3. All outdoor storage of material, goods, or vehicles shall be screened from view from adjacent residential lots, as required for off-street parking and loading areas.
4. The Planning Board may require other conditions to fit the facility harmoniously into its neighborhood.

**T. Schools, public and private; Semi-public buildings and Churches and other Religious Facilities and Cemeteries.** These uses shall conform to the following:

1. Side and rear yard setbacks shall be not less than 30 feet, of which not less than ten (10) feet shall be maintained as yard space.
2. No parking or outdoor storage shall be located within the required ten (10) foot yard areas.
3. Applicable off-street parking and loading requirements shall be met, except that no off-street parking shall be required for cemeteries.
4. The Planning Board may require other conditions to fit these uses harmoniously into their neighborhoods.

**U. Wireless Telecommunications Facilities**

## 1. Applicability

This section applies to all construction and expansion of wireless telecommunications facilities, included communication facilities and towers, except as provided in subsection 2.

## 2. Exceptions

The following are exempt from the provisions of this Ordinance:

### **Amateur (ham) radio station.**

- a. **A ground, building or tower mounted antenna**, operated by a federally licensed amateur radio operator as part of the Amateur Radio Service, which is no higher than thirty-five (35) feet in height, and is not licensed or used for any commercial purpose. The Codes Enforcement Officer may permit additional height up to a maximum of seventy-five (75) feet only if, after engineering documentation substantiating the need for the excess height is submitted to and is acceptable to the Code Enforcement Officer, the CEO determines that a height in excess of thirty-five (35) feet is technically necessary to successfully engage in this activity.
- b. **Parabolic antenna**: Parabolic Antennas less than seven (7) feet in diameter, that are an accessory use of the property.
- c. **Maintenance or repair**: Maintenance, repair or reconstruction of a wireless telecommunications facility and related equipment, provided that there is no change in the height or any other dimension of the facility.
- d. **Temporary wireless telecommunications facility**: Temporary wireless telecommunications facility, in operation for a maximum period of one hundred eighty (180) days.
- e. **Antennas as Accessory Uses**: An antenna that is an accessory use to a residential dwelling unit.
- f. **Wireless Telecommunications Facility**: Wireless communication facilities for telecommunications by public officials.

## 3. Site Plan Review Application

Wireless telecommunications facilities, including expansions of existing facilities, shall comply with the application requirements of the Town of Warren, Maine Land Use Ordinance unless such requirements are waived by the Planning Board in accordance with the Town of Warren, Maine Land Use Ordinance and shall also include the following additional information:

- a. A copy of the FCC license for the facility, or a signed statement from the owner or operator of the facility attesting that the facility will comply with FCC regulations.

- b. A USGS 7.5 minute, topographic map showing the current location of all structures and wireless telecommunications facilities above one hundred fifty (150) feet in height above ground level, except antennas located on roof tops, within a five (5) mile radius of the proposed facility. This requirement shall, be deemed to have been met, if the applicant submits current information (i.e. within thirty days of the date the application is filed) from the FCC Tower Registration Database. Include documentation of longitude and latitude.
- c. A site plan prepared and certified by a professional engineer registered in Maine indicating the location, type and height of the proposed facility, antenna capacity, on-site and abutting off-site land uses, means of access and setbacks from property lines. The site plan must include certification by a professional engineer registered in Maine that the proposed facility complies with all American National Standards Institute (ANSI) and other applicable technical codes
- d. Elevation drawings of the proposed facility, and any other proposed structures, showing height above ground level.
- e. A landscaping plan indicating the proposed placement of the facility on the site; location of existing structures, trees, and other significant site features; the type and location of plants proposed to screen the facility; the method of fencing; the color of the structure and existing plant materials to be retained and trees or shrubs to be removed; and the proposed lighting method.
- f. Photo simulations of the proposed facility taken from perspectives determined by the Planning Board, or their designee, during the pre-application review. Each photo must be labeled with the line of sight, elevation, and with the date taken imprinted on the photograph. The photos must show the color of the facility and method of screening.
- g. A written description of how the proposed facility fits into the applicant's telecommunications network. This submission requirement does not require disclosure of confidential business information.
- h. Evidence demonstrating that no existing building, site, or structure can accommodate the applicants proposed facility.

Applicants for review for a new wireless telecommunications tower must send written notice by pre-paid first class United States mail to all other tele - communication tower owners and licensed telecommunication providers in the Town utilizing existing towers, stating their siting needs and/or colocation capabilities in an effort to encourage tower co-location. Evidence that these notice requirements have been fulfilled shall be submitted to the Planning Board and shall include a name and address list, copy of the notice which was sent, and a statement, under oath, that the notices were sent as required. An application for a new wireless telecommunication tower must include evidence that existing or previously approved towers cannot accommodate the telecommunications equipment (antennas, cables, etc.) planned for the proposed tower. Such evidence should be:

1. Evidence that no existing facilities are located within the targeted market coverage area as required to meet applicant's engineering requirements.
2. Evidence that existing facilities do not have sufficient height or cannot be increased in height at a reasonable cost to meet the applicant's engineering requirements.
3. Evidence that existing facilities do not have sufficient structural strength to support applicant's proposed antenna and related equipment. Specifically:
  - a. Planned, necessary equipment would exceed the structural capacity of the existing facility, considering the existing and planned use of those facilities, and these existing facilities cannot be reinforced to accommodate the new equipment.
  - b. The applicant's proposed antenna or equipment would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna cause interference with the applicant's proposed antenna.
  - c. Existing or approved facilities do not have space on which planned equipment can be placed so it can function effectively.
4. Other technically feasible sites have been investigated and, if available, the proposed facility has been relocated in order to minimize the effect of the location on visually sensitive areas such as residential communities, historical areas and open space areas
5. Co-location, where technically feasible and visually desirable, on an existing tower, has been investigated and, if technically and financially feasible, the proposed facility is co-located.
6. Use of an existing community facility site, such as on or adjacent to water tanks, church steeples or utility poles, has been investigated as a potential site for a tower, antennas and other equipment and, if available and technically feasible and visually desirable, is proposed as the site for the facility.
7. For facilities existing prior to the effective date of this Land Use Ordinance, the fees, costs, or contractual provisions required by the owner in order to share or adapt an existing facility are unreasonable. Costs exceeding the pro rata share of a new facility development are presumed to be unreasonable. This evidence shall also be satisfactory for a tower built after the passage of this Land Use Ordinance or amendment thereto.
  - i. A signed statement stating that the owner of the wireless telecommunications facility and his or her successors and assigns agree to:
    1. Respond in a timely, comprehensive manner to a request for information from a potential co-location applicant, in exchange for a reasonable fee not in excess of the actual cost of preparing a response;



2. Negotiate in good faith for shared use of the wireless telecommunications facility by third parties that have received Federal licenses;
  3. Allow shared use of the wireless telecommunications facility if an applicant agrees in writing to pay reasonable charges for colocation;
  4. Require no more than a reasonable charge for shared use, based on community rates and generally accepted accounting principles. This charge may include but is not limited to a pro rata share of the cost of site selection, planning project administration, land costs, site design, construction, financing, return on equity, depreciation, and all of the costs of adapting the tower or equipment to accommodate a shared user without causing electromagnetic interference. The amortization of the above costs by the facility owner shall be accomplished at a reasonable rate, over the useful life span of the facility.
- ii A form of surety approved by the Planning Board or proof of financial capacity to pay for the costs to build, maintain or remove the facility if it is abandoned.

#### **4. Standards**

All telecommunication facilities shall be located as to minimize their visibility and to minimize the total number of towers in the Town. The following measures shall guide the location.

- a. Wireless telecommunications facilities shall not be sited in areas of high visibility unless a finding is made that no other location is technically feasible, and unless the facility is sited below the ridgeline or designed to minimize its profile by blending with the surrounding existing natural and man-made environment in such a manner as to be effectively unnoticeable.
- b. No facility shall be located so as to create a significant threat to the health or survival of rare, threatened or endangered plant or animal species.
- c. **Siting** on existing developed municipal property is encouraged. The applicant must demonstrate that such locations are technically unfeasible prior to proposing another location.

If an applicant proposes to locate a new wireless telecommunications facility on municipal property, or expand an existing facility on municipal property, the applicant must show the following:

1. The proposed location complies with applicable municipal policies and ordinances.
2. The proposed facility will not interfere with the intended purpose of the property.
3. The applicant has adequate liability insurance and a lease agreement with the municipality that includes reasonable compensation for the use of the property and other provisions to safeguard the public rights and interests in the property.

- d. **Design for Co-location.** A new or expanded wireless telecommunications facility and related equipment must be designed and constructed to accommodate future collocation of at least three additional wireless telecommunications facilities or providers. Collocation shall not be considered an expansion.
- e. **Height.** The maximum height of new or expanded wireless telecommunications facilities shall be one hundred nine-five (195) feet. The facility shall be designed to collapse in a manner that does not harm other property.
- f. **Mass of antennas per user.** The mass of antennas, including required antenna support structures, on a tower shall not exceed four hundred fifty (450) cubic feet per user. The mass shall be determined by the appropriate volumetric calculations using the smallest regular rectilinear, cuboidal, conical, cylindrical or pyramidal geometric shapes encompassing the entire perimeters of the array and all of its parts and attachments.
- g. **Area.** A wireless telecommunications tower shall not be constructed on a lot that does not conform to the minimum lot area required in the zoning district even if such lot is a lawful non-conforming lot of record. If it is located on a lot containing another use, the lot shall be of sufficient area to meet the minimum lot area requirement for each use.
- h. **Setbacks:**
  - 1. Setbacks. A new or expanded wireless telecommunications facility must comply with the setback requirements set forth in the Town of Warren Land Use Ordinance, or be set back one hundred twenty-five percent (125%) of its height from all property lines, whichever is greater. The setback may be satisfied, by including the areas outside the property boundaries if secured by an easement. An antenna is exempt from the setback requirement if it extends no more than five (5) feet horizontally from the edge of the structure to which it is attached, and it does not encroach upon an abutting property.
  - 2. No part of the structure, including anchors, guy wires, overhead lines, masts, etc., shall be located in the required District setback or in any required buffer area both on the ground or in the air space above the ground.
  - 3. Accessory support buildings containing electronic equipment and any other structures accessory to the telecommunications tower shall meet the required District building setback and the required buffer setback.
  - 4. If more than one tower is proposed on a single lot or parcel, they shall be clustered as closely together as technically possible.
  - 5. If other non-accessory uses are located on the same lot or parcel as a wireless telecommunications tower, all structures associated with such other uses shall be located a minimum distance of one hundred twenty-five percent (125%) of the tower height from the base of the tower.
  - 6. A tower's setback may be reduced by the Planning Board to allow the integration of a tower into an existing or proposed structure such as a church steeple, light standard, power line support device, water tank, or similar structure.

7. Notwithstanding the height limitations within a zoning district, in order to accommodate the co-location of an addition antenna, a tower, existing as of August 6, 1997, may be modified or rebuilt to a taller height, not to exceed a total maximum of thirty (30) feet more than the tower's height as of August 6, 1997, but only if that additional height will not require any lighting or obstruction painting. The additional tower height shall not require increased lot setbacks and the tower's pre-modification height shall be utilized to calculate required setbacks.
- i. **Landscaping.** The base of a new or expanded wireless telecommunications facility must be screened, with plants, from view by abutting properties, to the maximum extent practicable with plants, trees or other measures as approved by the Planning Board. Existing plants and natural land forms on the site shall also be preserved to the maximum extent practicable.
- j. **Fencing.** A new or expanded wireless telecommunications facility must be fenced with a secured perimeter fence of a height of eight (8) feet to discourage trespass on the facility and to discourage climbing on any structure by trespassers.
- k. **Lighting.** A new or expanded wireless telecommunications facility must be illuminated as necessary to comply with FAA or other applicable state, federal and local requirements or Site Plan Review conditions. Security lighting may be used as long as it is shielded to be down-directional to retain light within the boundaries of the site, to the maximum extent practicable.
- l. **Color and Materials.** A new or expanded wireless telecommunications facility must be constructed with materials and colors that match or blend with the surrounding natural or built environment, to the maximum extent practicable. Unless otherwise required, muted colors, earth tones, and subdued hues shall be used.
- All buildings, poles, towers, antenna supports, antennas and other components of each wireless telecommunications facility site shall be initially painted and thereafter repainted as necessary with a "flat" paint. The color(s) selected shall be one that the Planning Board determines will minimize their visibility to the greatest extent feasible. To this end, improvements which will be primarily viewed against soils or trees shall be painted colors matching these landscapes while elements which rise above the horizon shall be painted a blue gray that matches the typical sky color at that location unless the Board determines that an alternative proposal will minimize visibility.
- m. **Structural Standards.** A new or expanded wireless telecommunications facility must comply with the current Electronic Industries Association/ Telecommunications Industries Association (EIA/TIA) 222 Revision Standard entitled "Structural Standards for Steel Antenna Towers and Antenna Supporting Structures."
- n. **New accessory facilities** shall be no taller than one story in height and shall be treated to look like a building or facility typically found in the area.
- o. **Accessory facilities** shall be adjacent to the tower base unless an alternative location will be less visually obtrusive or topographic considerations require an alternative location.

- p. **Accessory facilities** shall be constructed out of non-reflective exterior materials and shall be placed underground, if possible.
- q. **Noise.** Except during construction, repair, or replacement, operation of a back-up power generator at any time during a power failure and testing of a back-up generator between 8 a.m. and 9 p.m. are exempt from existing municipal noise standards.
- r. **Any wireless communication** facilities in the Town of Warren must offer to the Town the use of the Town's wireless facilities on said tower.

## 5. Standard Conditions of Approval

The following standard conditions of approval shall be a part of any approval issued by the Planning Board. Reference to the conditions of approval shall be clearly noted on the final approved site plan, and shall include:

- a. The owner of the wireless telecommunications facility and his or her successors and assigns agree to:
  - 1. Respond in a timely, comprehensive manner to a request for information from a potential collocation applicant, in exchange for a reasonable fee not in excess of the actual cost of preparing a response;
  - 2. Negotiate in good faith for shared use of the wireless telecommunications facility by third parties;
  - 3. Allow shared use of the wireless telecommunications facility if an applicant agrees in writing to pay reasonable charges for collocation.
  - 4. Require no more than a reasonable charge for shared use of the wireless telecommunications facility, based on community rates and generally accepted accounting principles. This charge may include, but is not limited to, a pro rata share of the cost of site selection, planning project administration, land costs, site design, construction and maintenance, financing, return on equity, depreciation, and all of the costs of adapting the tower or equipment to accommodate a shared user without causing electromagnetic interference. The amortization of the above costs by the facility owner shall be accomplished at a reasonable rate, over the life span of the useful life of the wireless telecommunications facility.
  - 5. Mitigation measures have been utilized to screen antennas and towers from view from public rights-of-way or scenic vistas, either via landscaping, fencing or other architectural screening.
  - 6. Network interconnections from the communications site via land lines have been proposed rather than the use of microwave link dishes, In order to minimize visual impact.

7. Creative design measures have been employed to camouflage Facilities by integrating them with existing buildings and among other uses

## **6. Amendments**

Any change to existing, previously approved and proposed towers requires site plan approval. This includes modifications to approved height and to approved attachments such as antennas and dishes as well as requests for additional attachments.

## **7. Removal of Wireless Telecommunications Facilities**

- a. If the tower ceases to be used or if the use of the tower is abandoned for any reason, it shall be the responsibility of the owner of the facility to notify the Code Enforcement Officer of the date of abandonment or cessation of use. If the owner shall fail to give the required notice, the CEO shall make a determination of such date, which determination shall be conclusive as to such date.
- b. In the case of a tower which is abandoned or the use of which ceases, it shall be removed within one (1) year of its abandonment or cessation of use. All above ground structures, equipment, foundations, guy anchors, utilities and access roads or driveways specifically constructed to service the tower, structures, equipment or utilities shall be removed, and the land returned to a condition as near to the original pre-construction condition as possible.
- c. At the time of approval, the applicant for a new tower shall submit to the Town a bond or other financial surety, to be approved by the Town Manager, in the amount of one hundred fifty percent (150%) of the estimated demolition cost of the tower and the removal of all accessory facilities, such cost to be determined by an independent Registered Professional Engineer in the State of Maine and the amount shall be acceptable to the Town Manager. The bond or other financial surety shall be in effect for as long as the tower is in place.
- d. The bond shall be used by the Town to demolish a tower which is abandoned or the use of which has ceased, accessory facilities and associated abandoned structures only if the owner has not done so within the required one (1) year period.
- e. The owner may apply to the Town Manager for release of the bond at such time that the owner or assigns removes the tower, accessory facilities and associated abandoned structures as described above, and such completed removal is found to be satisfactory by the Independent Professional Engineer. The cost of inspection by the Independent Professional Engineer shall be borne by the owner.

## **8. Inspections**

The following procedure shall be undertaken by the owner of the tower:

- a. Inspection of towers by a Registered Professional Engineer in the State of Maine shall be performed to insure structure integrity. Such inspections shall be performed as follows:

1. Monopole towers — at least once every seven years following completion of construction. The inspection shall take place between the sixth and seventh year of the repeat sequence.
  2. Self-supporting towers — at least once every five years following completion of construction. The inspection shall take place between the fourth and fifth year of the repeat sequence.
  3. Guyed towers — at least once every three years following completion of construction. The inspection shall take place between the second and third year of the repeat sequence.
- b. The inspection report shall be submitted to the Independent Professional Engineer within thirty (30) days of its receipt by the tower owner. Based upon the results of the inspection, the CEO, upon recommendation by the Independent Professional Engineer, may require repair or demolition of the tower.
  - c. The cost of such inspections, reports, repairs or demolition required under this Ordinance shall be borne entirely by the tower owner. Required repairs shall be completed within ninety (90) days or less as required by the CEO and agreement by the Independent Professional Engineer for safety reasons.
  - d. Failure to provide required inspection reports in the required time schedule shall be deemed *prima facie* evidence of abandonment.

**V. Large Business, Professional and Medical Offices or Clinics (referred to herein as “Large Facilities”)**

**1. Purpose.**

The Town of Warren recognizes that the appropriate siting of Large Facilities, including restricting their proximity to schools, churches, family day care homes, small day care facilities, day care centers, residences, and public parks and playgrounds as well as other locations where children and other young adults may frequent is important in order to protect the public.

The Town of Warren finds that with the reasonable and necessary siting restrictions listed herein, there remain sufficient suitable areas within the Town to site Large Facilities. Permitting of these facilities is appropriate and consistent with the Town’s policies and practices to review and permit business activities that impact its citizens.

**2. Applicability.**

This article shall apply to any business, professional or medical office or clinic in the Town of Warren that averages over 150 individual visits a day when considering employees present and client / customer use of the facility.

### 3. Administration.

**(a) *Conflicts with Other Ordinances.*** Whenever a provision of this ordinance conflicts with or is inconsistent with another provision of this ordinance or of any other ordinance, regulation or statute administered by the municipality, the more restrictive provision shall control.

**(b) *Appeal.*** The Warren Board of Appeals shall hear and decide appeals, on a de-novo basis, where it is alleged by an aggrieved party that there is an error in any order, requirement, decision, or determination made by, or failure to act by the Planning Board in the administration of this ordinance,

### 4. Application requirements.

In addition to the requirements outlined in the Town of Warren's Ordinances, including but not limited to the Site Plan Review Ordinance, as well as the requirements outlined in this section 16(V) the following application requirements shall be mandatory:

**(a) *Costs.*** All reasonable costs of experts required in the Planning Board's discretion to adequately review the application, including but not limited to, engineers, surveyors and traffic experts shall be borne by the applicant, as contemplated by Section 16(W) of the Land Use Ordinance.

**(b) *Annual Review Fee.*** To the extent the Town incurs fees in administering the annual review; the applicant shall be responsible for annual review fee costs as described in section 4(a) above, which shall be used to pay for the Town of Warren's costs associated with the annual review process.

**(c) *Business Plan.*** The applicant shall provide a complete business plan to the Planning Board as part of the application. This business plan shall include the following:

- i. Hours of operation;
- ii. Client services;
- iii. Security provisions;
- iv. Anticipated parking demand;
- v. Peak hour traffic;
- vi. Identification of other required licenses;
- vii. Emergency medical response plan;
- viii. Medical waste / hazardous waste disposal plan;

To the extent the Planning Board finds that additional business plan information is pertinent and important to the review process, the applicant shall provide the same.

**(d) Licenses / Approvals.** The applicant shall provide documentation to the Planning Board of the receipt of all approvals required by any federal or state agency or department pursuant to federal or state law prior to commencement of operations.

**(e) Conditions.** The Planning Board may impose conditions on the approval of any permit application under this section 16(V) to ensure compliance with the provisions of this ordinance or any other provision of law.

**(f) Requirements Completed Prior to Occupancy.** Any screening and/or other requirements imposed by the Planning Board pursuant to the provisions of this article or any applicable ordinance shall be installed, completed and approved by the Code Enforcement Officer prior to the issuance of certificate of occupancy.

**(g) Performance Guarantees:** The final plan shall be accompanied by a performance guarantee or, at the discretion of the Planning Board, a conditional agreement. The performance guarantee shall be for an amount adequate to cover the total construction costs of all required improvements for roads, utilities, sewage collection and other improvements for all infrastructure to be used publicly or privately maintained and used in common.

## **5. Location criteria.**

**(a) Route #1 or Route 90.** Due to potential traffic impacts, and other considerations, Large Facilities shall be located only on Route #1 or Route #90.

**(b) Setback from Certain Neighboring Uses.** No Large Facility may be located within 500 feet of any church, school, family day care home, small day care facility, day care center, library, or public park or playground.

**(c) Setback from Residences.** No Large Facility may be located within 500 feet of any existing dwelling, or dwelling unit, unless the applicant can demonstrate to the satisfaction of the Planning Board that no other practical alternative is available. In the event that the Large Facility is located within 500 feet of any existing dwelling or dwelling unit, screening shall be utilized to provide a visual buffer sufficient to minimize the adverse impact on residential uses within the development area and surrounding properties. At a minimum, the screening shall include a dense evergreen hedge six feet or more in height. All such plantings shall be maintained as an effective visual screen; plants that die shall be replaced within one growing season.

**(d) Distance.** In reference to sections 5(b) and (c) above, distances shall be measured in a straight line, horizontal distance, from the closest point on the referenced structure or lot line (with reference to public park or playground) to the closest point on the applicant's proposed facility.

## **6. Traffic conditions.**

The proposed development or use shall not cause unreasonable highway or public road congestion or unsafe conditions with respect to the use of the highways or public roads existing or proposed.



As part of the application requirements under this ordinance, and to assure safe access and egress to and from public roads, the following conditions must be met by the applicant:

**(a) *Paving.*** Due to potential negative environmental impact on neighboring properties from dust, gravel, etc. any Large Facility shall pave its drive/access road.

**(b) *Vehicular and Pedestrian Access.*** Vehicular and pedestrian access and circulation to, from, into and within the site and facility will be safe and no public way will be overburdened or made hazardous as a result of the new use of and/or development of the property.

**(c) *Traffic Accommodation.*** The portion of Route #1 or Route #90 giving access to the proposed facility and intersections which can be expected to carry traffic generated by the development shall have the capacity or be suitably improved to accommodate that traffic and avoid unreasonable congestion. Traffic use for the site or proposed facility shall not reduce the Level of Service (LOS) of the road or street giving access to the site or proposed facility.

**(d) *Provisional Considerations.*** Where necessary to safeguard against hazards to traffic and pedestrians and/or to avoid traffic congestion, provision shall be made for turning lanes, traffic directional islands, frontage roads, sidewalks, bicycle-ways and traffic controls within existing public streets.

**(e) *Avoid Queuing.*** Access-ways to the proposed facility shall be designed to avoid queuing of entering vehicles on any road or street. Left lane storage capacity shall be provided to meet anticipated demand.

**(f) *DOT Considerations.*** The Planning Board may not find that these standards have been satisfied unless it first finds that:

- i. Vehicular access to the site will be on roads which have adequate capacity to accommodate the additional traffic generated by the development. Adequate capacity means that: Intersections on major access routes to the site within a one-half mile radius of any entrance road will function after development at a minimum at Level of Service C, as defined in Maine Department of Transportation regulations, 17-229 C.M.R. Ch. 305, *Rules and Regulations Pertaining to Traffic Movement Permits* (2000); or
- ii. If any such intersection is functioning at a Level of Service D (as defined in MDOT regulations Chapter 305, cited above) or lower prior to the development, the project will not reduce the current level of service. The Planning Board may approve a permit for an application not meeting this requirement if the applicant demonstrates that: A public agency has committed funds to construct the improvements necessary to bring the level of access to said standard, or the applicant will assume financial responsibility for the improvements necessary to bring the level of service to said standard and will guarantee the completion of the improvements within one year of approval of the permit.

## **7. Other Conditions of Approval.**

- (a) **Knox Box.** A Large Facility shall have a Knox Box or approved equal and shall provide the Fire Department with the necessary information to allow entry by Fire Department personnel in the event of an emergency at the location.
- (b) **Parking.** A Large Facility shall have at least 1 parking space for each employee on the two largest shifts combined. Additionally, adequate spaces shall be provided to accommodate customer /client use as may be reasonably required by the Planning Board based upon information provided in the business plan, as required in section 4(c) above. All parking shall be on-site.
- (c) **Hours of Operation.** Hours of operation shall be limited to the hours between 6:00 a.m. and 6:00 p.m. Monday through Friday. Weekends and holidays, the hours of operation shall be limited to 7:00 a.m. through noon. The Planning Board may waive strict compliance with this section (c) if the applicant can demonstrate that strict compliance is unreasonable or unnecessary.

## **8. Violations, Penalties, Authority to Rescind.**

If the Planning Board ascertains that any information provided at the time of application or as part of the annual review process is false or intentionally misleading, then the Planning Board shall have the authority to rescind permit approval. Further, the submission of false information during the application process or the violation of this chapter or the violation of any condition attached to a permit granted under this chapter shall constitute a land use violation and be penalized in accordance with Title 30-A M.R.S.A. 4452 or the then applicable statute.

## **9. Annual Permit Review.**

An applicant's representative must meet with the Planning Board on an annual basis to review, discuss and approve any changes to the Large Facility's operations.

- W. The Planning Board** may hire consultants including, but not limited to, engineers, surveyors, economists, transportation, or traffic experts to assist the Planning Board in analyzing applications based on the site and complexity of the project. All reasonable costs of the experts needed to ensure compliance shall be borne by the applicant.

## **X. Medical Marijuana Registered Dispensaries and Medical Marijuana Cultivation Facilities**

Medical Marijuana Registered Dispensaries and Medical Marijuana Cultivation Facilities shall conform to the following approval and performance standards, as applicable, in order to receive permit approval, and at all times during their operation. Notwithstanding 1 M.R.S.A. § 302, the zoning limitations set forth in Section 13 as well as the following standards shall apply to applications for Medical Marijuana Registered Dispensaries and Medical Marijuana Cultivation Facilities pending as of November 10, 2015.

1. Medical Marijuana Registered Dispensaries and Medical Marijuana Cultivation Facilities shall adhere to the laws of the State of Maine and the State of Maine Rules Governing the

Maine Medical Use of Marijuana Program (10-144 CMR Chapter 122), as the same may be amended from time to time.

2. No more than one Medical Marijuana Registered Dispensary and one Medical Marijuana Cultivation Facility shall be located in the Town of Warren. A Medical Marijuana Registered Dispensary that conducts marijuana cultivation on the same lot or on an adjoining lot shall count as both a Medical Marijuana Registered Dispensary and a Medical Marijuana Cultivation Facility for the purposes of this limitation.
3. A Medical Marijuana Registered Dispensary shall contain sufficient interior space so as not to require, at any time, patient queuing in exterior areas such as sidewalks, parking areas or other outdoor areas.
4. A Medical Marijuana Registered Dispensary shall have at least 1 parking space for each employee on the two largest shifts combined. Additionally, adequate spaces shall be provided to accommodate customer /client use as may be reasonably required by the Planning Board based upon information provided in the application. All parking shall be on-site.
5. A Medical Marijuana Registered Dispensary shall meet the traffic criteria applicable to Large Facilities as specified in Section V(6) of this Ordinance.
6. The size of the inside waiting area for a Medical Marijuana Registered Dispensary shall be calculated at a minimum of 15 square feet per person based on total client capacity (registered patients plus a registered caregiver for each patient).
7. A Medical Marijuana Registered Dispensary shall only be open for business between the hours of 8:00 a.m. and 8:00 p.m. daily.
8. A Medical Marijuana Cultivation Facility shall not be open to the general public.
9. Security measures at a Medical Marijuana Registered Dispensary or Medical Marijuana Cultivation Facility shall including the following at a minimum:
  - a. Security surveillance cameras installed and operating twenty-four (24) hours per day, seven (7) days per week to monitor all entrances, along with the interior and exterior of the facility, to discourage and facilitate the reporting of criminal acts and nuisance activities occurring on the property. All security recordings shall be preserved for thirty (30) days by the management of the licensed Medical Marijuana Registered Dispensary or Medical Marijuana Cultivation Facility.
  - b. Door and window intrusion alarm systems with both audible on-site system and off-site police notification components that are professionally monitored and maintained in good working condition.
  - c. A safe or other secured area affixed to the building in which it is located that is suitable for the storage of all prepared and/or processed marijuana and cash stored overnight in the Medical Marijuana Registered Dispensary or Medical Marijuana Cultivation Facility.

- d. Exterior lighting that illuminates all exterior walls of the licensed Medical Marijuana Registered Dispensary or Medical Marijuana Cultivation Facility, without causing undue light intrusion onto surrounding properties.
  - e. A fence or wall around any exterior area in which marijuana is to be cultivated, of sufficient height and strength to prevent intrusion. Deadbolt locks on all exterior doors, and locks or bars on any exterior fenced area.
- 10. No marijuana or paraphernalia shall be displayed or kept indoors in a Medical Marijuana Registered Dispensary or Medical Marijuana Cultivation Facility so as to be visible from outside the building. Any marijuana plants being cultivated outdoors shall be screened from view so as to prevent their being seen from any road, driveway, parking lot, sidewalk, entranceway or adjacent or abutting property.
  - 11. Sufficient measures and means shall be utilized to prevent smoke, odors, debris, dust, fluids and other substances from exiting the property boundaries of a Medical Marijuana Registered Dispensary or Medical Marijuana Cultivation Facility.
  - 12. A Medical Marijuana Registered Dispensary or Medical Marijuana Cultivation Facility shall provide adequate and lawful means to dispose of all wastes and byproducts generated by the facility.
  - 13. A Medical Marijuana Registered Dispensary or Medical Marijuana Cultivation Facility shall meet all operating and other requirements of state and local law and regulation. To the extent the State of Maine adopts in the future any stricter law or regulation governing Medical Marijuana Registered Dispensaries or Medical Marijuana Cultivation Facilities, that stricter law or regulation shall control.

## **Section 17. Signs**

- A. Signs related to goods and service sold on the premises, or the name of the business, shall be permitted provided that such signs do not exceed 32 s.f. on Route 90 and Route 1 and 20 s.f. on all other roads. A maximum number of three (3) signs will be allowed per premises, two (2) free standing signs and one (1) sign on the building. A free standing sign shall be defined as a nominal two (2) dimensional structure with a common support at a maximum of two (2) faces for lettering.
- B. Temporary signs can be erected on behalf of sponsors on municipal and school properties. The maximum size shall not exceed 32 s.f. (one sided) and shall be removed at the completion of the event or season. No signs shall advertise products, which cannot be legally sold to minors.

### **C. Changeable sign**

“Changeable sign” means any sign, whether permanent or temporary, which has the capability to alter its message rapidly, but excludes a sign operated by the Town of Warren, Knox County or the State of Maine.

- 1. **“Message”** means any form of visual communication, including, without limitation, words, numbers, symbols, images, or any combination thereof.

2. **“Rapidly”** means more frequently than once per hour.
  3. **“Display”** means those portions of the surface area of a changeable sign that are capable of being periodically altered rapidly for the purpose of conveying the same or a different message
  4. A message is altered if the display (i) changes color or appearance; (ii) rolls, flashes, scrolls, blends, phases or pulses; or (iii) its word, numbers, symbols, and/or images change.
- C. The message on the display of a changeable sign is prohibited from being altered more frequently than once every 45 seconds, except a message may phase, pulse, roll, scroll, or blend provided that a full cycle of the message takes at least 45 seconds to complete

## **Section 18. Definitions**

### **A. Construction of Language**

In general, all words and terms used in this Ordinance shall have their customary dictionary meanings. More specifically, certain words and terms shall be described below.

- B. Relationship to Other Town Ordinances** Where there is a conflict between the language contained in this Land Use Ordinance and any other Town Ordinances, the stricter language shall apply for purposes of these land use regulations.

### **C. Definitions**

**Abutter:** One whose property abuts, is contiguous, or joins at a border or boundary, including the property across the street, road, public way or private way.

**Agriculture:** Shall mean the cultivation of soil, producing or raising crops, including gardening as a commercial operation.

**Alternate Code Enforcement Officer(s):** The person(s) appointed by the Warren Board of Selectmen to act in the absence of the appointed Code Enforcement Officer.

**Antenna:** Any system of poles, panels, rods, reflecting discs or similar devices used for the transmission or reception of radio or electromagnetic frequency signals.

**Antenna Height:** The vertical distance measured from the base of the antenna support structure at grade to the highest point of the structure, even if said highest point is an antenna. Measurement of tower height shall include antenna, base pad, and other appurtenances and shall be measured from the finished grade of the facility site. If the support structure is on a sloped grade, then the average between the highest and lowest grades shall be used in calculating the antenna height.

**Automobile Graveyard (automobile junkyard):** Shall mean a yard, field or other area used as a place of storage of three (3) or more unserviceable, discarded, worn-out junked motor vehicles or parts thereof other than temporary storage by an establishment or place of business which is engaged primarily in doing auto repair work the purpose of making repairs to render a motor vehicle serviceable.

**Bed & Breakfast:** A single-family, owner occupied dwelling in which lodging or lodging and meals are offered to guests for compensation, of not more than three (3) bedrooms for lodging purposes.

**Boarding House:** Any residential structure where lodging or lodging and meals are provided for compensation for a period of at least two (2) weeks and where a family residing in the building acts as proprietor or owner and where there are no provisions for working in any individual room other than the main kitchen.

**Body of Water:** Shall include the following:

**Pond or Lake** – any inland impoundment, natural or manmade, which collects and stores surface water.

**Stream or River** – A free flowing drainage outlet, with a defined channel lacking terrestrial vegetation, and flowing water for more than three (3) months during the year.

**Tidal** – Any area upon which tidal action occurs

**Building:** Any structure and its attachments such as decks, breezeways, and porches, which is supported by columns or walls for the housing or enclosure of persons, animals, or personal property excluding mobile homes which have a separate definition.

**Building Height:** The vertical distance measured between the average finished grade of the foundation of a building to the highest point of the structure, not including chimneys, spires, antennas, non-accessible towers, or similar accessory structures.

**Campground:** Any premises established for camping for which a fee is charged.

**Church:** A building, together with its contiguous accessory buildings and uses, where persons regularly assemble for religious worship, and which building, together with its accessory buildings and uses, is maintained and controlled by a religious body organized to sustain public worship.

**Cluster Development:** A subdivision or development in which the lot sizes are reduced below those normally required in return for the provision of permanent open space owned in common by the lot and/or unit owners, the Town or a land conservation organization. Clustering shall not be used to increase the overall net residential density of the development.

**Code Enforcement Officer:** A person appointed by the Municipal Officers to administer and

enforce these Ordinances. Reference to the Code Enforcement Officer should be construed to include Alternate Code Enforcement Officer(s), Building Inspector, Plumbing Inspection, Electrical Inspector, and the like, where applicable.

**Collocation:** The use of a wireless telecommunications facility by more than one wireless telecommunications provider.

**Commercial Use:** Connected with the buying or selling of goods or services or the provision of facilities for a fee.

**Complete Final Plan Application:** An application presented to the Planning Board that includes:

- (1) Required fee;
- (2) Completed application form and associated drawings;
- (3) Planning Board notification stating that all submissions required for Final Plan approval have been received by the Planning Board.

**Comprehensive Plan:** Any part or element of the overall plan for development of the Town as defined in 30A M.R.S.A. 4301 as the same may be amended from time to time.

**Constructed:** Includes built, erected, altered, reconstructed, moved upon, or any physical operations on the premises which are required for construction. Excavation, fill, paving, drainage, and the like, shall be considered as part of construction.

**Construction Drawings:** Drawings showing the location, profile, grades, size and type of drains, sewers, water mains, underground power and telephone ducts, pavements, cross section of roads, miscellaneous structures, drainage and other easements, and similar items.

**Contiguous Lots:** Lots in the same ownership which adjoin at any line or point, except that lots on opposite sides of a public or private road shall be each considered a separate tract or parcel unless such road was established by the owner of the land on both side thereof.

**Day Care Center:** A building, structure or other place in which a person, or combination of persons, maintains or otherwise carries out a regular program, for consideration, for any part of the day providing protection and child care for more than 12 children under 13 years of age, who are unattended by parents or guardians for any part of the day, and which holds all necessary licenses and permits from the State of Maine and/or the Town of Warren.

**Driveway:** A private vehicular entrance from a road or right-of-way. The driveway itself shall not constitute the means of legal access along which frontage may be measured.

**Dwelling:** Any building, mobile home or structure or portion thereof designed or used for residential purposes.

**Single-Family Dwelling** shall mean any building containing only one (1) dwelling unit for occupation by not more than one (1) family.

**Two-Family Dwelling** shall mean a building containing only two (2) dwelling units, for occupation by not more than two (2) families.

**Multi-Family Dwelling** shall mean a building containing three (3) or more dwelling units, such buildings being designed for residential use and occupancy by three (3) or more families living independently of one another, with the number of families not exceeding the number of dwelling units.

**Dwelling Unit:** Shall mean a room or suite of rooms designed and equipped exclusively for use by one (1) family as a habitation and which contains independent living, cooking, sleeping, bathing and sanitary facilities. The term includes manufactured housing and mobile homes, but not recreational vehicles or motel units.

**Electric Power Transmission Services:**

Electric power transmission or distribution lines, towers and related equipment. Such systems may include towers, poles, wires, cables, and similar accessories, but shall not include service drops or buildings which are necessary for the furnishing of such services. The maximum height and road setback requirements of the Town's Land Use Ordinance do not apply to electric power transmission services. The minimum side and rear setback requirements of the Town's Land Use Ordinance do not apply to electric power transmission services which are, instead, subject to a forty (40) foot side and rear property line setback requirements that shall be measured from the center of the support tower or pole.

**Expansion:** In relation to a building, expansion shall mean: enlargement of floor area, or enlargement of building enclosure. In relation to use: the addition of weeks or months to a business' operating season, the addition of hours to a business day, the use of more floor area or ground area, or the provision of additional seats or seating capacity. In relation to towers: the addition of antennas, towers or other devices to an existing structure.

**FAA:** The Federal Aviation Administration, or its lawful successor.

**Family:** One (1) or more persons occupying a premise and living as a single housekeeping unit.

**Family Day Care Home:** Child care for three to 12 children under 13 years of age (not related by blood or marriage to, or legal wards of the operator, or foster children living in the private family residence (i.e. dwelling unit) serving as the day care home) who are unattended by parents or guardians for any part of the day. A family day care home shall be operated by a person who is domiciled and a resident within the private family residence, and who is the holder of all necessary licenses and permits from the State of Maine and/or the Town of Warren.



**FCC:** The Federal Communications Commission, or its lawful successor.

**Filling:** Depositing or dumping any matter on or into the ground or water.

**Final Subdivision Plan:** The final drawings on which the subdivider's plan of subdivision is presented to the Planning Board for approval and which, if approved, shall be filed for recording with the municipal officers and the County Registry of Deeds.

**Flood Plain:** The lands adjacent to a body of water which have been or may be covered by the base flood.

**Forest Management Activities:** Includes timber cruising and other forest source evaluation activities, pesticide applications, timber stand improvement, pruning, timber harvesting and other forest harvesting and regeneration activities of forest stands, and other similar associated activities.

**Forest Management Activities:** Includes timber cruising and other forest source evaluation activities, pesticide applications, timber stand improvement, pruning, timber harvesting and other forest harvesting and regeneration activities of forest stands, and other similar associated activities.

**Frontage:** The linear distance between the sidelines of a lot, measured along the line that borders upon whatever right-of-way serves as legal access to the lot. For the purposes of these regulations, the following ways shall constitute legal access to a lot along which frontage may be measured:

1. A way accepted by or established as belonging to the Town of Warren, or the State of Maine, provided access is not specifically prohibited;
2. .00A roadway, whether dedicated to public ownership or not, as shown on an approved subdivision plan; this road way must have been constructed before consideration for lot access.

**Height:** The vertical measurement from a point on the ground at the mean finish grade adjoining the foundation as calculated by averaging the highest and lowest finished grade around the building or structure, to the highest point of the building or structure. The highest point shall exclude farm building components, flagpoles, chimneys, ventilators, skylights, domes, water towers, church spires, processing towers, tanks, bulkheads, or other building accessory features usually erected at a height greater than the main roofs of buildings.

**Hertz:** A term used to express the frequency of ground vibrations and Airblast. One (1) "hertz" is one (1) cycle per second.

**Historic or Archaeological Resources:** Resources that are:

1. Listed individually in the National Register of Historic Places or eligible for listing on the National Register;
2. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary of the Interior to qualify as a registered historic district;
3. Individually listed on a state inventory of historic places in states with historic preservation programs approved by the Secretary of the Interior.
4. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified by the Secretary of Interior through the Maine Historic Preservation Commission; or
5. Areas identified by a governmental agency such as the Maine Historic Preservation Commission as having significant value as an historic or archaeological resource and any areas identified in the municipality's comprehensive plan, which have been listed or are eligible on the National Register of Historic Places.

**Historic District:** A geographically definable area possessing a significant concentration, linkage or continuity of sites, buildings, structures or objects united by past events or aesthetically by plan or physical development and identified in the municipality's comprehensive plan, which is listed or is eligible to be listed on the National Register of Historic Places. Such historic districts may also comprise individual elements separated geographically, but linked by association or history.

**Historic Landmark:** Any improvement, building or structure of particular historic or architectural significance to the Town relating to its heritage, cultural, social, economic or political history, or which exemplifies historic personages or important events in local, state or national history identified in the municipality's comprehensive plan, which have been listed or are eligible to be listed on the National Register of Historic Places.

**Home Occupation or Profession:** Home occupation or profession shall mean any professional office located within a home or one (1) accessory structure such as accountant, attorney, dentist, doctor, beautician, antique dealer, real estate salesman, insurance broker, artist, musician, architect, machinist, engineer or similar profession, or any customary home occupation which involves the production or manufacture and sale of a product or minor repair work, exclusive of repairs to motor vehicles and engines, and small engine repair including, but not limited to chain saws, snowmobiles, lawn mowers and snowblowers, and which is clearly incidental and secondary to the use of the dwelling for residential purposes and which does not change the character thereof.

**Hotel:** A building in which lodging or meals and lodging are offered to the general public for compensation and in which ingress and egress to and from the rooms are made primarily through an inside lobby or office. The hotel may contain such accessory services and facilities as newsstands, personal grooming facilities and restaurants.

**Industrial:** Connected with the assembling, fabrication, finishing, manufacturing, packaging or processing of goods or the extraction of minerals.

**Inn:** A building, which contains a dwelling unit occupied by an owner or resident manager, in which up to ten (10) lodging rooms or lodging rooms and meals are offered to the general public for compensation, and in which entrance to bedrooms is made through lobby or other common room. Inn includes such terms as guest house, lodging house and tourist house, but not bed and breakfast, hotel or motel.

**Library:** A building, together with its contiguous accessory buildings and uses where literary and artistic materials, such as books, periodicals, newspapers, pamphlets, prints, records, and tapes, are kept for reading, reference, or lending.

**Line of sight:** The direct view of the object from the designated scenic resource.

**Lot:** A parcel of land occupied or capable of being occupied by one (1) building and the accessory buildings or uses customarily incidental to it, including such open spaces as are required by ordinances, and having frontage upon a public street, right-of-way or private way.

**Lot Area:** The total horizontal area within the lot lines.

**Lot Coverage:** The percentage of the lot covered by all buildings.

**Lot Width:** The distance between the side boundaries of the lot measured at the front setback line.

**Manufacturing:** The making of goods and articles by hand or machinery. Manufacturing shall include assembling, fabricating, finishing, packaging or processing operations.

**Medical Marijuana Cultivation Facility:** Medical Marijuana Cultivation Facility means an entity registered pursuant to the laws of the State of Maine and the State of Maine Rules Governing the Maine Medical Use of Marijuana Program (10-144 CMR Chapter 122) that is a permitted location for the cultivation of marijuana on behalf of an off-site Medical Marijuana Registered Dispensary. A Medical Marijuana Cultivation Facility shall not sell, supply or dispense marijuana directly to patients or caregivers. All Marijuana Cultivation Facilities shall be further defined in, and shall adhere to, the State of Maine Rules Governing the Maine Medical Use of Marijuana Program (10-144 CMR Chapter 122), as the same may be amended from time to time.

**Medical Marijuana Registered Dispensary:** Medical Marijuana Registered Dispensary means an entity as defined under Title 22 M.R.S.A., Section 2422(6). A Medical Marijuana Registered Dispensary shall be further defined by, and shall adhere to, the laws of the State of Maine and to the State of Maine Rules Governing the Maine Medical Use of Marijuana Program (10-144 CMR Chapter 122), as the same may be amended from time to time.

**Minimum Lot Area:** The land area of a parcel not including the area of any land, which is part of a right-of-way for a thoroughfare of easement, such as,

**Mobile Home:** A detached, single-family residence with the following characteristics:

2. Manufactured as a relocatable living unit without a permanent foundation, designed for long-term year-round occupancy and containing sleeping accommodations, a toilet, a tub or shower bath, and kitchen facilities, including major appliances, with plumbing and electrical connections provided for attachment to outside systems;
2. Designed to be transported, after fabrication, on its own chassis, and connected to utilities upon being placed on a permanent foundation or mobile home stand; and
3. Designed to be installed with only incidental unpacking and assembling operations;
4. A mobile home which does not comply with the requirements of subsection (d) above but which was lawfully in use as a dwelling in the Town of Warren on the date of adoption of this Ordinance may be relocated to any lot where a mobile home is permitted by the district regulations of this Ordinance.

A mobile home shall be constructed to remain a mobile home, subject to all regulations applying thereto, whether or not the wheels, axles, hitch or other appurtenances of mobility are removed and the interior facilities are modified.

**Mobile Home Parks:** A plot of land designed and/or used to accommodate three (3) or more mobile homes shall meet standard for 30A MRSA 4358 and the regulations relating to mobile home parks promulgated by the manufactured home board.

**Motel:** A building in which lodging is offered to the general public for compensation, and where entrance to rooms is made directly from the outside of the building.

**Net Residential Acreage:** The acreage available for development, excluding the area for streets or access and the areas which are unsuitable for development, as provided for in performance standards for the Town of Warren.

**Net Residential Density:** The number of dwelling units per net residential lot.

**Non-Conforming Use:** Use of land or structures that is not otherwise permitted but which is allowed to remain solely because it was in lawful existence at the time the Ordinance or subsequent amendments took effect. If the use of the non-conforming structure is discontinued for more than twelve (12) consecutive months, the rights to continue the non-conforming use are lost.

**Normal High Water Mark of Coastal Waters:** Along coastal or tidal waters, the elevations at which vegetation changes from predominantly salt tolerant to predominantly non-salt

tolerant. By way of illustration, coastal or tidal vegetation includes, but is not limited to, salt marsh grass, salt meadow hay, black arrowgrass, seaside lavender, silverweed, salt marsh bulrush, seaside plantain, salt marsh sedge, salt marsh aster. In places where vegetation is not present, the height water mark shall be the identifiable debris line left by non-storm tidal action.

**Normal High Water Mark of Inland Waters:** That line of the shores and banks of non-tidal waters which is apparent because of the different character of the soil or the vegetation due to the prolonged action of the water. Relative to vegetation, it is that line where the vegetation changes from predominantly aquatic to predominantly terrestrial (by way of illustration, aquatic vegetation includes, but is not limited to the following plants and plant groups: Water lily, pond lily, pickerelweed, cattail, wild rice, sedges, rushes, and marsh grasses; and terrestrial vegetation includes but is not limited to the following plants and plant groups: Upland grasses, aster, lady slipper, wintergreen, partridgeberry, sarsaparilla, pines, cedars, oaks, ashes, alders, elms, and maples). In places where the shore or bank is of such character that the high water mark cannot be easily determined (rockslides, ledges, rapidly eroding or slumping banks), the normal high water mark shall be estimated from the places where it can be determined by the above method.

**Nursing Home:** Any facility which provides meals, lodging and nursing care for compensation.

**Official Submittal Date:** The time of submission of a pre-application plan, preliminary plan, or Final Plan shall be considered to be the date of written acknowledgement by the Planning Board of the receipt of a completed application. Upon receipt of an application, the Planning Board shall issue a dated receipt. Within thirty (30) days of this receipt, the Planning Board shall notify the applicant in writing either that the application is a complete application, or if it is incomplete, shall specify the additional material needed to complete the application. The date of notification of a complete application shall constitute the official submittal date.

**Parabolic Antenna (also known as a satellite dish antenna):** An antenna which is bowl-shaped, designed for the reception and or transmission of radio frequency communication signals in a specific directional pattern.

**Parking Space:** An area of two hundred (200) square feet, exclusive of drives or aisles for the parking of vehicles.

**Particle Velocity:** A measure of ground vibration. "Particle velocity" describes the velocity at which a particle of ground vibrates when excited by a seismic wave. It is measured in inches per second.

**Personal Services:** A business which provides services but not goods such as: hairdressers, shoe repair, etc.

**Planning Board:** The Planning Board of the Town of Warren as created by 30 M.R.S.A. 4952.

**Plat:** A map of a town, section or subdivision showing the location and boundaries of individual parcels of land subdivided into lots with streets, alleys, easements, etc., usually drawn to scale

**Preliminary Subdivision Plan:** The preliminary drawing for a subdivision indicating the proposed layout of the subdivision and such other information as may be required by these regulations. Approval of a preliminary subdivision plans shall not constitute approval of the final subdivision plan.

**Principal Structure:** The structure in which the primary use of the lot is conducted.

**Principal Use:** The primary use to which the premises are devoted.

**Processing:** Any commercial washing, screening, crushing, or mixing of sand, gravel, stone, rock, clay or topsoil, but excluding (1) the mixing of concrete products on the site of a bona fide residential or commercial construction project and (2) the mixing, washing, screening of soil, gravel or rock by a landscaper on a customer's property.

**Professional Offices:** The place of business for doctors, lawyers, accountants, architects, surveyors, psychiatrists, psychologists, counselors, or similar uses but not including financial institutions or personal services.

**Public Recreational Facility:** A regionally or locally significant facility as defined and identified either by State statute or in the municipality's adopted comprehensive plan, designed to serve the recreational needs of municipal property owners.

**Quarry:** A place where rock is excavated.

**Restaurant:** An establishment where meals are prepared and served to the public for consumption for compensation.

**Standard Restaurant:** A business involving the preparation and serving of meals for consumption on the premises, requiring moderate amounts of time between the period of ordering and serving the meal.

**Fast Food Restaurant:** A business involving the preparation and serving of meals for consumption on the premises or off the premises, normally requiring short amounts of time between the period of ordering and serving of the meal which is served in edible or disposal containers.

**Drive In Restaurant:** A business involving the preparation and serving of meals for consumption on the premises in a motor vehicle or off the premises, normally requiring short amounts of time between the period of ordering and serving of the meal which is served in edible or disposal containers.

**Resubdivision:** The division of an existing subdivision or any change in the plan for an approved subdivision which affects the lot lines, including land transactions by the subdivider

not indicated on the approved plan, or the relocation of any street or lot line in a subdivision.

**Retail:** Connected with the sale of goods to the ultimate consumer for direct use and consumption and not for trade.

**Rights-of-way:** When there is no defined right-of-way, the common traveled way will be considered to be the right-of-way for the purpose of this ordinance. The traveled way will be considered to be no less than 30' wide, 15' either side of the center line of the common way, or to the outside of the wrought portion (area which is presently being used for highway purposes) whichever is greater.

**Road:** Public and private way such as town roads, public rights-of-way and private rights-of-way.

**Road Classification:**

**Town Road:** Strip of land held by the town for the passage and use of the general public by motor vehicle and for which the Town has a maintenance responsibility.

**Private Rights-of-Way:** A way that the general public has no right to pass over by foot or by vehicle, and for which the Town has no maintenance responsibility.

**Rock:** A hard non-metallic material that requires cutting, blasting or similar methods of forced extraction.

**School:** A building together with its contiguous accessory buildings and uses for the education and learning of children. Uses within the meaning of this definition shall include private and public preschool, elementary, middle and high school.

**Seismograph:** An instrument that measures and may supply a permanent record of earthborn vibration induced by blasting.

**Setback:** The horizontal distance from a lot line to the nearest part of a structure.

**Setback from Water:** The horizontal distance from the normal high water mark to the nearest part of a structure.

**Signs:** Signs related to goods and service sold on the premises, or the name of the business, shall be permitted provided that such signs do not exceed 32 s.f. on Route 90 and Route 1 and 20 s.f. on all other roads. A maximum number of three (3) signs will be allowed per premises, two (2) free standing signs and one (1) sign on the building. A free standing sign shall be defined as a nominal two (2) dimensional structure with a common support at a maximum of two (2) faces for lettering.

**Small day care facility:** A child care facility for three to 12 children under 13 years of age who are unattended by parents or guardians for any part of the day in a non-home setting.

Small day care facilities shall not be operated within a private family residence (i.e. dwelling unit).

**Street:** An existing state, county, or town way or a street dedicated for public use and shown upon a plan duly approved by the Planning Board and recorded in the County Registry of Deeds prior to the establishment of the Planning Board and the grant to the Planning Board of its power to approve plans. The term “street” shall not include those ways which have been discontinued or abandoned.

**Street Classification:**

**Arterial:** A major continuous route serving substantial statewide and interstate travel, linking cities, larger towns and other major traffic generators, as classified by the Maine Department of Transportation under the provisions of 23 M.R.S.A. Section 53 as amended.

**Major Collector:** A road linking towns not on the arterial routes to those routes serving traffic generators of intra county importance, and serving as important inter-town travel corridors, as classified by Maine Department of Transportation, as cited above.

**Industrial or Commercial Street:** A street servicing industrial or commercial uses.

**Minor Street:** A street providing access to adjacent land and primarily serving local traffic.

**Private Right-of-Way:** A vehicular access-way serving more than two (2) dwelling units, which is not proposed to be dedicated to the Town.

**Structure:** Anything constructed or erected, the use of which requires a fixed location on or in the ground, or an attachment to something having a fixed location on the ground, including buildings, commercial park rides and games, satellite receiving dishes, carports, decks, porches, and other building features, but not including signs, sidewalks, fences, driveways, and parking lots.

**Subdivider:** Assessed owner or owners of land to be subdivided or person with documented title, right, or interest in the land to be subdivided.

**Subdivider’s Representative or Agent:** That person who has written authorization to act for the subdivider.

**Subdivision of Land:** As defined in 30A M.R.S.A., Section 4401.

- 1. Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

**Densely Developed Area means** any commercial, industrial or compact residential area of ten (10) or more acres with an existing density of at least one (1) principal structure per two (2) acres.



**Principal Structure means** any building other than one (1) which is used for purposes wholly incidental or accessory to the use of another building on the same premises.

**Subdivision means** the division of a tract or parcel of land into three (3) or more lots of less than 40 acres each within any five (5) year period that begins after September 22, 1971. This definition applied whether the division is accomplished by sale, lease, development, building or otherwise, except that a division accomplished by devise, condemnation, order of court, gift to a person related to the donor by blood, marriage or adoption, unless the intent of that gift is to avoid the objectives of this section, or a division accomplished by the transfer of any interest in land to the owner of abutting land, does not create a lot or lots for the purposes of this definition. The division of a tract or parcel into three (3) or more lots and upon all of which lots permanent dwelling structures legally existed before September 23, 1971 is not a subdivision.

In determining whether a tract or parcel of land is divided into three (3) or more lots, the first dividing of the tract or parcel is considered to create the first two (2) lots and the next dividing of either of these first two (2) lots, by whomever accomplished is considered to create a 3rd lot, unless:

- a. Both dividing are accomplished by a subdivider who has retained one (1) of the lots for the subdivider's own use a single-family residence for a period of at least five (5) years before the 2<sup>nd</sup> dividing occurs: or
- b. The division of the tract or parcel is otherwise exempt under this section.

If lots of 40 or more acres are located wholly or partly within any shoreland zone, municipal review may be required by the municipality, provided that the average lot depth to shore frontage ratio is greater than five (5) to one (1).

**Targeted Market Coverage Area:** The area, which is targeted to be served by this proposed telecommunications facility.

**Undue Hardship:** That the land in question cannot yield a reasonable return unless a variance is granted; that the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood; that the granting of a variance will not alter the essential character of the locality; and that the hardship is not the result of action taken by the applicant or a prior owner.

**Unreasonable Adverse Impact:** That the proposed project would produce an end result which is:

1. Excessively out-of-character with the designated scenic resources affected, including existing buildings, structures and features within the designated scenic resource, and
2. Would significantly diminish the scenic value of the designated scenic resource.

**Variance:** A relaxation of the terms of an ordinance where such variance would not be contrary to the public interest where, owing to conditions peculiar to the property and not the result of the action of the applicant, a literal enforcement of this Ordinance would result in unnecessary and undue hardship. A financial hardship shall not constitute grounds for granting a variance.

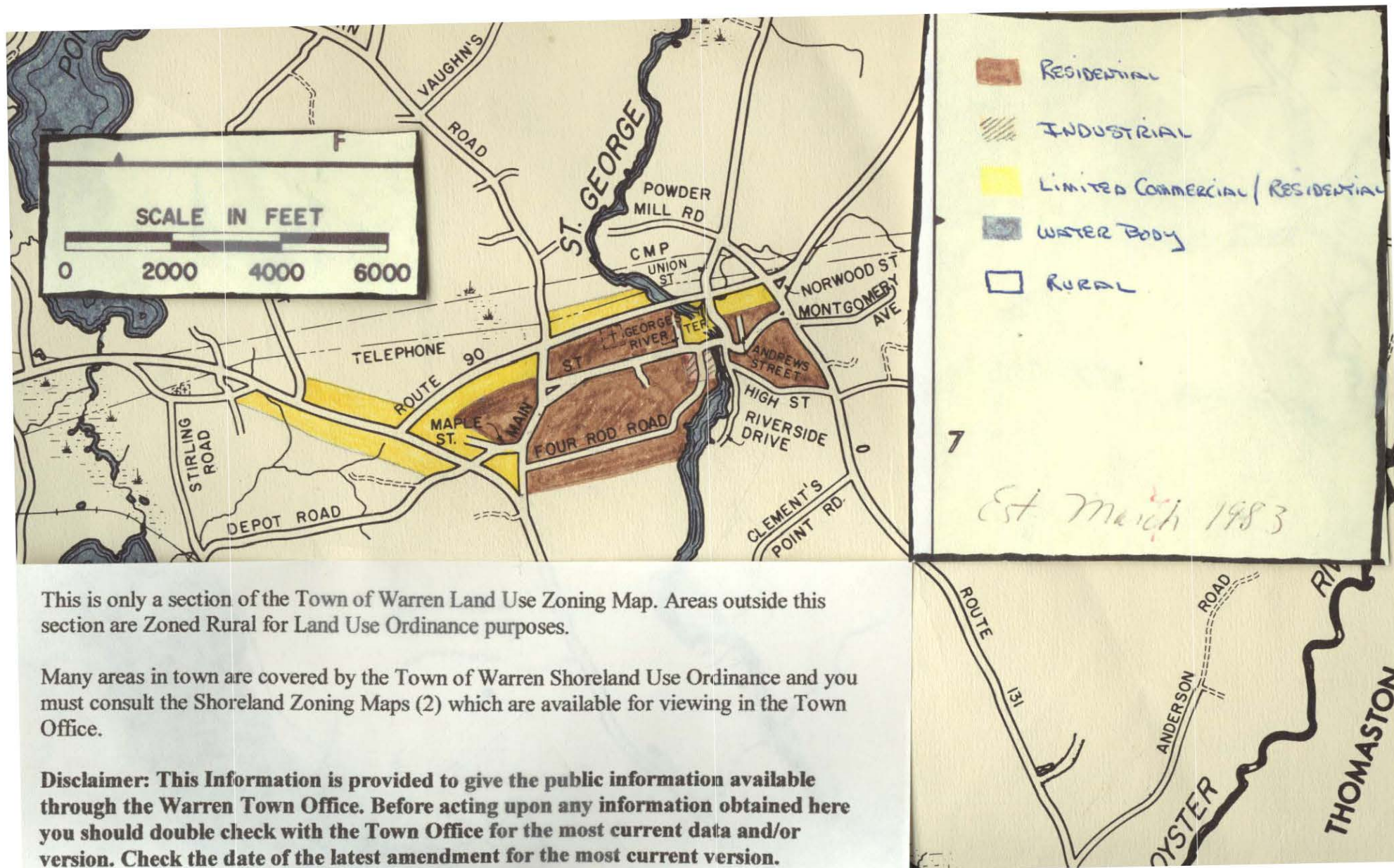
The crucial points of variance are undue hardship and unique circumstances applying to the property. A variance is not justified unless both elements are present in the case.

**Viewpoint:** That location which is identified either in the municipally adopted comprehensive plan or by a Federal or State agency, and which serves as the basis for the location and determination of a particular designated scenic resource.

**Wholesale:** Selling to retailers or jobbers rather than to the consumers.

**Wireless Telecommunications Facility:** Any structure, antenna, tower or other device which provides radio/television transmission, commercial mobile wireless services, unlicensed wireless services, cellular phone services, specialized mobile radio communications (SMR), common carrier wireless exchange phone services, common carrier wireless exchange access services, and personal communications service (PCS) or pager services.

**Yard:** The area between a structure and the property boundary.



<http://town.warren.me.us/>

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# Town of Warren

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## Manufactured Housing Ordinance

**Adopted March 16, 1992**  
(181 yes, 107 no)

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TOWN OF WARREN

MANUFACTURED HOUSING ORDINANCE

ARTICLE I - PURPOSE

The purposes of this Ordinance are to establish minimum standards for the placement of manufactured housing in accordance with the provisions of Title 30-A M.R.S.A. Section 4358, "Regulation of Manufactured Housing" and to provide opportunities for the location of affordable and safe housing within the Town.

ARTICLE II - AUTHORITY, APPLICABILITY & ADMINISTRATION

1. Authority

This Ordinance is enacted pursuant to Home Rule Powers as provided for in Article 8, Pt. 2, ss 1 of the Maine State Constitution and under the authority granted to the Town by the statutes of the State of Maine Title, 30-A M.R.S.A. Section 3001, and in accordance with the provisions of Title 30-A, M.R.S.A., Section 4358.

2. Applicability

This Ordinance shall apply to all land within the Town of Warren and to all factory-built housing located in the Town.

3. Administration and Enforcement

The provisions of this Ordinance shall apply to all manufactured housing within the Town of Warren and shall be administered and enforced by the Town of Warren Code Enforcement Officer.

4. Effective Date

This Ordinance shall be effective upon its adoption by a majority vote of the eligible voters of the Town of Warren, Maine at the March 1992 Town Meeting.

5. Fees

The Selectmen shall be responsible for setting the appropriate fees. The fees shall be included and listed in the Town of Warren Fee Schedule.

ARTICLE - III - SEVERABILITY & CONFLICT

ssl Severability

Should any article of this Ordinance be declared by the courts of the State of Maine or by the courts of the United States to be invalid, such decisions shall not invalidate any other article or provision of this Ordinance.

ss2 Conflict with other Ordinances

This Ordinance shall in no way impair or remove the necessity of compliance with any other rule, regulation, bylaw, permit or provision of law. Where this Ordinance imposes a greater restriction upon the use of the land, buildings or structures, the provisions of this Ordinance shall prevail.

ARTICLE IV - AMENDMENT OF THIS ORDINANCE

ssl Initiation of Amendment

An amendment to this Ordinance may be initiated by:

- A. The Planning Board provided that a majority of the Board has so voted; or
- B. Request of the Selectmen to the Planning Board; or
- C. Written petition to the Selectmen bearing signatures of registered voters of the Town of Warren, Maine numbering at least ten (10) percent of the number who voted in the last gubernatorial election.

ss2 Adoption of Amendment

All proposed amendments to this Ordinance shall be referred to the Planning Board for their recommendation. The Planning Board may hold a public hearing on any proposed amendment. Within thirty (30) days of receiving a proposed amendment, the Planning Board shall make known their recommendation to the Selectmen and to the Town. After receiving the recommendation of the Planning Board, the amendment shall be voted on by the voters of the Town of Warren at Town Meeting, a majority vote being required for adoption.

ARTICLE V DEFINITIONS

Terms not defined shall have their customary dictionary meaning.

Manufactured Housing. “Manufactured housing” shall mean a structural unit or units designed for occupancy, and constructed in a manufacturing facility and then transported by the use of its own chassis, or placed on an independent chassis, to a building site. The term shall include any type of building which is constructed at a manufacturing facility and then transported to a building site where it is utilized for housing and may be purchased or sold by a dealer in the interim. For purposes of this Section, three (3) types of manufactured housing are included. They are:

- (A) Those units constructed after June 15, 1976, commonly called “new mobile homes”, which the manufacturer certifies are constructed in compliance with the United States Department of Housing and Urban Development standards, meaning structures, transportable in one or more sections, which, in the traveling mode, are fourteen (14) body feet or more in width and are 750 or more square feet, and which are built on a permanent chassis and designed to be used as dwellings, with or without permanent foundations, when connected to the required utilities, including the plumbing, heating, air conditioning and electrical systems contained therein; this

term also includes any structure which meets all the requirements of this paragraph, except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the Secretary of the United States Department of Housing and Urban Development and complies with the standards established under the National Manufactured Housing Construction and Safety Standards Act of 1974, United States Code, Title 42, Section 5401, et seq.; and

- (B) Those units-commonly called “modular homes”, which the manufacturer certifies are constructed in compliance with the state’s Manufactured Housing Act and regulations, meaning structures, transportable in one or more sections, which are not constructed on a permanent chassis and are designed to be used as dwellings on foundations when connected to required utilities, including the plumbing, heating, air-conditioning or electrical systems contained therein.
- (C) Those units constructed prior to June 15, 1976, meaning structures, transportable in one or more sections, which are eight (8) body feet or more in width and are 32 body feet or more in length, and which are built on a permanent chassis and designed to be used as dwellings, with or without permanent foundations, when connected to the required utilities, including the plumbing, heating, air-conditioning, or electrical system contained herein.

#### ARTICLE VI - NON-CONFORMING STRUCTURES

Any mobile home or house-trailer which fails to meet any of the definitions in Section VI which was lawfully established prior to the effective date of this Ordinance, shall be considered a non-conforming structure and may continue to be maintained, repaired, improved, expanded, or relocated on another portion of the same lot.

#### ARTICLE VII - PERMIT REQUIREMENTS

No person, firm, corporation or other legal entity shall locate a manufactured home in the Town of Warren or move a manufactured home from one lot or parcel of land to another without a permit from the Code Enforcement Officer.

No manufactured housing may be sited within the Town of Warren, Maine without either a bill of sale indicating the name, address, dealer registration number and sales tax certificate number of the person who sold or provided the manufactured housing to the buyer locating such housing in this Town; or evidence of certification of payment of the sales tax in accordance with Title 36, M.R.S.A., Section 1760, Subsection 40 and Title 36, M.R.S.A., Section 1952-B. A copy of each document required for each housing unit shall be filed with the Code Enforcement Officer prior to the siting of said unit.

The Code Enforcement Officer shall issue the permit within seven (7) days of receipt of a written application and submission of proof that the manufactured home meeting the requirements of Article V. Older mobile homes, as defined in Article V, C must also meet the requirements of Article IX.

## ARTICLE VIII - LOCATION OF MANUFACTURED HOUSING

1. Modular homes and mobile homes constructed after June 15, 1976, are permitted in all zones in which single family-dwellings are permitted.
2. Mobile homes constructed before June 15, 1976, are permitted in all zones in which single family dwellings are permitted, except the Residential District and Industrial District as define in the Land Use Ordinance for the Town of Warren, but any established prior to this amendment is grandfathered and continues as non-conforming structure.
3. Unless located within an approved mobile home park, a modular or mobile home, whatever its date of manufacture, must comply with the same setback and minimum lot size requirements as applicable to single-family dwellings in that district.

## ARTICLE IX - STANDARDS

The standards in Article IX shall apply to all manufactured housing built before June 15, 1976, or any manufactured housing not built according to the National Manufactured Housing Construction and Safety Standards Act of 1974, United States Code, Title 42, Chapter 70, to be located in the Town of Warren, Maine. The applicant shall have the burden of proving to the Code Enforcement Officer that these standards are met.

All manufactured housing located in the Town of Warren shall be at least twelve (12) feet in width, shall contain at least 450 square feet of living space, shall have a shingled roof, with a minimum pitch of three in twelve (3/12), shall have siding that is residential in appearance and consistent with surrounding neighborhood housing, and shall have a permanent masonry foundation or a gravel pad. The foundation may include a poured concrete gravel pad. The foundation may include a poured concrete or concrete block wall or a full basement. Manufactured homes not placed on a permanent foundation shall have all space between the pad and the floor of the home enclosed by skirting. Skirting may consist of metal sheathing, concrete block, painted or stained wood or plywood, or other permanent material.

### A. Exit Facilities - Exterior Doors

1. Required egress doors shall not be located where a lockable interior door must be used in order to exit.
2. Homes shall have a minimum of two (2) exterior doors not less than twelve (12) feet from each other as measured in any straight line direction regardless of the length of travel between doors. One of the required exit doors must be accessible from the doorway of each bedroom without traveling more than 35 feet.
3. All exterior swinging doors shall provide a minimum 28 inches wide by 74 inches high clear opening. All exterior sliding glass doors shall provide a minimum 28 inches wide by 72 inches high clear opening. Locks shall not require the use of a key for operation from the inside.



## B. Exit Facilities - Egress Windows and Devices

Mobile homes shall have the following emergency egress facilities:

1. Every room designated expressly for sleeping purposes, unless it has an exit door, shall have at least one (1) outside window or approved exit device. If an exit window or device is installed it shall be listed in accordance with procedures and requirements of AAMA 1704-1985.
2. The bottom of the window opening shall not be more than 36 inches above the floor.
3. Locks, latches, operating handles, tabs and any other window, screen or storm window devices, which need to be operated in order to permit exiting, shall not be located in excess of 54 inches from the finished floor.

## C. Interior Doors

Each interior door when provided with a privacy lock, shall have a privacy lock that has an emergency release on the outside to permit entry when the lock has been locked by a locking knob, lever, button or other locking devices on the inside.

## D. Fire Detection Equipment

1. At least one (1) smoke detector (which may be a single station alarm device) shall be installed in the home in the following locations:
  - i. A smoke detector shall be installed on any wall in the hallway or space communicating with each bedroom area between the living area and the first bedroom door unless a door separates the living area from that bedroom area in which case the detector shall be installed on the living area side as close to the door as practical. Homes having bedroom areas separated by any one, or combination of communication areas such as kitchen, dining room, living room, or family room (but not a bathroom or utility room) shall have at least one (1) detector protecting each bedroom area.
  - ii. When located in hallways, the detector shall be between the return air intake and the living area.
  - iii. The smoke-detector shall not be placed in a location which impairs its effectiveness.
  - iv. Smoke detectors shall be labeled as conforming with the requirements of Underwriters Laboratory Standards No. 217, Third Edition, 1985, as amended through October 8, 1985, for single and multiple station smoke detectors.
2. Each smoke detector shall be installed in accordance with its listing. The top of the detector shall be located on a wall four (4) inches to twelve (12) inches below the ceiling. However, when a detector is mounted on an interior wall, below a sloping ceiling, it shall be located four (4) inches to twelve (12) inches below the intersection on the connecting exterior wall, and the sloping ceiling (cathedral ceiling). The required detector(s) shall be attached to an electrical outlet box and the detector connected by permanent wiring method

into a general electrical circuit. There shall be no switches in the circuit to detector between the over-current protection device protecting the branch circuit and the detector. The smoke detector shall not be placed on the same branch circuit or any circuit protected by a ground fault circuit interrupter.

E. Flame Spread

1. Ceiling interior finish shall not have a flame spread rating exceeding 75.
2. Walls and ceilings adjacent to or enclosing a furnace or water heater shall have an interior finish with a flame spread rating not exceeding 25. Sealants and other trim material two (2) inches or less in width used to finish adjacent surfaces within this space are exempt if supported by framing members or by materials having a flame spread rating not exceeding 25.
3. Exposed interior finishes adjacent to the cooking range shall have a flame spread rating not exceeding 50.
4. Kitchen cabinet doors, counter tops, back splashes, exposed bottoms, and end panels shall have a flame spread rating not to exceed 200.
5. Finish surfaces of plastic bathtubs, shower units, and tub or shower doors shall not exceed a flame spread rating of 200.
6. No burner of a surface cooking unit shall be closer than twelve (12) horizontal inches to a window or an exterior door.

F. Kitchen Cabinet Protectors

1. The bottom and sides of combustible kitchen cabinets over cooking ranges to a horizontal distance of six (6) inches from the outside edge of the cooking range shall be protected with at least 5/16 inch thick gypsum board or equivalent limited combustible material. One (1) inch nominal framing members and trim are exempted from this requirement. The cabinet area over the cooking range or cooktops shall be protected by a metal hood with not less than a three (3) inch eyebrow projecting horizontally from the front cabinet face. The 5/16 inch thick gypsum board or equivalent limited combustible material which is above the top of the hood may be supported by the hood. A 3/8 inch enclosed air space shall be provided between the bottom surface of the cabinet and the gypsum board or equivalent limited combustible material. The hood shall be at least as wide as the cooking range.
2. The metal hood will not be required if there is an oven at least as wide as the cooking range installed between the cabinet and the range, centered above the range.
3. Ranges shall have a vertical clearance above the cooking top of not less than 24 inches to the bottom of combustible cabinets.

G. Carpeting

Carpeting shall not be used in a space or compartment designed to contain only a furnace and/or water heater. Carpeting may be installed in other areas where a furnace or water heater is installed, provided that it is not located underneath the furnace or water heater.

H. Heating and Fuel Burning System

A person holding a master license issued by the State of Maine Oil and Solid Fuel Examining Board shall inspect and certify in writing that the heating and fuel system meets the requirements of NFPA-31 - Installation of Oil Burning Equipment as adopted by that Board.

I. Electrical System

A person holding a master license issued by the State of Maine Electricians Examining Board shall inspect and certify in writing that the electrical system is safe and meets the National Electrical code in effect at the time the home was manufactured.

J. Sewage Disposal

1. All water carried sewage shall be disposed of by means of one (1) of the following:
  - i. Individual subsurface sewage systems meeting the requirements of the State of Maine Plumbing Code
  - ii. Public sewer.
2. All subsurface sewage systems shall be located on soils approved by the local Plumbing Inspector and Licensed Soil Evaluator.

ARTICLE X - APPEALS AND VARIANCES

- A. Variances. The Board of Appeals, may upon written application of the affected landowner, grant a variance from the strict application of this ordinance if it would result in undue hardship to the applicant. The term “undue hardship” shall mean:

1. That the land in question cannot yield a reasonable return unless a variance is granted;
2. That the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood;
3. That the granting of a variance will not alter the essential character of the locality; and
4. That the hardship is not the result of action taken by the applicant or a prior owner.

A variance shall not allow the placement of a manufactured home in a zone in which such structures, including modular homes, newer mobile homes, older mobile homes or trailers, are prohibited as dwellings.

A variance is authorized only for dimensional requirements. A variance shall not be granted to permit a use or structure otherwise prohibited.

- B. Appeals to Board of Appeals. The Board of Appeals may, upon written application of an aggrieved party and after public notice, hear appeals from determinations of the Planning Board or Code Enforcement Officer in the administrations of the Ordinance. Such hearings shall be held in accordance with State laws. Following such hearings, the Board of Appeals may reverse the decision of the Planning Board or Code Enforcement Officer only upon a finding that the decision is clearly contrary to specific provisions of this Ordinance.
- C. Appeal to Superior court. An appeal may be taken within thirty (30) days after any decisions is rendered by the Board of Appeals, by any party to Superior Court in accordance with State law.



# **Municipality of Warren Moratorium Ordinance on Retail Marijuana Establishments and Retail Marijuana Stores and Retail Marijuana Social Clubs**

**As adopted at Special Town Meeting  
January 24, 2017**

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**MUNICIPALITY OF WARREN MORATORIUM  
ORDINANCE ON RETAIL MARIJUANA ESTABLISHMENTS AND RETAIL  
MARIJUANA STORES AND RETAIL MARIJUANA SOCIAL CLUBS**

WHEREAS, the “Marijuana Legalization Act,” has become law in Maine, codified in the Maine Revised Statutes in Title 7, chapter 417; and

WHEREAS, the Marijuana Legalization Act (hereinafter, “Act”) authorizes municipalities to regulate the number of retail marijuana stores and the location and operation of retail marijuana social clubs and retail marijuana establishments, including retail marijuana stores, retail marijuana cultivation facilities, retail marijuana products manufacturing facilities and retail marijuana testing facilities, as those terms are defined in the Act, as well as providing the option to prohibit the operation of retail marijuana social clubs and retail marijuana establishments, including stores, cultivation facilities, manufacturing facilities and testing facilities, within their jurisdiction; and

WHEREAS, the proposed Act will not limit the privileges or rights afforded by the Maine Medical Use of Marijuana Act (22 M.R.S.A. §§ 2421 – 2430-B) to qualifying patients, primary caregivers, or registered dispensaries, including cultivation facilities associated with any of those classifications; and

WHEREAS, the Municipality’s current ordinances do not include any regulations related to retail marijuana stores, retail marijuana establishments or retail marijuana social clubs under the proposed new Act; and

WHEREAS, the unregulated location and operation of retail marijuana establishments, retail marijuana stores and retail marijuana social clubs within the Municipality of Warren raises legitimate and substantial questions about the impact of such establishments, stores and social clubs on the Municipality, including questions about the compatibility of retail marijuana establishments, retail marijuana stores and retail marijuana social clubs with existing uses and development in residential, commercial and industrial zoning districts; the potential adverse health and safety effects of retail marijuana establishments, retail marijuana stores and retail marijuana social clubs on the community if not properly regulated; the possibility of illicit sale and use of marijuana and marijuana products to minors and misuse of marijuana and marijuana products by those who would abuse the uses authorized under the Act; potential criminal activity associated with the cultivation, manufacturing, sale and use of marijuana and marijuana products for non-medicinal purposes and the potential increased burden on the Municipality’s police and fire departments; and the adequacy of the Municipality’s streets and infrastructure to accommodate the additional traffic and/or population that may result from the presence of retail marijuana establishments, retail marijuana stores or retail marijuana social clubs; and

WHEREAS, the possible effect of the location and operation of retail marijuana establishments and/or retail marijuana stores and/or retail marijuana social clubs within the Municipality has potentially serious implications for the health, safety and welfare of the Municipality and its residents; and

WHEREAS, the Municipality needs time to review the Act and to review its own ordinances to determine the implications of future proposed retail marijuana establishments and/or retail marijuana stores and/or retail marijuana social clubs to develop reasonable ordinances governing the location and operations of such establishments and stores and social clubs to address the concerns cited above; and

WHEREAS, the Municipality's current ordinances are insufficient to prevent serious public harm that could be caused by the unregulated development of retail marijuana establishments and retail marijuana stores and retail marijuana social clubs and other uses authorized by the Act, thereby necessitating a moratorium; and

WHEREAS, the board of municipal officers, the administration and the planning board, with the professional advice and assistance of the police department, shall study the Municipality's current ordinances to determine the land use and other regulatory implications of retail marijuana establishments and retail marijuana stores and retail marijuana social clubs and consider what locations, if any, and conditions of approval, if any, might be appropriate for such uses; and

WHEREAS, a moratorium is necessary to prevent an overburdening of public facilities that is reasonably foreseeable as the result of retail marijuana establishments and retail marijuana stores and retail marijuana social clubs and other uses authorized by the Act, being located in the Municipality; and

WHEREAS, it is anticipated that such a study, review, and development of recommended ordinance changes will take at least one hundred and eighty (180) days from the date the Municipality enacts this Moratorium Ordinance on retail marijuana establishments and retail marijuana stores and retail marijuana social Clubs;

NOW, THEREFORE, be it ordained by the legislative body of the Municipality of Warren, that the following Moratorium Ordinance on retail marijuana establishments and retail marijuana stores and retail marijuana social clubs be, and hereby is, enacted, and, in furtherance thereof, the legislative body does hereby declare a moratorium on the location, operation or licensing of any retail marijuana social clubs and any retail marijuana establishments, including retail marijuana stores, retail marijuana cultivation facilities, retail marijuana products manufacturing facilities and retail marijuana testing facilities, within the City.

This Moratorium Ordinance shall take effect, once enacted by the legislative body, but shall be applicable as of January 24, 2017 as expressly provided below. The moratorium shall remain in effect for one hundred and eighty (180) days from the date of applicability of this Ordinance, unless extended, repealed, or modified by the legislative body, for the express purpose of drafting an amendment or amendments to the Municipality's current ordinances to protect the public from health and safety risks including, but not limited to, compatibility of retail marijuana establishments, retail marijuana stores and retail marijuana social clubs with existing and permitted uses in residential, commercial and industrial zoning districts; the correlation of retail marijuana establishments, retail marijuana stores and retail marijuana social clubs with medical marijuana cultivation facilities and dispensaries, all as defined in the Act; the

potential adverse health and safety effects of retail marijuana establishments and retail marijuana stores and retail marijuana social clubs on the community if not properly regulated; the possibility of illicit sale and use of marijuana and marijuana products to minors and misuse of marijuana and marijuana products by those who would abuse the uses authorized under the new law; criminal activity associated with the cultivation, manufacturing, sale and use of marijuana and marijuana products for non-medicinal purposes and the potential increased burden on the public safety agencies serving the Municipality in responding to the same; and the adequacy of the Municipality's infrastructure to accommodate the additional traffic and/or population that may result from the presence of retail marijuana establishments or retail marijuana stores or retail marijuana social clubs in the Municipality.

BE IT FURTHER ORDAINED, that this Ordinance shall apply to retail marijuana stores and retail marijuana social clubs and retail marijuana establishments, including retail marijuana stores, retail marijuana cultivation facilities, retail marijuana products manufacturing facilities and retail marijuana testing facilities, as those terms are defined by the Act, codified at 7 M.R.S.A. §§ 2442 (36), (38), (39), (40) (41), that may be proposed to be located within the Municipality on or after the January 24, 2017 applicability date of this Ordinance; and

BE IT FURTHER ORDAINED, that notwithstanding the provisions of 1 M.R.S.A. § 302 or any other law to the contrary, this Ordinance, when enacted, shall govern any proposed retail marijuana establishments or retail marijuana stores or retail marijuana social clubs for which an application for a building permit, Certificate of Occupancy, site plan or any other required approval has not been submitted to and granted final approval by the Code Enforcement Officer, Planning Board or other Municipal official or board prior to the applicability date of this Ordinance; and

BE IT FURTHER ORDAINED, that no person or organization shall develop or operate a retail marijuana establishment or retail marijuana store or retail marijuana social club within the Municipality on or after the effective date of this Ordinance without complying with whatever ordinance amendment or amendments the legislative body may enact as a result of this Moratorium Ordinance; and

BE IT FURTHER ORDAINED, that during the time this Moratorium Ordinance is in effect, no officer, official, employee, office, administrative board or agency of the Municipality shall accept, process, approve, deny, or in any other way act upon any application for a license, building permit or any other type of land use approval or permit and/or any other permits or licenses related to a retail marijuana establishment or retail marijuana stores or retail marijuana social club; and

BE IT FURTHER ORDAINED, that those provisions of the Municipality's ordinances that are inconsistent or conflicting with the provisions of this Ordinance, are hereby repealed to the extent that they are applicable for the duration of the moratorium hereby ordained, and as it may be extended as permitted by law, but not otherwise; and

BE IT FURTHER ORDAINED, that if retail marijuana establishments or retail marijuana stores or retail marijuana social clubs are established in violation of this Ordinance, each day of



any continuing violation shall constitute a separate violation of this Ordinance, and the Municipality shall be entitled to all rights available to it in law and equity, including, but not limited to, fines and penalties, injunctive relief, and its reasonable attorney's fees and costs in prosecuting any such violations; and

BE IT FURTHER ORDAINED, that should any section or provision of this Ordinance be declared by any court of competent jurisdiction to be invalid, such a declaration shall not invalidate any other section or provision.

TOWN OF WARREN, MAINE  
METALLIC MINING ORDINANCE



June, 1992

*Adopted June 9, 1992*  
*attest:*  
*Chris M. Luce*

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6. To encourage reliance on those metallic mining activities which best prevent or minimize the potential for pollutant releases into the environment, and to control and monitor through a permitting system the nature and extent of pollution from metallic mining activities that can be discharged or released into the environment;

7. To foster local control of the environment through the exercise of the Town of Warren's Home Rule authority by bestowing certain powers and duties upon the Town of Warren Planning Board, by providing procedures to control and remediate unpermitted releases to the environment, by ensuring the Town of Warren has adequate financial resources to evaluate permit applications and conduct necessary oversight activities, and by providing enforcement authorities to ensure compliance with permits and Board actions is maintained; and

8. To ensure the metallic mining companies and not the taxpayers of the Town of Warren bear the expenses associated with protecting human health and the environment from the adverse impacts that may result from mining activities.

C. This Ordinance shall be liberally construed to effectuate its purposes and policies.

D. This subchapter applies to the following subchapters:

Subchapter 2. Exploration and Advanced Exploration

Subchapter 3. Pre-Application

Subchapter 4. Mining

Subchapter 5. Mine Waste Treatment and Management

Subchapter 6. Administration and Enforcement

## Section 2. Definitions

A. Acid Rock Drainage. "Acid rock drainage" means the drainage that occurs as a result of natural oxidation of sulfide minerals contained in rock which is exposed to air and water.

B. Advanced Exploration or Advanced Exploration Activity. "Advanced exploration" or "advanced exploration activity" means any activity involving the bulk sampling of metallic mineral deposits, or any metallic mineral exploration activities which exceed those defined as exploration activities.

C. Advanced Exploration Permit. "Advanced exploration permit" means a permit to conduct metallic mineral advanced exploration activities.

N. Complex Hydrogeology. "Complex hydrogeology" means subsurface hydrogeological conditions such that it is not technically feasible to monitor groundwater to detect migration of contaminants from the mine waste unit to the uppermost aquifer, or it is not technically feasible to conduct corrective action.

O. Corrective Action. "Corrective action" means action taken by the permittee to correct a violation or to meet a performance requirement in a metallic mineral mining permit or advanced exploration permit, or other law.

P. DEP. "DEP" means the Maine Department of Environmental Protection composed of the Board of Environmental Protection and the Commissioner of the Department.

Q. Director of the Survey. "Director of the Survey" means "the Director of the Maine Geological Survey."

R. Displacement. "Displacement" means the relative movement, measured in any direction, of the two sides of a fault.

S. Drilling. "Drilling" means the making of holes with a drill for exploration of a metallic mineral deposit.

T. Drill Hole. "Drill hole" means the cavity created by drilling.

U. Endangered or Threatened Species. "Endangered or threatened species" means any species of fish or wildlife that the State of Maine Commissioner of Inland Fisheries and Wildlife has designated as endangered or threatened.

V. Environmental Impact Report. "Environmental impact report" (EIR) means a detailed study describing and analyzing the environmental impacts of a mining or advanced exploration activity, discussing ways to mitigate or avoid such impacts, and evaluating reasonable alternatives to the proposed activity.

W. Environmental Review. "Environmental review" means a process of assessing the environmental impacts of a proposed mining activity.

X. Exploration. "Exploration" or "exploration activity" means any activity engaged in for purposes of determining the location, extent and composition of metallic mineral deposits, provided that such activities are limited to test boring, test drilling, hand sampling, the digging of test pits having a maximum surface opening of 100 square feet, or other test sampling methods which cause minimum disturbance of soil and vegetative cover. Exploration activities shall not include advanced exploration activities.



FF. Great Pond. "Great Pond" means any inland body of water which in a natural state has a surface area in excess of 10 acres and any inland body of water artificially formed or increased which has a surface area in excess of 30 acres.

GG. Groundwater. "Groundwater" means all the waters found beneath the surface of the earth which are contained within or under this State or any portion thereof, except such waters as are confined and retained completely upon the property of one person and do not drain into or connect with any other waters of the State.

HH. Hazardous Waste. "Hazardous waste" means "a waste substance or material, in any physical state, designated as hazardous by the Maine Board of Environmental Protection.

II. Holocene. "Holocene" means the most recent epoch of the Quaternary period, extending from approximately 10,000 years ago to the present.

JJ. In-Situ Leaching. "In-situ leaching" means the leaching of minerals occurring in the situation in which they were originally formed or deposited. For purposes of this Ordinance, in-situ leaching is not considered mining.

KK. Land Clearing Debris. "Land clearing debris" means solid wastes resulting from the clearing of land and consisting solely of brush, stumps, soil material and rocks.

LL. Leachate. "Leachate" means any liquid, including any suspended components in the liquid, that has passed through or emerged from any material.

MM. Leak Detection System. "Leak detection system" means a system for the detection of leaks through a liner consisting of a high permeability layer that contains a collection and transport network over a low permeability layer which impedes the downward movement of leachate.

NN. Liner. "Liner" means a continuous layer of man-made or reconstructed natural materials, or a combination thereof, which restricts the vertical or lateral movement of liquids.

OO. Metallic Minerals. "Metallic minerals" or "metallic mineral deposit" means any mineral containing any metal, including, but not limited to, minerals containing gold, silver, iron, manganese, copper, lead, zinc, tin, chromium, cobalt, nickel, molybdenum, platinum group elements, aluminum, arsenic, antimony, or bismuth as their valuable constituent(s). Metallic minerals do not include common rock-forming minerals such as quartz, calcite, dolomite, feldspar, pyroxenes, amphiboles, zeolites, clays, or micas. For purposes of this Ordinance, "metallic minerals" does not include thorium or uranium.

**TOWN OF WARREN, MAINE  
METALLIC MINING ORDINANCE**



June, 1992

*Adopted June 9, 1992*  
*Attest:*  
*Chris M. Luce*



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TOWN OF WARREN  
METALLIC MINING ORDINANCE

SUBCHAPTER 1. GENERAL PROVISIONS

Section 1. Title, Purpose, and Applicability.

A. Title. This Ordinance shall be known and may be cited as the "Warren Metallic Mining Ordinance"

B. Purposes and Policies. The Town of Warren has enacted this Ordinance for the purpose of protecting the public health, safety, and welfare of the inhabitants of the Town of Warren and for the purpose of protecting the Town of Warren's environment. This Ordinance is enacted pursuant to the Home Rule powers bestowed upon the Town of Warren by the Constitution and the laws of the State of Maine. It is intended to provide a comprehensive scheme for metallic mining regulation at the local level in furtherance of the policies contained in federal and state laws for the protection of human health and the environment.

This Ordinance is the result of a lengthy and thorough consideration of the alternatives available to the Town of Warren for the regulation of metallic mining as may be necessary to protect human health and the environment, and for the integration of this Ordinance with applicable federal, state, and local laws and regulations.

In addition to the foregoing, the purposes and policies of this Ordinance are:

1. To provide for the protection of groundwater, surface water, and air quality in the Town of Warren;
2. To conserve and protect the Town of Warren's natural resources, and to preserve property values, recreational opportunities, and the quality of life of the inhabitants of the Town of Warren;
3. To provide for the protection of public and private drinking water sources in the Town of Warren;
4. To provide for surface water quality which will enhance the propagation of fish and wildlife, and will provide for recreation in and on the surface waters within the Town of Warren;
5. To ensure that metallic mining activities are compatible with other land and water uses in the Town of Warren;

6. To encourage reliance on those metallic mining activities which best prevent or minimize the potential for pollutant releases into the environment, and to control and monitor through a permitting system the nature and extent of pollution from metallic mining activities that can be discharged or released into the environment;

7. To foster local control of the environment through the exercise of the Town of Warren's Home Rule authority by bestowing certain powers and duties upon the Town of Warren Planning Board, by providing procedures to control and remediate unpermitted releases to the environment, by ensuring the Town of Warren has adequate financial resources to evaluate permit applications and conduct necessary oversight activities, and by providing enforcement authorities to ensure compliance with permits and Board actions is maintained; and

8. To ensure the metallic mining companies and not the taxpayers of the Town of Warren bear the expenses associated with protecting human health and the environment from the adverse impacts that may result from mining activities.

C. This Ordinance shall be liberally construed to effectuate its purposes and policies.

D. This subchapter applies to the following subchapters:

Subchapter 2. Exploration and Advanced Exploration

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Subchapter 6. Administration and Enforcement

## Section 2. Definitions

A. Acid Rock Drainage. "Acid rock drainage" means the drainage that occurs as a result of natural oxidation of sulfide minerals contained in rock which is exposed to air and water.

B. Advanced Exploration or Advanced Exploration Activity. "Advanced exploration" or "advanced exploration activity" means any activity involving the bulk sampling of metallic mineral deposits, or any metallic mineral exploration activities which exceed those defined as exploration activities.

C. Advanced Exploration Permit. "Advanced exploration permit" means a permit to conduct metallic mineral advanced exploration activities.



D. Advanced Exploration Site. "Advanced exploration site" means the area and facilities within which advanced exploration or activities incidental thereto occur, or may reasonably be expected to occur.

E. Ambient Air. "Ambient air" means all air outside of buildings, stacks or exterior ducts.

F. Aquifer. "Aquifer" means a geologic formation composed of rock or sand and gravel that stores and transmits significant quantities of recoverable water.

G. Baseline Monitoring Plan. "Baseline monitoring plan" means a monitoring plan that will define the existing site conditions for a specific location and shall include, but is not limited to, characterizations of the following resources: wildlife, surface water and groundwater quality and quantity, air quality and socioeconomic characteristics.

H. Beneficiation. "Beneficiation" means the dressing or processing of ore for the purposes of (1) attaining the desired size consistent for the ore or product; (2) removing unwanted constituents; or (3) improving the quality, purity, or assay grade of a desired product.

I. BEP. "BEP" means the Maine Board of Environmental Protection.

J. Board. "Board" means the Town of Warren Planning Board.

K. Bulk Sampling. "Bulk sampling" means the removal of samples for the purpose of testing to determine the feasibility, method, or manner of extraction and/or processing of metallic minerals. Such testing may include milling or grinding tests, and/or pilot plant and processing tests. Methods of bulk sampling may include, but are not limited to, drilling and boring, digging of shafts and tunnels, or digging of pits and trenches. For purposes of this rule, bulk sampling of metallic mineral deposits is included in advanced exploration.

L. Closure. "Closure" means the process of closing out mine waste units pursuant to a closure plan approved by the Board.

M. Coastal Wetlands. "Coastal wetlands" means "all tidal and subtidal lands, including all areas below any identifiable debris line left by tidal action; all areas with vegetation present that is tolerant of salt water and occurs primarily in a salt water or estuarine habitat; and any swamp, marsh, bog, beach, flat or other contiguous lowland which is subject to tidal action during the maximum spring tide level as identified in tide tables published by the National Ocean Service [Ocean Survey]. Coastal wetlands may include portions of coastal sand dunes.

N. Complex Hydrogeology. "Complex hydrogeology" means subsurface hydrogeological conditions such that it is not technically feasible to monitor groundwater to detect migration of contaminants from the mine waste unit to the uppermost aquifer, or it is not technically feasible to conduct corrective action.

O. Corrective Action. "Corrective action" means action taken by the permittee to correct a violation or to meet a performance requirement in a metallic mineral mining permit or advanced exploration permit, or other law.

P. DEP. "DEP" means the Maine Department of Environmental Protection composed of the Board of Environmental Protection and the Commissioner of the Department.

Q. Director of the Survey. "Director of the Survey" means "the Director of the Maine Geological Survey."

R. Displacement. "Displacement" means the relative movement, measured in any direction, of the two sides of a fault.

S. Drilling. "Drilling" means the making of holes with a drill for exploration of a metallic mineral deposit.

T. Drill Hole. "Drill hole" means the cavity created by drilling.

U. Endangered or Threatened Species. "Endangered or threatened species" means any species of fish or wildlife that the State of Maine Commissioner of Inland Fisheries and Wildlife has designated as endangered or threatened.

V. Environmental Impact Report. "Environmental impact report" (EIR) means a detailed study describing and analyzing the environmental impacts of a mining or advanced exploration activity, discussing ways to mitigate or avoid such impacts, and evaluating reasonable alternatives to the proposed activity.

W. Environmental Review. "Environmental review" means a process of assessing the environmental impacts of a proposed mining activity.

X. Exploration. "Exploration" or "exploration activity" means any activity engaged in for purposes of determining the location, extent and composition of metallic mineral deposits, provided that such activities are limited to test boring, test drilling, hand sampling, the digging of test pits having a maximum surface opening of 100 square feet, or other test sampling methods which cause minimum disturbance of soil and vegetative cover. Exploration activities shall not include advanced exploration activities.



Y. Exploration Site. "Exploration site" means the area within which exploration or activities incidental thereto occur, or may reasonably be expected to occur.

Z. Extraction. "Extraction" means the removal of ores, minerals, overburden, and waste rock, but does not include the injection of leaching solutions, lixiviants, or solutions to solubilize or extract metallic minerals in place (in situ) from existing geologic formations.

AA. Fault. "Fault" means a fracture along which rock formations on one side have been displaced with respect to those on the other side.

BB. Floodplain. "Floodplain" means the "lowland and relatively flat areas adjoining inland and coastal waters, including flood prone areas of offshore islands, which are inundated by a flood that has a 1 percent or greater chance of recurring in any year or a flood of a magnitude equalled or exceeded once in 100 years on the average."

CC. Fractured Bedrock Aquifer. "Fractured bedrock aquifer" means a consolidated rock formation which is fractured and which is saturated and recharged by precipitation percolating through overlying sediments to a degree which will permit wells drilled into the rock to produce a sufficient water supply for domestic use."

DD. Freshwater Wetlands. "Freshwater wetlands" means freshwater swamps, marshes, bogs and similar areas which are:

A. Of 10 or more contiguous acres, or of less than 10 contiguous acres and adjacent to a surface water body, excluding any river, stream or brook, such that in a natural state, the combined surface area is in excess of 10 acres;

B. Inundated or saturated by surface or ground water at a frequency and for a duration sufficient to support, and which under normal circumstances do support, a prevalence of wetland vegetation typically adapted for life in saturated soils; and

C. Not considered part of a great pond, coastal wetland, river, stream or brook.

These areas may contain small stream channels or inclusions of land that do not conform to the criteria."

EE. Fugitive Emissions. "Fugitive emissions" means those emissions of air contaminants which do not pass through a stack, flue, chimney, or vent. For purposes of this rule, fugitive emissions include, without limitation, dust arising from an advanced exploration or mining activity, or from the advanced exploration or mine site.

FF. Great Pond. "Great Pond" means any inland body of water which in a natural state has a surface area in excess of 10 acres and any inland body of water artificially formed or increased which has a surface area in excess of 30 acres.

GG. Groundwater. "Groundwater" means all the waters found beneath the surface of the earth which are contained within or under this State or any portion thereof, except such waters as are confined and retained completely upon the property of one person and do not drain into or connect with any other waters of the State.

HH. Hazardous Waste. "Hazardous waste" means "a waste substance or material, in any physical state, designated as hazardous by the Maine Board of Environmental Protection.

II. Holocene. "Holocene" means the most recent epoch of the Quaternary period, extending from approximately 10,000 years ago to the present.

JJ. In-Situ Leaching. "In-situ leaching" means the leaching of minerals occurring in the situation in which they were originally formed or deposited. For purposes of this Ordinance, in-situ leaching is not considered mining.

KK. Land Clearing Debris. "Land clearing debris" means solid wastes resulting from the clearing of land and consisting solely of brush, stumps, soil material and rocks.

LL. Leachate. "Leachate" means any liquid, including any suspended components in the liquid, that has passed through or emerged from any material.

MM. Leak Detection System. "Leak detection system" means a system for the detection of leaks through a liner consisting of a high permeability layer that contains a collection and transport network over a low permeability layer which impedes the downward movement of leachate.

NN. Liner. "Liner" means a continuous layer of man-made or reconstructed natural materials, or a combination thereof, which restricts the vertical or lateral movement of liquids.

OO. Metallic Minerals. "Metallic minerals" or "metallic mineral deposit" means any mineral containing any metal, including, but not limited to, minerals containing gold, silver, iron, manganese, copper, lead, zinc, tin, chromium, cobalt, nickel, molybdenum, platinum group elements, aluminum, arsenic, antimony, or bismuth as their valuable constituent(s). Metallic minerals do not include common rock-forming minerals such as quartz, calcite, dolomite, feldspar, pyroxenes, amphiboles, zeolites, clays, or micas. For purposes of this Ordinance, "metallic minerals" does not include thorium or uranium.



PP. Minerals. "Minerals" means all naturally occurring mineral deposits, including hydrocarbons and peat, but excluding sand, gravel and water.

QQ. Mine Site. "Mine site" means the area and facilities owned, leased, or otherwise subject to the possessory control of a mining company within which mining or activities incidental thereto are to occur whether contiguous or non-contiguous. The mine site includes, but it not limited to, the excavation, tailings, mine waste units, waste rock or overburden, storage areas, mills, conveyors, concentrators, crushers, screens, pipes, canals, dams, ponds, lagoons, ditches, roads, access roads, utility facilities or equipment, pollution control facilities including surface and subsurface waste water disposal systems, railroad tracks or sidings, administrative or other buildings, or improvements, structures, rights-of-way, or easements appurtenant or related to any of the foregoing.

RR. Mine Waste. "Mine waste" means all waste materials (solid, semi-solid, or liquid) associated with exploration, advanced exploration, and mining activities. Such wastes include, but are not limited to, rock, tailings, and other process waste such as leachate and wastewater treatment plant residuals. Land clearing debris, woodwaste, wastes from solvent extraction and electrowinning are not considered mine waste for purposes of this Ordinance.

SS. Mine Waste Unit. "Mine waste unit" means any land area, structure, location, equipment, or combination thereof on or in which mine wastes are managed. A land area or structure shall not become a mine waste unit solely because it is used to store (for 90 days or less) wastes generated on the same site.

TT. Mining or Mining Activity. "Mining" or "mining activity" means any activity or process that is for the purpose of extraction or removal of metallic minerals, and includes processes used in the separation or extraction of metallic minerals from other material including, but not limited to, crushing, grinding, beneficiation by concentration (gravity, flotation, amalgamation, electrostatic, or magnetic); cyanidation; leaching; crystallization; or precipitation; mine waste handling and disposal; and processes substantially equivalent, necessary, or incidental to any of the foregoing. Mining or mining activity does not include exploration, advanced exploration, or thermal or electric smelting.

UU. Mining Permit. "Mining permit" means a permit issued by the Town of Warren Planning Board to conduct mining activities.

VV. Mitigation. "Mitigation" means any action taken, or not taken, in order to avoid, minimize, rectify, reduce, eliminate, or compensate for adverse environmental impacts. Such actions include, but are not limited to: (1) avoiding an impact

altogether by not taking a certain action or parts of an action; (2) minimizing an impact by limiting the magnitude or duration of an activity or by controlling the timing of an activity; (3) rectifying an impact by repairing, rehabilitating, or restoring the affected environment; (4) reducing or eliminating an impact over time through preservation and maintenance operations during the life of the project; and (5) compensating for an impact by replacing affected resources or environments, or providing substitute resources or environments.

WW. Neat Cement. "Neat cement" means a slurry composed of Portland cement and water.

XX. Net Acid Producing Potential. "Net acid producing potential" means the difference between the neutralization potential and acid generation potential of a waste expressed as calcium carbonate equivalents.

YY. Ore. "Ore" means any mineral or an aggregate of minerals which can be extracted from the earth economically." For purposes of this Ordinance, "ore" also means a metallic mineral deposit and may also include previously disposed of or abandoned mine waste from which a metallic mineral or minerals of economic value can be commercially extracted.

ZZ. Ore Leaching. "Ore leaching" means the intentional separation, selective removal, dissolving-out, or extraction of soluble metals, salts, or other constituents from an ore by the action of percolating water or other percolating solution. For purposes of this rule, ore leaching may include, but is not limited to, heap leaching, vat leaching, agitation leaching, dump leaching and bioleaching.

AAA. Overburden. "Overburden" means earth and other materials naturally lying over the product to be mined.

BBB. Permittee. "Permittee" means a person who has received an advanced exploration permit or mining permit in accordance with this rule.

CCC. Person. "Person" means an individual, firm, corporation, municipality, quasi-municipal corporation, state agency, federal agency or other legal entity.

DDD. Post-Closure Maintenance. "Post-closure maintenance" means all activities undertaken at a closed mine waste unit to maintain the integrity of containment features and to monitor compliance with applicable performance standards and permit conditions.

EEE. Pre-Application Conference. "Pre-application conference" means an initial conference for purposes of discussing the proposed advanced exploration or mining activity contemplated by the applicant.



FFF. Pre-Existing Data. "Pre-existing data" means data collected prior to a pre-application conference.

GGG. Private Drinking Water System. "Private drinking water system" means a well, spring or other source of groundwater for human or domestic animal consumption.

HHH. Property Boundary. "Property boundary" means any boundary between parcels of land owned or leased by different persons or groups of persons.

III. Protected Natural Resource. "Protected natural resource" means coastal sand dune systems, coastal wetlands, significant wildlife habitat, fragile mountain areas, freshwater wetlands, great ponds or rivers, streams or brooks, as these terms are defined in applicable state law.

JJJ. Public Drinking Water System. "Public drinking water system" means a well, spring, or other source of groundwater which has at least 15 service connections or serves an average of at least 25 individuals daily at least 30 days out of the year.

KKK. Qualified Professional. "Qualified professional" means a scientist, engineer, or professional in a technical discipline with sufficient training and experience to enable the individual to make sound professional judgments regarding conducting technical analyses, or regarding the design, construction, and operation of regulated units and ancillary structures.

LLL. Reclamation. "Reclamation" means the rehabilitation and continued maintenance of the area of land affected by mining under a reclamation plan which can include, but is not limited to, grading and land shaping, the creation of lakes or ponds, the planting of forests, the seeding of grasses and legumes, the planting of crops for harvest, and the enhancement of wildlife and aquatic resources.

MMM. Responsible Officer. "Responsible officer" means

1. A person holding a principal executive position as established by the charter or by-laws of the corporation;
2. A general partner or the proprietor, as appropriate, if a partnership or sole proprietorship; or
3. A principal executive officer or ranking elected official of a municipal, state, federal, or other public agency.

NNN. River, Stream or Brook. "River, stream or brook" means a channel between defined banks including the floodway and associated flood plain wetlands where the channel is created by the action of the surface water and characterized by the lack of upland vegetation or presence of aquatic vegetation and by the

presence of a bed devoid of top soil containing water-borne deposits on exposed soil, parent material or bedrock.

OOO. Significant Sand and Gravel Aquifer. "Significant sand and gravel aquifer" is defined as a porous formation of ice-contact and glacial outwash sand and gravel that contains significant recoverable quantities of water which are likely to provide drinking water supplies.

PPP. Scoping Process. "Scoping process" means the process of determining the factors and issues to be addressed in an environmental impact report.

QQQ. Selectmen. "Selectmen" means the Selectmen of the Town of Warren.

RRR. Site. "Site" means an advanced exploration site or a mine site, depending upon the nature of the activity as determined by the Town of Warren Planning Board.

SSS. State Lands. "State lands" means all lands owned or held in trust by the State or in which the State holds an interest, including inland and tidal submerged lands and waters.

TTT. Structure. "Structure" means building, structure, or permanent structure as defined under any of the following provisions: 12 M.R.S.A. 682(3) and (4), 38 M.R.S.A. 482(6), and 38 M.R.S.A. 480-B(7).

UUU. Surface Impoundment. "Surface impoundment" or "impoundment" means a mine waste unit or part of such a unit that is a natural topographic depression, man-made excavation, or diked area formed of earthen or other materials that is designed to hold an accumulation of liquid and solid wastes.

VVV. Tailings. "Tailings" means those portions of a metallic mineral deposit remaining after extraction of minerals by physical or chemical means.

WWW. Transfer of Ownership. "Transfer of ownership" means a sale, a lease, a sale of over 50% of the stock of a corporation to one legal entity or a merger or consolidation where the surviving corporation is other than the original licensee.

XXX. Unstable Area. "Unstable area" means any area where mass movement of earth materials such as landslides, rockfalls, mudslides, slumps, earth flows, subsidence, or debris flows are likely to occur.

YYY. [Reserved]

ZZZ. [Reserved]



AAAA. Uppermost Aquifer. "Uppermost aquifer" means the geologic formation that is an aquifer nearest the natural ground surface, as well as lower aquifers that are hydraulically interconnected with this aquifer.

BBBB. WAD Cyanide. "WAD cyanide" means the cyanide concentration as determined by Method C. Weak Acid Dissociable Cyanide, D2036-082, Part 31 of the American Society for Testing and Materials Book of Standards.

CCCC. Waste Rock. "Waste rock" means rock which has been removed during mining or advanced exploration but does not contain sufficient metallic minerals to constitute ore.

DDDD. Waters of the State. "Waters of the State" means any and all surface and subsurface waters which are contained within, flow through, or under or border upon this State or any portion thereof, including the marginal and high seas, except such waters as are confined and retained completely upon the property of one person and do not drain into or connect with any other waters of the State.

EEEE. Woodwastes. "Woodwastes" means brush, stumps, lumber, bark, woodchips, shavings, slabs, edgings, slash, and sawdust, which are not mixed with other solid or liquid waste.

### Section 3. Prohibition

It shall be unlawful for any person to establish, construct, alter, operate or otherwise engage in any activity at a mine site, advanced exploration site, or exploration site contrary to this Ordinance, a permit issued under this Ordinance, or other applicable law.

### Section 4. Relation to Other Ordinances

Nothing herein shall repeal or supersede any additional requirements imposed by the Town of Warren. In the event any requirements of this Ordinance differ from the requirements of any other Ordinance of the Town of Warren, the more stringent of the requirements shall apply. No enforcement authority set forth herein is intended to waive or limit any other authority of the Town of Warren.

### Section 5. Permits

A permit is required under this rule for advanced exploration, when applicable, and mining activities.

### Section 6. Permit Criteria

The Board shall approve, or approve with conditions, an application under this rule upon finding the applicant has met all applicable criteria under this Ordinance. In addition, the applicant shall: (1) affirmatively demonstrate that the

reclamation plan will result in reclamation of the mine or advanced exploration site consistent with this Ordinance; (2) certify it has not forfeited sureties posted for any mining or advanced exploration activity; and (3) affirmatively demonstrate that the issuance of the permit will not cause or contribute to a violation of law. In determining whether issuance of a permit will cause or contribute to a violation of law, the Board shall consider any prior violation, suspension, or revocation of a permit issued to the applicant or any person related to the applicant and any other environmental enforcement history of the applicant or related person. The Board may require the applicant to present evidence of changed conditions or circumstances sufficient in the judgment of the Board to warrant issuance of the permit notwithstanding any prior violation, suspension or revocation.

## Section 7. General Procedure

A. Exploration. Depending upon the type, extent and location of the activity proposed, approvals pursuant to other Ordinances may be required by the Board or the Town of Warren. The requirements for exploration are discussed in Section 15.

B. Advanced Exploration or Mining. This Ordinance authorizes permits for advanced exploration and mining. The following is a general description of the application process.

1. Baseline Monitoring. If a mining project is proposed, the applicant submits a baseline monitoring plan. If an advanced exploration project is proposed, the applicant submits such a plan when required by the Board on a case-specific basis.

2. Pre-Application Conference. The applicant submits information concerning the proposed project to the Board, and requests a pre-application conference. The Board and / or its representatives meet with the applicant to determine the nature of the project, identify areas of concern, and specify additional submissions required.

3. Environmental Review Process. If the proposal is for a mining activity, or if the proposal is for an advanced exploration activity that the Board has determined requires the environmental review process:

a. The applicant prepares and submits a draft scoping document for an Environmental Impact Report (EIR).

b. The Board makes the draft scoping document available for public review and comment.

c. If the Board determine the scoping document is acceptable, the applicant prepares an EIR and submits it as part of the permit application.



4. Permit Application. An applicant for an advanced exploration or mining permit files an application in accordance with the requirements of this Ordinance, including a completed permit application form and all supporting materials.

## Section 8. Permit Conditions

### A. Standard Conditions

1. Relation of Permit to Application. The plans, specifications, descriptions, and other documentation submitted by the permittee in support of the application, and approved by the Board in issuing the permit, constitute terms of the permit which must be complied with by the permittee. Any variation or change in the plans, specifications, descriptions, or other documentation must be approved by the Board prior to implementation. Upon completion of any construction or alteration, the permittee must submit to the Board a written certification by a registered professional engineer that the site has been constructed or altered in accordance with the terms of the permit.

2. Duty to Comply. The permittee must comply with all conditions of the permit. Any noncompliance constitutes a violation of law and is grounds for enforcement action, for permit suspension or revocation, and for denial of a renewal application.

3. Duty to Reapply. If the permittee wishes to continue an activity regulated by the permit after the expiration date of the permit, the permittee must submit an application for renewal at least 180 days, but no earlier than 210 days, prior to the expiration date.

4. Duty to Halt or Reduce Activity. It shall not be a defense in an enforcement action that halting or reducing the permitted activity would have been necessary in order to maintain compliance with the conditions of the permit.

5. Duty to Mitigate. The permittee shall take all steps to minimize or correct any adverse impact on the environment resulting from noncompliance with the permit.

6. Proper Operation and Maintenance. The permittee shall at all times properly operate and maintain all facilities and systems which are installed or used by the permittee to achieve compliance with the conditions of the permit.

7. Solid Waste Disposal Facilities. All solid waste disposal facilities are required to accept only solid waste which is subject to recycling and source reduction programs at least as effective as those imposed by State law.

8. Permit Actions. The Board may, upon request by the permittee or on its own initiative, modify the permit. The Board shall hold a public hearing and provide an opportunity for public comment prior to taking such action. The filing of a request by the permittee for a permit modification shall not stay any permit condition. Any request for a significant permit modification shall be processed as if it were an application for a new permit, except only those permit terms at issue shall be considered in the proceeding. The permit may also be modified, suspended, or revoked in accordance with Section 48 of this Ordinance.

9. Property Rights. The permit does not convey any sort of property right or exclusive privilege.

10. Duty to Provide Information. The permittee shall furnish any information which the Board requests in order to determine whether cause exists for modifying, suspending, or revoking the permit; or to determine compliance with the permit. The permittee shall also, upon request, furnish to the Board copies of records required to be kept by the permittee, and not otherwise required to be filed with the Board. In addition to the annual report submitted in accordance with section 26(F), the Board may require other documentation as may be necessary to ensure compliance with this Ordinance.

11. Monitoring and Records

a. Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity.

b. Records of the monitoring information shall include the following:

i. Analytical results;

ii. The detection limits for each analyte;

iii. Descriptions of sample points and of sampling method or methods.

iv. The dates that samples were collected, received, prepared, and analyzed;

v. Chain-of-custody records;

vi. Results of laboratory control samples (method blanks/initial calibration reference standards);

vii. Results of matrix-specific spikes, matrix-spiked duplicates, or reference standards (if applicable); and

viii. An interpretive summary of monitoring results, including a statistical analysis of data if applicable.



c. The permittee shall retain, at the site or at such other location as approved by the Board, the following records for a period of at least 10 years from the date of the sample, measurement, report or application. This period may be extended by request of the Board at any time, and is automatically extended for the period of any enforcement action:

- i. Calibration and maintenance records;
- ii. Strip chart recordings for continuous monitoring instrumentation; and
- iii. Records of all data used to complete the application, and copies of all reports required by the permit.

d. The permittee shall retain the following monitoring records for the life of the facility, including the closure and post-closure periods: groundwater monitoring, waste characterization, surface water monitoring, and sediment monitoring records.

12. Monitoring Reports. Monitoring results shall be reported to the Board at the intervals specified in the permit.

13. Noncompliance and Occurrence Reporting. The permittee shall report to the Board and Town Manager any noncompliance; and any unpermitted or otherwise unlawful release or discharge of pollutants, fire or explosion at the site. Information shall be provided orally within 24 hours from the time the applicant becomes aware of the circumstances, and in writing within 5 working days. If the noncompliance, release or discharge of pollutants, or cause of fire or explosion has not been corrected, the anticipated time it is expected to continue shall be given, together with the steps taken or planned to reduce, eliminate and prevent recurrence. The written submission shall include the following:

- a. Name, address, and telephone number of the owner or operator;
- b. Name, address, and telephone number of the facility, if applicable;
- c. Date, time, type, and description of incident;
- d. Name and quantity of any waste(s) involved;
- e. The extent of injuries, if any;
- f. An assessment of actual or potential hazards to the environment and human health inside and outside the site, when applicable; and
- g. Estimated quantity and disposition of any pollutants released or discharged.

14. Other Information. When the permittee becomes aware that it has failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or in any report to the Board, it shall promptly submit such facts or information to the Board.

15. Signatory Requirement. All applications, reports, or information submitted to the Board shall be signed by a responsible officer. Such responsible officer shall make the following certification:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all attachments thereto and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe the information is true, accurate, and complete. I am aware there are significant penalties for submitting false information, including the possibility of fine and imprisonment."

16. Construction/Operation Within 4 Years. If construction or operation at the site is not begun within 4 years of the date the permit is issued, the permit shall expire and the applicant shall reapply to the Board for a permit. No construction or operation may be undertaken until a new permit is granted. The new application shall state the reasons why construction or operation was not begun within 4 years from the granting of the initial permit, and the reasons why construction or operation will be able to begin within 4 years from the granting of the new permit. The new application may incorporate, by reference, information submitted in the initial application, but must include all information required by law or rule at the time the new application is submitted.

17. Commencement of Operations. The permittee may not commence work at the site, or conduct activities in or associated with the new, altered or modified portion of the site, until:

a. The permittee has submitted to the Board by certified mail or hand delivery a letter signed by the permittee and a State of Maine Registered Professional Engineer stating that the site has been constructed, altered, or modified in compliance with the permit.

b. The Board or its representatives have inspected the site and found it to be in compliance with the conditions of the permit. If within 30 days of the date of submission of the letter required by (a) above the permittee has not received notice from the Board of intent to inspect, prior inspection is waived and the permittee may commence activity at the site.

c. All applicable fees due the Town of Warren are paid in full.



18. Other Permits and Licenses. The applicant shall secure and comply with all applicable federal, state, and local licenses, permits, authorizations, approvals, conditions, agreements, and orders prior to and during construction, alteration, modification, operation, reclamation, and closure as appropriate.

19. Bid Specification. A copy of the approval must be included in or attached to all contract bid specifications for the site.

20. Contractor Copy. The permittee shall not direct or allow any work within the scope of the permit to be done by a contractor until the contractor(s) has been given a copy of the approval. The permittee shall certify to the Board that the contractor(s) has received a copy of the approval.

21. Annual Fee. The applicant shall pay the annual fee as required by Section 44 of this Ordinance. The permit is not effective until and unless the annual fee has been paid.

22. Inspection and Entry. The Board or its representatives including but not limited to the Code Enforcement Officer, shall be allowed access to the site and affected area during business hours, and at such other times as the Board deems necessary, for the purpose of performing tests or monitoring, collecting samples, conducting inspections, examining records relating to the site, or developing or enforcing this Ordinance or any other Town of Warren Ordinance.

23. Financial Responsibility. The permittee shall not commence construction or continue operation at the site until and unless:

- a. All required insurance coverage is in force and effect.
- b. All assurance of insurance, reclamation, corrective action, closure and post-closure funding is made as required.
- c. All financial responsibilities are met as required.
- d. All cash deposits or payments and letters of credit are delivered as required.

24. Preconstruction. All preconstruction terms and conditions must be met before any construction begins.

25. Advertising. Advertising relating to matters included in the permit application may refer to the approval only if it notes that the approval has been granted WITH CONDITIONS, and indicates where copies of those conditions may be obtained.

26. Transfer of Ownership. Unless otherwise provided in the permit, the permittee shall not sell, lease, assign, or otherwise transfer the site or any portion thereof, or cause or allow any other action where the purpose or consequence is to transfer any of the obligations of the permittee as incorporated in the permit, without prior written approval of the Board in accordance with Section 11 of this Ordinance.

27. Deed Notation. Whenever any site, or portion thereof, previously used for mining or advanced exploration is transferred by deed, the following shall be expressly stated in the deed:

a. The type(s) of waste unit(s) located on the site, the dates of establishment and closure of each, and a description of the location, composition, extent, and depth of waste deposited in each; and

b. The date of issuance of the permit, number of such permit, and names of issuing agencies.

B. Special Conditions. The Board may place special terms and conditions, without limitation, on a permit issued under this rule. However, terms and conditions shall specify particular means of satisfying minor or easily corrected problems, relating to compliance with this Ordinance and with the applicable law, and shall not substitute for or reduce the burden of proof on the applicant to affirmatively demonstrate to the Board that each of the applicable standards has been met.

#### Section 9. General Application Requirements

A. Filing. An applicant for a permit shall file 20 copies of an application, unless otherwise specified by the Board, in accordance with the requirements of this Ordinance, including a completed permit application form and all supporting materials. All drawings must be done on paper no smaller than 8- $\frac{1}{2}$  x 11 inches and no larger than 36 x 48 inches in size unless otherwise approved. All applications shall contain a designation of a person in the State of Maine on whom all orders and notices may be served and to whom all other correspondence regarding the application should be sent.

B. Certification of Application. The application must be signed and certified by a responsible officer of the applicant. The signing of the application constitutes certification thereof in accordance with the certification statement on the application form. The property owner(s) must also sign the application indicating knowledge of the proposed activity.

C. Payment. With the application, an applicant must remit the appropriate application fees by certified check or money order made payable to the Town of Warren as provided in Section 44 of this Ordinance.



D. Certification of Supporting Documents. All work done to support the investigation, design, construction, operation, reclamation, closure, post-closure, and corrective action at a site shall be completed by qualified professionals, as follows:

1. Reports, plans, or other materials submitted in support of the application shall bear the signature and seal of the qualified professional who drafted or supervised the drafting of each document.

2. Engineering designs, reports, plans, and other technical engineering documents must be signed and certified by a State of Maine Registered Professional Engineer.

3. Geological work must be signed and certified by a State of Maine Certified Geologist.

4. Soils work must be signed and certified by a State of Maine Certified Soils Scientist.

5. Survey work must be signed and certified by a State of Maine Registered Land Surveyor.

E. Title, Right, and Interest. The Board will consider an application only when an applicant has demonstrated sufficient title, right, and interest in all of the property which is proposed for use. An applicant shall make such demonstration as follows:

1. When the applicant owns the property, a copy of the deed(s) to the property shall be supplied.

2. When the applicant has a lease or easement on the property, a copy of the lease or easement shall be supplied. The lease or easement shall be of sufficient duration and shall otherwise have sufficient terms, as determined by the Board, to permit construction, reasonable use, reclamation, closure, and post-closure maintenance at the site.

3. When the applicant has an option to buy or lease the property, a copy of the option agreement shall be supplied. The option shall be sufficient if it provides rights to the title or a leasehold as provided herein.

#### Section 10. Permit Duration and Renewal

A. The maximum permit duration shall be five years.

B. Renewal Criteria. A permit renewal shall be granted by the Board if the applicant demonstrates:

1. Compliance with the terms of the permit or, if not in compliance with the terms of the permit, compliance with a Board approved corrective action plan, administrative consent agreement and enforcement order, or court order; and

2. Compliance with Sections 31 through 35 of this rule, except that any new siting and design standards shall not be applicable to previously permitted mine waste units.

C. Renewal Application Requirements. The renewal application shall be signed by a responsible officer and include the following:

1. A narrative summary of occurrences of noncompliance and any accompanying corrective action taken during the previous permit period;

2. A narrative summary of any continuing non-compliance;

3. Information necessary to demonstrate compliance with Sections 31 through 35 of this rule, as hereafter amended or superseded;

4. Evidence that the required public notice for the renewal application has been given; and

5. The applicable fees as provided in Section 44 of this Ordinance.

D. Applicability of New Siting and Design Standards. Notwithstanding Section 10(B)(2), new siting and design standards shall apply to unconstructed mine waste units and new design standards shall apply to substantial expansions of mine waste units if the Board determine such standards are technically feasible to apply and may be necessary to protect public health or the environment.

E. Delay of Expiration. When an applicant has submitted a complete application for renewal at least 180 days, but no earlier than 210 days, prior to the expiration date, the existing permit shall not expire until the renewal application has received final agency action. Only if a renewal application is timely and complete shall the applicant be entitled to continue operation under the previous permit until the Board renders a decision on the application for renewal. Twenty copies of the renewal application shall be provided unless otherwise specified by the Board.

F. The Board shall hold a public hearing and provide an opportunity for public comment on any application for permit renewal.

#### Section 11. Transfer of Permit

The permittee shall not sell, lease, assign, or otherwise transfer the site or any portion thereof, or cause or allow any other action where the purpose or consequence is to transfer any of the obligations of the permittee as incorporated in the permit, except following the approval of the Board. No transfer



request will be considered by the Board without the submission of applicable fees as provided in Section 44 of this Ordinance. The Board shall either require that the proposed transferee apply for a new permit, or approve the transfer of the permit if the applicant has demonstrated the following:

A. The terms and conditions of the permit, and all applicable laws, can and will be met.

B. The proposed transferee has the financial capacity and technical ability and intent to satisfy the terms of the permit.

C. The transfer of the permit or the activities it allows will not cause or contribute to a violation of law. In determining whether transfer of the permit will cause or contribute to a violation of law, the Board shall consider any prior violation, suspension, or revocation of a permit issued to the proposed transferee or any person related to the proposed transferee and any other environmental enforcement history of the proposed transferee or related person. The Board may require the proposed transferee to present evidence of changed conditions or circumstances sufficient, in the judgment of the Board, to warrant transfer of the permit notwithstanding any prior violation, suspension, or revocation. The applicant shall provide the Board as part of the transfer request, 20 copies of the information (unless otherwise specified by the Board) on the applicant as required in Section 23 of this Ordinance. Proposed changes to the terms of the permit, including financial responsibility requirements, shall be considered a request for permit modification and processed accordingly. The Board shall hold a public hearing and provide an opportunity for public comment on any transfer request.

## Section 12. Variances

The Board intends, through this section, to allow for flexibility in meeting certain aspects of the siting, construction, design and operational requirements of this rule. This section applies only to variances from the following provisions of this rule: 24(A)-(C), 26(D)(3)(a) and (b), 26(H)(2)(b), 26(H)(5)(c)(ii), 33(A)(1) and (4), 33(B)(1)-(3), 33(C)(1)-(3), 33(C)(4)(d)-(f), 35(A)(3)(c)(i). No other provisions, are subject to this section. The Board shall consider a variance request as part of its comprehensive review of a complete application.

A. Variance Criteria. The Board may grant a variance only when it finds, by clear and convincing evidence, that the alternative proposed will provide at least an equivalent degree of protection as would otherwise applicable standards contained in this rule. The applicant must affirmatively demonstrate the proposed alternative will provide at least this equivalent degree of protection. A variance may be issued subject to such terms and conditions as the Board deems necessary, and the permittee shall comply with such terms and conditions.

B. Information Required. A request for a variance, submitted to the Board, shall include, but is not limited to:

1. Identification of the specific provisions of this Ordinance from which a variance is sought;
2. Description of the alternative siting, design, construction, or operational procedure proposed; and
3. Information and explanation affirmatively demonstrating that the alternative proposed will provide at least an equivalent degree of protection as would otherwise applicable standards contained in this rule.

C. Term and Renewal of Conditions. The term of the variance shall be concurrent with the term of the permit, or for such lesser term as the Board may specify in the permit.

D. No variance request shall be considered without payment of the fees for the processing of the variance request as provided in Section 44 of this Ordinance.

## SUBCHAPTER 2. EXPLORATION AND ADVANCED EXPLORATION

### Section 13. Purpose of Exploration and Advanced Exploration Requirements

The purpose of this subchapter is to establish procedures and standards for exploration and advanced exploration activities.

### Section 14. Applicability of Exploration and Advanced Exploration Requirements

This rule applies to any person proposing to conduct exploration or advanced exploration activities.

### Section 15. Requirements for Exploration Activities

A. Procedural Requirements. Prior to the conducting of exploration activities, a person shall notify the Town of Warren of such activities and pay the applicable fee as provided in Section 44 of this Ordinance. The notification shall describe the nature and location of the exploration activities to be conducted. Depending upon the location, type and extent of activity, a permit may be required under other rules of the Town of Warren or the State of Maine.

B. Standards. The following minimum standards must be met for exploration activities:

1. Access ways shall involve little or no recontouring of the land or ditching, and shall not include the addition of gravel or other surfacing materials. Clearing of the vegetative cover shall be limited to the minimum necessary to allow for the movement of equipment.



2. Access ways near stream channels shall be located and designed so as to minimize erosion and the discharge of sediment to the stream.

3. Soil which is stripped or removed must be stockpiled for use in reclaiming disturbed land areas. Soil stockpiles shall be seeded, mulched, and anchored or otherwise stabilized.

4. The affected land shall be restored to a physical state that is similar to and compatible with that which existed prior to any exploration. Within 30 working days following completion of exploration at a site, any person conducting exploration activities shall accomplish the following:

a. Disposal of all debris in accordance with applicable state laws and regulations;

b. Grading of the surface of the site so that the final graded slope conforms with the original contour of the land; and

c. Reseeding and stabilization of graded topsoil with vegetation native to the area. Any person conducting exploration activities shall follow the "Guidelines for Soil Stabilization," 04-061 CMR 10, Appendix B.

5. Within 30 working days after completion of exploration activities, all excavations including trenches, test pits, and mud pits shall be capped, refilled or secured.

6. Sealing of all drill holes, whether temporary or permanent, shall be completed within 30 days of cessation of drilling or testing activities such as "down-the-hole" geophysical surveys or other similar activities. All artesian wells shall be capped or sealed within 48 hours after cessation of drilling or the onset of artesian conditions. No drill hole may be temporarily sealed for more than 3 years unless the drill hole is being used for sampling or other studies related to a mineral deposit or general hydrological conditions of the area. Sealing requirements are as follows.

a. A drill hole that is temporarily sealed shall prevent the passage of water into or out of bedrock. The method of temporary sealing shall include:

i. Plugs at the top of the bedrock;

ii. Plugs at the surface opening of the drill hole; or

iii. Such other methods as approved by the Board so as to reasonably prevent the passage of water into or out of the bedrock portion of the drill hole for a period of at least 3 years.

b. When any person conducting exploration activities determines that a drill hole need not remain open, or when a drill hole has remained temporarily sealed for more than 3 years and is not being used for sampling or other studies, the drill hole shall be sealed. Permanent sealing requirements include the following:

i. The drill hole shall be permanently sealed by using concrete or neat cement to form a plug at least 10 feet in length down from the top of the bedrock surface. If the bedrock surface is so fractured or otherwise permeable that a 10-foot plug is not adequate to prevent water from entering or exiting the drill hole, then a plug of sufficient length shall be used to accomplish the desired seal.

ii. The surface opening of the drill hole shall be plugged with a non-metallic permanent plug of at least 3 feet in length. The plug may be made of wood, cement, rubber or other materials approved by the Board.

iii. As an alternative to Sections 15(B)(6)(b)(i) and (ii) above, the drill hole may be filled with a bentonite slurry from the bottom of the hole level with the surface. Other methods may be used as approved by the Board.

iv. If the owner of the land on which the drill hole is located desires to maintain the drill hole as a source of water, the owner shall notify the Board as part of the report required in Section 15(B)(6)(c) below.

v. All materials, debris, and obstructions that may interfere with sealing operations shall be removed from the drill hole. Casing and other pipe shall be removed or perforated when necessary to ensure placement of an effective seal.

c. Within 30 working days after permanent sealing of a drill hole, any person conducting exploration activities shall submit to the Board a report including, but not limited to, the following information for each drill hole:

i. Location and identification of the drill hole;

ii. Dimensions of the drill hole;

iii. Identification of depth, static elevation, and estimated flow of any groundwater encountered, if known; and

iv. Methods of sealing the drill hole, demonstrating compliance with Section 15(B)(6)(a) and (b) above.



9. The Board or its representatives may enter any exploration site, take samples, and conduct tests in order to determine compliance with any provision of this Ordinance or other applicable requirements.

10. Any person conducting exploration activities shall notify the Town Manager and the Board orally within 24 hours and in writing within 5 working days of any activity or occurrence during the course of exploration or reclamation which has the potential to damage public health or the environment.

#### Section 16. Requirements for Advanced Exploration Activities

A. Standards. The standards for advanced exploration activities include the minimum exploration standards listed under Section 15 of this Ordinance, together with any additional site-specific standards and conditions required under the advanced exploration permit. These standards will be drawn from Sections 17-35 of this Ordinance.

B. Submission Requirements. Because of the varying nature and complexity of advanced exploration activities, the specific submission requirements will be determined by the Board on a case-by-case basis, upon review of the pre-application submissions set forth in Section 19.

### **SUBCHAPTER 3. PRE-APPLICATION**

#### Section 17. Purpose of Pre-Application Requirements

This subchapter establishes procedures and requirements for the pre-application process associated with advanced exploration and mining activities.

#### Section 18. Applicability of Pre-Application Requirements

The provisions of this subchapter apply to all mining activities, and may apply, at the discretion of the Board, to advanced exploration activities, depending upon the nature of the activity.

#### Section 19. Requirements for Pre-Application

A. Request by Applicant. Prior to preparing an application for a permit, the applicant shall request in writing a pre-application conference with the Board and / or its representatives.

B. Scheduling of Pre-Application Conference. The purpose of a pre-application conference is to help the applicant understand the pre-application and application processes, to identify particular areas of concern, and to exchange information. The Board and or its representatives shall schedule a pre-application conference with the applicant following receipt and review of the information required in Section 19(C) below.

C. Pre-Application Submissions. Prior to the pre-application conference, the applicant shall furnish the Board with 20 copies of the following information unless otherwise specified by the Board. Additional information may be required from the applicant during this phase:

1. The name, title, organization, address, and phone number of the applicant and the principal representative of the applicant;

2. Regional maps showing the location of the activity in relation to existing communities, transportation systems, and major physical features of the area;

3. Detailed topographic maps (most recent edition of 7½-minute USGS topographic quadrangles are preferred) of the area within at least 5 miles of the site;

4. Description of the metallic minerals of potential interest;

5. Evidence of the applicant's legal right to conduct the activity on the site, including a description of the ownership of the metallic minerals;

6. A description of the existing land use classification and/or zoning designation of the site;

7. A conceptual advanced exploration or mining plan; and:

8. A proposed baseline monitoring plan meeting the requirements set forth in Section 19(D) below. The applicant may, upon prior written notice to the Board, elect to submit the proposed baseline monitoring plan as part of the draft scoping document required under Section 19(E)(2) of this Ordinance. In such case, the public notification requirements and public comment periods required under Sections 19(D)(4) and (5) and Sections 19(E)(3), (4), and (5) of this Ordinance shall be consolidated.

D. Baseline Monitoring Plan. A baseline monitoring plan defines existing site conditions prior to commencement of the proposed activity. The proposed baseline monitoring plan shall include, at the discretion of the Board, but is not limited to, characterizations of the following resources: protected natural resources, wildlife, fisheries, aquatic life, vegetation, surface water and groundwater quality and quantity, air quality, and socioeconomics.

1. Contents. Baseline studies shall provide sufficient data to allow qualitative and quantitative analysis of the study areas. The study areas should include all areas within the site and affected areas. The proposed baseline monitoring plan may include, as required by the Board, studies on each of



the following:

- a. Climate, including precipitation zone, both annual and monthly;
- b. Air quality;
- c. Surface water, including:
  - i. Seasonal water quality and quantity;
  - ii. Storm-event water quality and quantity;
  - iii. Storm survey calculations for 24-hour duration storms at 10-year, 25-year and 100-year return intervals;
  - iv. Maps of affected watersheds and wetlands;
  - v. Flow estimates of affected watersheds; and:
  - vi. Sediment quality;
- d. Groundwater, including:
  - i. Groundwater quality and quantity;
  - ii. Hydrologic inventory of wells, springs and seeps in area of impact;
  - iii. Aquifer characteristics (values of transmissivity, storage coefficient, aquifer saturated thickness);
  - iv. Potentiometric surface map; and
  - v. Delineation and characterization of hydrostratigraphic units;
- e. Geology, including:
  - i. Geologic map indicating known stratigraphy, structure and fault system with appropriate cross-sections;
  - ii. Narrative of geologic history;
  - iii. Discussion of the metallic mineral deposit including mineralogic and chemical nature of the ore and waste rock;

iv. Geologic stability of the affected area including regional seismicity, known landslides, and fault systems; and

v. Unique geologic features;

f. Soils and other surficial deposits including type, extent, thickness, and physical and chemical properties;

g. Vegetation, including:

i. Plant community types;

ii. Percent of cover by morphological class;

iii. Existence of endangered or threatened species; and

iv. Map indicating range, distribution, and community type;

h. Wildlife and fisheries, including:

i. Biological monitoring (fish-tissue analysis, fish surveys and appropriate invertebrate studies);

ii. Significant wildlife habitats and unusual natural areas including mapped or unmapped deer wintering areas;

iii. Existence of endangered or threatened species; and

iv. Wildlife uses;

i. Socioeconomic characteristics, including:

i. Population and demographics;

ii. Local economy;

iii. Public facilities and services;

iv. Transportation; and

v. Housing and property valuation;

j. Adjacent land uses and land cover; and

k. Cultural, historic and scenic resources.

## 2. Data Acquisition

a. The baseline monitoring plan shall describe methods for acquiring data at the site of the proposed activity. The proposed data acquisition methods shall include, but are not



limited to, the following:

- i. Scope of analysis or investigation;
  - ii. Sampling methods;
  - iii. Detection limits and analytical methods, where appropriate; and
  - iv. Sampling frequency, and locations where appropriate.
- b. The baseline monitoring plan shall include a timetable for collection of data.
- c. The baseline monitoring plan shall include a quality assurance (QA) project plan. The purpose of the QA project plan is to ensure that data acquisition is performed using approved methods and meeting approved minimum technical and professional standards. The QA documentation for the baseline data shall include the following for water and air:
- i. Analytical results;
  - ii. Detection limits for each analyte;
  - iii. Method reference;
  - iv. Dates that samples were collected, received, prepared, and analyzed;
  - v. Chain-of-custody records;
  - vi. Results of laboratory control samples (method blanks/initial calibration reference standards);
  - vii. Results of matrix-specific spikes, matrix-spiked duplicates, or reference standards (if applicable); and
  - viii. Commentary on any anomalies encountered during sampling and analysis.

NOTE: For an example of a quality assurance project plan, refer to QAMS-005/80, "Interim Guidelines and Specifications for Preparing Quality Assurance Project Plans," U.S. Environmental Protection Agency, 1980.

### 3. Technical Standards for Baseline Monitoring Plan

a. Testing is required for (1) metallic elements for which maximum contaminant levels (MCLs) have been established by the U.S. Environmental Protection Agency (EPA) under the Safe Drinking Water Act, or for which applicable New Source Performance Standards for Ore Mining and Dressing Point Source

Categories have been established pursuant to 40 CFR 440; and (2) for any toxics for which criteria have been developed by EPA under Section 304(a) of the Clean Water Act or by the DEP under 38 M.R.S.A. 420, and other indicators that could adversely impact water quality. In addition, the Board may require testing which includes, but is not limited to, the following:

acidity	magnesium
alkalinity	manganese
aluminum	mercury
ammonia	molybdenum
antimony	nickel
arsenic	nitrate-nitrite
barium	pH
beryllium	phenols
biochemical oxygen demand	potassium
	radium 226 and 228
boron	selenium
bicarbonates	silver
cadmium	silica
calcium	sodium
carbonates	sulfate
cation-anion balance	sulfide
chemical oxygen demand	temperature
chloride	thallium
chromium	total dissolved solids
conductivity	total Kjeldahl nitrogen
copper	total organic carbon
cyanide	total petroleum hydrocarbons
dissolved oxygen	total phosphorus
fluoride	total suspended solids
hardness	vanadium
iron	volatile organic compounds
lead	zinc
cobalt	

b. Minimum baseline data acquisition of ambient air quality data shall be that required under 06-096 CMR 115(VII)(D)(1).

c. Sampling points and monitoring wells shall be adequate in number and located in such a manner as to adequately characterize existing conditions.

d. Data shall be collected over 12 consecutive months for surface and groundwater quality unless pre-existing data are approved for use by the Board.

e. Sampling frequencies shall be determined by the Board.

f. Analyses shall be performed using EPA-approved methods by qualified independent laboratories unless otherwise agreed to by the Board.



NOTE: For a listing of EPA-Approved Test Methods, refer to 40 CFR 136, as amended.

g. The required level of detection shall be determined by the Board.

h. The use of pre-existing data shall be subject to approval by the Board under the criteria set forth in Section 19(D)(3)(i) below.

i. All pre-existing data shall be clearly marked "pre-existing data" within the baseline monitoring plan. The applicant shall discuss the manner and time in which the data were acquired, the analytical or investigative methods used, and any other factors relevant to the quality and applicability of the data. Such factors, at the discretion of the Board, may include, but are not limited to, the following:

AA. Age of the data;

BB. Analytical methods used;

CC. Detection limit;

DD. Quality assurance/quality control documentation;

EE. Field method employed;

FF. Representativeness of the data; and

GG. Previous Board approvals of work plans submitted by the applicant.

ii. The Board shall accept or reject the use of pre-existing data prior to the acceptance of the baseline monitoring plan.

4. Publication and Notice of Baseline Monitoring Plans. Upon submittal of the baseline monitoring plan, the applicant shall provide public notice of the availability of the baseline monitoring plan for public review and comment by publishing notice in the newspaper having the largest circulation in the county, and in one newspaper with a circulation area of the entire State of Maine.

5. Public Comment Period. Following notice of publication of the baseline monitoring plan, there shall be 30 days for public review and comment, and the Board shall hold a public hearing within the comment period. The Board may extend the public comment period upon reasonable request.

6. Review and Acceptance of Baseline Monitoring Plan.

a. Within 90 days of the close of the comment period, the Board shall either accept the baseline monitoring plan, accept with conditions, or require amendments to the plan prior to acceptance.

b. After the baseline monitoring plan has been accepted by the Board, it shall be amended if:

i. Changes in the siting of the proposed activity necessitate an expansion of the study area;

ii. Changes in the scope of the proposed activity necessitate additional studies; or

iii. Any other information is necessary for the Board to evaluate the proposed activity under all applicable permit review criteria.

E. Environmental Review. The environmental review process and the preparation of an Environmental Impact Report (EIR) shall be mandatory for all mining activities and may be required by the Board for advanced exploration activities, depending on the nature and extent of the proposed activity. The main objectives of the environmental review process and the preparation of an EIR are to: (1) encourage early public input into the process; (2) provide a useful informational assessment as part of the application that will inform the Board and the public of any potentially significant adverse impacts associated with a proposed activity; (3) identify methods to minimize any significant adverse impacts to the environment; and (4) identify and evaluate alternatives to the proposed activity or components thereof.

1. A scoping process shall be used before preparation of an EIR to identify environmental issues relevant to the proposed activity; determine the appropriate level of analysis, and contents of the EIR; identify the factors to be assessed in the EIR; and set a timetable for preparation. At a minimum, the scope of an EIR shall encompass environmental, physical, cultural, land use, and socioeconomic impacts of a proposed activity; measures for mitigating significant impacts; and discussions of project site and processing alternatives.

2. Prior to the preparation of the EIR, a draft scoping document shall be submitted to the Board by the applicant and must be accepted by the Board with or without conditions. Twenty copies shall be submitted unless specified otherwise by the Board. The draft scoping document shall include, but is not limited to, the following:

a. Description of the proposed activity including the applicant and the name and location of the activity;

b. Procedural details,



c. Identification of potential environmental impacts and issues that require investigation;

d. Detailed work plan for the analysis of each major issue area including proposed evaluations;

e. Copy of the baseline monitoring plan; if previously accepted.

f. Identification of the baseline data that will be incorporated into the EIR and how it will be incorporated; and

g. Preliminary outline of the EIR.

3. Public Notice and Availability of Draft Scoping Document

a. Upon submittal of the draft scoping document, the applicant shall provide public notice of the availability of the draft scoping document for public review and comment by publishing notice in the newspaper having the largest circulation in the county and in one newspaper with a circulation area of the entire State of Maine.

4. Public Comment Period. Following notice of publication of the draft scoping document, there shall be 45 days for public comment. The Board may extend the comment period upon reasonable request.

5. Public Scoping Meeting. During the comment period, the Board shall hold a public hearing to gather further comments on the draft scoping document.

6. Acceptance of Scoping Document

a. Within 90 days of the end of the public comment period, the Board shall either accept the draft scoping plan, accept the draft scoping plan with conditions, or require the applicant to amend the draft scoping document prior to acceptance.

b. After the scoping document has been accepted by the Board, with or without conditions, the scope of the EIR may be amended if:

i. Changes are made in the plans for the proposed activity that may affect the potential for unreasonable adverse effects to the public health or environment;

ii. New information arises that is material to the proposed activity or proposed site that may affect the potential for unreasonable adverse effects to the public health or environment; or



iii. Any other information is necessary for the Board to evaluate the proposed activity under all applicable permit review criteria.

7. Preparation of Environmental Impact Report. The completed EIR shall be submitted as a component of the mining permit application or, if applicable, the advanced exploration permit application in accordance with Section 23(C) of this rule.

#### SUBCHAPTER 4. MINING

##### Section 20. Purpose of Requirements for Mining

This subchapter establishes the general procedures and requirements for the application and implementation of a permit.

##### Section 21. Applicability of Requirements for Mining

The provisions of this subchapter apply to all mining activities, and may apply to advanced exploration activities depending upon the nature and extent of the activity.

##### Section 22. Application Processing Procedure

An application for a permit shall be processed in accordance with this Ordinance.

A. Public Notice of Filing an Application. An applicant shall give public notice of the filing of an application by:

1. Publishing notice, in size and form at least equivalent to standard legal notices and containing the information specified below, in the newspaper having the largest circulation in the county and in one newspaper with a circulation of the entire State of Maine. Notice must be published once during the week in which the application is filed and once during the following week. Such notice shall include the following:

- a. A summary of the proposed activity;
- b. The date of filing of the application and locations at which and the times when the application may be examined; and
- c. A statement that public comments are invited, that a public hearing will be held by the Board at a date and location to be announced, and that public comments will be accepted until the close of the public record or another date established by the Board.

B. Requests for Additional Information. In reviewing applications accepted for processing, the Board may require additional information from the applicant on any aspect of the

application relating to compliance with the requirements of this Ordinance or other Town of Warren Ordinances.

C. Draft Decision. The Board may prepare a draft decision on the application after consideration of the public comments and the application itself, and may provide an opportunity for the public to comment on the draft decision for a period of up to 30 days. The Board may incorporate comments received on the draft decision into the final decision.

D. Jurisdiction. The final decision on an application for a permit under this Ordinance shall be rendered by the Board.

### Section 23. Contents of Application

The applicant shall provide all submissions requested by the Board which the Board determines are necessary to evaluate the criteria for permit issuance under this Ordinance and other Town of Warren Ordinances, including but not limited to materials the applicant has filed with other governmental agencies. The Board may waive application requirements it determines are inappropriate, unnecessary, or irrelevant to a specific proposal. The following information must be provided, but is not intended to include all submissions that may be required under applicable law:

#### A. General Information

1. Applicant Information. Information about the applicant and the proposed activity must be provided including, but not limited to, the following:

a. The name, mailing address, and phone number of the applicant and principal representative of the applicant;

b. The general organizational structure of the applicant, any parent companies, owners, principal stockholders, partners, and joint venturers;

c. Any managing agents or subsidiaries which are or may be involved in the proposed activity;

d. Organizational and legal relationships between or among joint applicants;

e. The applicant's registered agent for service of process in the State; and

f. Evidence of the applicant's ability to undertake the proposed activity, including:

i. A statement of the applicant's prior experience and/or training as it relates to the proposed activity;

ii. The names and qualifications of all key personnel who will be involved with site preparation, extraction, beneficiation, reclamation, closure, and post-closure maintenance; and

iii. A summary of the applicant's and its responsible officers' and related corporation's record of compliance with environmental and land use laws and financial requirements of Maine and other jurisdictions, as follows:

AA. A list and explanation of any felony convictions, any criminal convictions of environmental and land use laws, and any civil violations of environmental or land use laws administered by the State of Maine, other states, the United States, or another country, in the 10 years immediately preceding the filing of the application; and

BB. A list and explanation of administrative consent agreements or consent decrees entered into by the applicant or related persons including alleged violations of environmental or land use laws administered by the State of Maine, other states, the United States or another country, in the 10 years immediately preceding the filing of the application.

2. Location. The location of the proposed activity must be provided including, but not limited to, the following:

- a. The location of the proposed site.
- b. A legal description of the proposed site; and
- c. The names and addresses of owners of abutting property.

3. Evidence of Legal Authority. Evidence of legal authority to conduct business in the State must be provided.

4. Other Permits. A list must be provided of all other federal, state, and local permits, licenses, and approvals required for the proposed activity, including the status of such permits, licenses, and approvals.

5. Mining Experience. A list must be provided of all mines controlled or operated by the applicant, or related persons, in the world. This list shall include mine site addresses, nature and duration of affiliation with the site, and a brief description of each mine.

B. Baseline Monitoring Studies. Baseline monitoring studies prepared pursuant to the requirements of Section 19(E) of this rule.



C. Environmental Impact Report. An environmental impact report prepared pursuant to the following requirements.

1. Contents of Environmental Impact Report. The following shall be included:

- a. A cover sheet including:
  - i. Name of the proposed activity; and
  - ii. Name, address, and telephone number of the applicant or the applicant's representative;
- b. Summary of the EIR stressing the major findings, areas of controversy, and the issues to be resolved, including alternatives;
- c. Table of contents;
- d. List of preparers and their experience and qualifications;
- e. Description of all proposed activities;
- f. List of all required local, state, and federal permits, licenses, and approvals, including an identification of the governmental unit responsible for each permit or approval;
- g. An assessment of all potential environmental and socioeconomic impacts associated with a proposed mining or advanced exploration activity. The actual factors to be assessed will be based upon a project specific scoping process in accordance with Section 19(E) of this Ordinance, which will take into consideration the site-specific characteristics associated with the proposed activity. These factors may include, but are not limited to, impacts on the following:
  - i. Climate and air quality;
  - ii. Great ponds, rivers, streams and brooks;
  - iii. Groundwater quality and existing groundwater uses;
  - iv. Bedrock geology;
  - v. Surficial geology and soils;
  - vi. Land forms;
  - vii. Hydrology;
  - viii. Ambient noise levels;
  - ix. Vegetation;

- x. Existing and future land uses;
- xi. Wildlife and fisheries;
- xii. Unusual natural areas as defined in 06-096 CMR 375(12)
- xiii. Significant wildlife habitat;
- xiv. Historic and archaeologic resources;
- xv. Scenic resources;
- xvi. Freshwater and coastal wetlands;
- xvii. Fragile mountain areas;
- xviii. Public health and safety;
- xix. Schools;
- xx. Roads and traffic circulation;
- xxi. Housing;
- xxii. Employment;
- xxiii. Fire protection;
- xxix. Law enforcement;
- xxv. Tax base and property valuation;
- xxvi. Social services;
- xxvii. Public lands, parks and other public access areas;
- xxviii. Local economics; and
- xxix. Recreational resources;

h. Identification of mitigation measures which may reasonably eliminate or minimize adverse environmental and socioeconomic impacts associated with the proposed activity; and

i. An assessment of alternatives comparing the impacts of the proposed activity with other alternatives, that are reasonably available, which have been or should be considered by the applicant in order to carry out the proposed activity in the most environmentally sound manner, including alternatives that would prevent substantial impairment of existing groundwater uses within the Town of Warren. This assessment may include, but is not limited to, design alternatives for ore leaching units and mine waste units; waste minimization alternatives including



alternative extraction and beneficiation techniques, and opportunities for reuse, in-mine disposal, sale, recovery, treatment or processing of mine wastes; waste treatment and handling alternatives, including alternatives to the proposed method for management and disposal of wastewaters; reclamation alternatives, including phased reclamation; and alternatives on land within the control of the applicant for siting ore processing and mine waste units.

2. Review and Acceptance of EIR. Upon review by the Board, if the EIR is not considered to be adequate in accordance with this rule and the accepted scoping document, the application will not be considered complete for processing by the Board.

NOTE: In order to facilitate review of the proposed activity and ensure the accuracy of the EIR, the applicant is encouraged to submit a preliminary EIR to the Board for review and comment prior to submittal of the application.

D. Operating Plan. An operating plan detailing the location and siting of the proposed activity, including mine waste units. At a minimum, the operating plan shall include, but is not limited to, the following:

1. Maps. The following maps shall be included (map scale shall be 1 inch=100 feet or as otherwise approved by the Board):

a. A location map of sufficient size to adequately depict the area;

b. Vicinity maps, including 7½-inch USGS topographic maps where available or other maps at 1:24,000 (1 inch to 2000 feet), identifying railroads, public and private roads, electrical transmission and telephone lines, pipelines, buried cables, pre-existing mining disturbances, and any other surficial land features as required by the Board; and

c. Site maps and overlays for areas of expected disturbance, and areas within 3000 feet of the site perimeter showing:

i. The cadastral base (land grid, no culture);

ii. Topography, at a maximum of 5-foot vertical contour intervals;

iii. The natural environment, including:

AA. Surficial and bedrock geology;

BB. Hydrology of both surface and groundwater, including wells, springs, ponds, and other sources of water used by others, surface drainage and watersheds on the site;

CC. The shape and extent of the metallic mineral deposit to be extracted, with cross-sections;

DD. The type, extent, and thickness of soils, as indicated by a soil survey that includes a soil map of the site;

EE. Any sensitive natural areas within a 3-mile radius of the mine site including protected natural resources under 38 M.R.S.A. 480-B(8), unusual natural areas under 06-096 CMR 375.12, and state and federal lands; and

FF. A description of the general cover characteristics of the site in percentage of total area, comparing the existing situation with that anticipated upon completion of the project, including areas which are wooded, cleared, scrub, exposed bedrock, wetland, and surface water bodies;

iv. Historical and archaeological sites;

v. Surface and mineral ownership;

vi. Adjoining property owners;

vii. Soil stripping and storage (one overlay per year for the first 5 years, then one overlay for each 5th year to identify volumes of soil stripped by area and volumes stored by area);

viii. Proposed surface and underground excavations and haul roads (one overlay per year for the first 5 years, then, one overlay for each 5th year and one overlay of the final configuration);

ix. Proposed surface water diversion, drainage and sedimentation facilities;

x. Proposed impoundments, ditches, and pipelines;

xi. Proposed structures, parking areas, crushing and conveying facilities, stockpiles identified by function, waste facilities, permanent roadways, service areas, substations, pump stations, ventilation stations, aboveground and underground storage tanks, and site monitoring locations; and

xii. Areas where blasting is proposed within 2000 feet of an existing structure.



2. Extraction and Beneficiation Processes. A narrative description of all proposed extraction and beneficiation processes shall be included, including the following:

- a. Soil stripping and storage;
- b. Drilling and blasting;
- c. Management practices for loading, hauling, dumping, and stockpiling of overburden, waste rock, and ore;
- d. Crushing, and conveying;
- e. Extraction and beneficiation, including on-site refining, if any, and including a process flow sheet;
- f. Water balance and water requirements;
- g. Chemicals, reagents, and explosives to be used, transported, and stored, including the range of chemical concentrations used in operating;
- h. Disposition of concentrates and mine waste;
- i. Estimated rate and duration of extraction and beneficiation;
- j. Times of operation, including seasons, days, and hours;
- k. Equipment to be used, including types and numbers;
- l. Off-site transport to and from the site of chemicals, reagents, and explosives, including types, volumes, and frequency;
- m. A plan demonstrating compliance with the siting, design, construction, monitoring, and operational standards of this Ordinance when ore leaching is proposed. The plan shall include an assessment of all engineered systems against failure in accordance with the Engineered Systems Assessment described in Section 33(D)(5) of this Ordinance. The plan shall also include the management of contaminated stormwater and processing waters from heap or dump leaching facilities; and
- n. A chronological summary of the proposed activity including all stages of development, reclamation and closure.

3. Mine Waste Treatment and Management Plan. A mine waste treatment and management plan shall be included. As described in Sections 31 through 35 of this Ordinance, the plan shall include, but is not limited to, the following:

- a. Characterization and analysis of mine waste;
- b. Hydrogeologic assessment;
- c. Engineering design;
- d. Engineering report;
- e. Quality assurance/quality control program;
- f. Operations manual;
- g. Monitoring plan;
- h. Closure plan; and
- i. Post-closure maintenance plan.

4. Reclamation Plan. A reclamation plan shall be included, as follows:

a. The reclamation plan shall provide for restoration of the site to the original land use and land form or an alternative land use and land form acceptable to the Board. An alternative proposal shall require restoration of the affected land to encourage productive uses and be harmonious with the surrounding environment. If an alternative land use is proposed, the applicant shall provide the following information:

- i. A description of the original land use(s);
- ii. A description of the alternative land use(s) proposed by the applicant; and
- iii. A discussion of the costs and benefits of the proposed alternative use(s) compared to the costs and benefits of the original use(s).

b. The reclamation plan shall include the following information:

- i. Final surface and subsurface configuration of the site; a pre- and post-mining contour map that includes the topography of land in the vicinity of the site;
- ii. The method, extent, and timing of construction operations necessary to complete reclamation;
- iii. Topsoil and subsoil replacement, including location, method, schedule and depth of replacement; source of material; and erosion and sedimentation control plans;
- iv. Revegetation, including the method, location, and timing of cover; species to be seeded or planted in



specific locations; seeding and planting rate; justification for species selection; mulching plans; timing and nature of the evaluation of success of revegetation practices, including response plan to instances of revegetation failure including maintenance provisions;

v. The final surface drainage system layout for the reclaimed site; and

vi. Reclamation costs, including itemized costs of continuous, temporary, and permanent reclamation of the site.

5. **Blasting and Vibration Plan.** A pre-blasting survey shall be completed for all off-site structures within 2000 feet of any blasting. The survey report must determine the condition of the structure and must document any pre-existing defects and other physical factors that could reasonably be affected by the blasting. This survey shall be carried out by an independent consultant specializing in the field of blasting vibrations and their effect on structures. The applicant shall also submit a plan which addresses airblast limits, ground vibrations and maximum peak particle velocity. The plan must address measures taken to limit the impact from blasting.

6. **Surface Subsidence Plan.** Where there is potential for subsidence, the applicant shall submit a surface subsidence plan including the following:

a. Reasons why such subsidence is necessary or desirable;

b. Evidence that the anticipated subsidence methods represent no threat to public health, safety, or the environment;

c. Steps that will be taken to establish ground-control survey locations and to conduct surveys documenting the extent of ground movement; and

d. Procedures that will be undertaken to reclaim areas affected by subsidence including, but not limited to, contouring, filling, or flooding so as to protect public health and safety, and the environment.

7. **Site Monitoring Plan.** The site monitoring plan shall describe all the environmental monitoring to be conducted at the site. This plan shall be designed to detect and monitor the effects of the site, mine waste units, and ore leaching facilities on the surrounding environment including, but not limited to, groundwater, surface water, air, and soils and surficial materials. This plan shall contain, at a minimum, a sampling and analytical plan, location of monitoring sites, and a description of the construction, installation and maintenance of monitoring sites.



8. Inspection Plan. The inspection plan must describe the measures to be taken at the site to ensure that all structures and other design features necessary for proper operation of the site are maintained.

9. Site Security Plan. The applicant shall provide a plan for security provisions to prevent unauthorized access to the mine site.

10. Financial Responsibility Plan. Financial responsibility shall be required of a person engaged in any proposed activity. A financial responsibility plan for the proposed activity shall detail the form and amount of financial assurance and insurance proposed to meet the requirements of Section 26(H) of this Ordinance and 06-096 CMR 373(1).

11. Contingency and Emergency Procedures Plan. Each site must have a contingency and emergency procedures plan designed to minimize hazards to public health and the environment from fires, explosions, or any unplanned sudden or non-sudden release of waste or materials that may pose a threat to air, soil, groundwater, or surface water.

12. Air Quality Control. The air quality control plan shall demonstrate compliance with all applicable state ambient air quality and emission standards. Where fugitive emissions are anticipated, the applicant must submit a best management practices plan for the control of fugitive emissions. The best management practices plan shall indicate the methods the applicant intends to use to minimize fugitive emissions resulting from a proposed activity, roads, and stockpiles at the site such that emission and air quality standards are not exceeded.

13. Erosion and Sedimentation Control Plan

a. The applicant shall provide a plan describing measures to be used to prevent erosion and sedimentation.

b. At a minimum, an erosion and sedimentation control plan shall include the following:

i. A narrative describing permanent and temporary erosion and sedimentation control measures to be used;

ii. Plan view of the site showing location of proposed measures;

iii. Design and construction specifications for measures to be used, including calculations supporting sizing and design of any structures;

iv. Cross-sections of control measures, showing installation details;

v. Implementation schedule for permanent and temporary control measures; and

vi. Inspection and maintenance schedule for proposed control measures and designation of the responsible party.

14. Storm and Surface Water Management Plan. The applicant shall submit a storm and surface water management plan developed to comply with this Ordinance.

15. Protected Natural Resource Plan. The applicant shall submit a protected natural resource plan that describes the measures to be taken to comply with applicable federal and state law.

#### Section 24. Siting Standards

A proposed site shall be located and designed to comply with applicable siting standards under Section 33(A) of this Ordinance and other Town of Warren Ordinances, and shall be located and designed in a manner consistent with the Town of Warren Comprehensive Plan. In addition, the following are supplemental minimum siting standards:

A. Siting Within Floodplains. In order to locate any portion of a site in a 100-year floodplain, the applicant must demonstrate to the satisfaction of the Board that such portion of the site will be designed, operated, reclaimed or closed so that the requirements of this Ordinance are met. This demonstration must consider the degree to which the portion of the site in the floodplain will restrict the flow of the 100-year flood and reduce the temporary water storage or conveyance capacity of the floodplain, and whether it will result in erosion and sedimentation or water pollution.

B. Siting Over Unstable Areas. The mine waste units and ore leaching facilities shall not be located over an unstable area.

C. Setbacks. The following minimum setbacks shall be maintained unless the Board determines alternative setbacks are appropriate pursuant to paragraphs (4) and (5) of this subsection.

1. Mine waste units shall be set back a minimum of 2,640 feet from a property boundary or a public or existing private drinking water system for Group A waste, 1,500 feet for Group B waste and 1,000 feet for Group C waste. Outdoor ore leaching facilities shall be set back a minimum of 2,640 feet from a property boundary or a public or existing private drinking water system.



2. The limit of excavation and ore storage facilities shall be set back a minimum of 1,500 feet from a public or existing private water system and 1,000 feet from a property boundary.

3. All activities other than mine waste units, and outdoor ore leaching or ore storage facilities and the limit of excavation, shall be set back a minimum of 300 feet from a property boundary, a public or existing private drinking water system, or a public road. Upon receipt of written permission from the abutting property owner, the 300-foot property boundary setback may be reduced to 100 feet.

4. Greater setbacks may be required by the Board depending upon site specific factors such as:

- a. Noise and structural impacts from blasting and other activities at the site;
- b. Potential impacts on groundwater quality and existing groundwater uses;
- c. Potential impacts on surface water quality and other natural resources of the Town;
- d. Response time that may be required to initiate and complete corrective action;
- e. Potential impacts to air quality resulting from blasting and other activities at the site;
- f. Compatibility with the existing natural environment and surrounding land uses; and
- g. Other site specific conditions.

5. Pursuant to Section 12 of the Ordinance, the applicant may request a variance from the minimum setbacks of paragraphs (1)-(3) of this subsection. In reaching a decision on the variance request, the Board shall consider the factors specified in paragraph 4 of this subsection.

#### Section 25. Design Standards

Ore leaching facilities and units for the management of Group A and Group B mining waste, and other ore piles and surface impoundments if any, shall be designed, constructed and operated to ensure the greatest degree of groundwater pollutant discharge reduction achievable through application of the best available demonstrated control technology, processes, operating methods or other alternatives, including where practicable, a technology permitting no discharge of pollutants. In determining the best available control technology, processes, operating methods or other alternatives, the Board shall take into account site-specific hydrologic and geologic characteristics and other

environmental factors; the use of alternate technologies, processes, or operating methods in the industry; and the economic impacts of the use of alternative technologies, processes or operating methods. A discharge reduction solely by means of site-specific characteristics does not in itself, constitute a best available demonstrated control technology. In addition, the following, and Section 33(B) of this Ordinance are supplemental minimum design standards:

#### A. Ore Leaching Facilities

1. Ore leaching facilities, including associated solution ponds and all ditches connecting these facilities, shall be constructed and operated in accordance with the siting, design, monitoring and operating standards of Sections 32, 33 and 34 of this rule. In addition, the following requirements must be met:

a. The facility shall be designed to minimize overspray and wind dispersion of leaching solutions.

b. The design shall include a system for detection of leaks through the composite liner and leak recovery. Levels of an indicator parameter(s) signifying excessive leakage shall be designated in the permit.

2. Ore leaching facilities, including associated solution ponds and all ditches used to connect these facilities, shall be designed and constructed so their volumes shall accommodate all precipitation and runoff resulting from a 24-hour, 100-year storm.

3. Closure shall be in compliance with the requirements of Section 35 of this rule, as applicable.

Note: The variances available under Section 12 of this Ordinance from the requirements of Section 33-35 of this Ordinance are also available to ore leaching facilities.

#### B. Wildlife Exclusion

1. Fencing. All open waters which contain any chemical(s) at levels harmful to wildlife shall be fenced to exclude terrestrial animals. The fence bottom shall be secured tight to the ground to prevent animals from gaining access under the fence. These fences shall be inspected and maintained to prevent wildlife access.

2. Covering or Containment. All waters that contain any chemical(s) at levels harmful to wildlife must be covered or contained in a manner that shall prevent access by wildlife. All covers or containers shall be maintained in a manner that shall continue to prevent access by wildlife for as long as the pond or container could be harmful to wildlife.



3. Chemical Neutralization or Isolation. Any chemical-laden fluids that are the result of any process and that are impounded in an area that is too large to cover or contain must be rendered non-harmful to wildlife prior to outside storage.

C. Stormwater. The site will be designed to minimize run-on of surface water into the site, and stormwater runoff will be managed to ensure the compliance with applicable state law and performance requirements of this Ordinance will be achieved.

#### Section 26. Operational Standards

A site shall be operated to comply with this Ordinance and other Town of Warren Ordinances. In addition, the following are supplemental minimum operational standards.

A. Site Monitoring. The site must be monitored to demonstrate compliance with the performance requirements of this rule and the site monitoring plan required under Section 23(D)(7).

#### B. Temporary Cessation of Mining

1. Cessation of operation of the site, or any portion thereof, for more than 30 days, as the result of a planned or unplanned activity, shall constitute temporary cessation of mining. The Board may, at its discretion, require the permittee to submit, within 30 days of the temporary cessation of mining, a plan demonstrating how compliance with permit conditions and the requirements of this rule will be achieved.

2. The permittee shall take all steps reasonably necessary to protect public health and the environment during temporary cessation of mining and shall report to the Board the steps taken.

#### C. Reclamation

1. All reclaimed slopes and slope combinations must be structurally stable and harmonious with the surrounding environment. All grading, backfilling, and topographic reconstruction of affected lands must achieve stabilization and minimize the need for long-term maintenance. Techniques shall be utilized to prevent sliding, slumping and heaving.

2. Temporary erosion control measures such as mulching and anchoring shall be implemented immediately to minimize erosion of disturbed areas prior to seeding and planting.

3. Seeding and planting must be done in accordance with accepted agricultural practices. Disturbed areas shall be seeded immediately after final soil preparation, unless an alternative plan is approved by the Board.



4. Vegetative material used in reclamation shall consist of grasses, legumes, herbaceous or woody plants, shrubs, trees or a mixture thereof which is consistent with the design function and the site and soil characteristics such as drainage, pH, nutrient availability, and climate.

5. The vegetative cover shall be considered acceptable if:

a. The planting of trees and shrubs results in a permanent stand or in a stand capable of regeneration and succession sufficient to ensure a 75% survival rate; and

b. The planting of all materials results in 90% ground coverage for those areas disturbed within 18 months of seeding and planting.

6. All structures and access, haul, and other support roads constructed under the permit shall be removed, unless such structures and roads are required for post-closure care activities or as part of an approved alternative use at the site.

7. Site reclamation activities shall be planned to accomplish reclamation progressively throughout the operational period of the activity to the extent that the phased reclamation is technically feasible.

8. Soil which is stripped or removed must be stockpiled for use in reclaiming disturbed land areas unless the permittee demonstrates to the satisfaction of the Board that the soil is not needed for reclamation purposes. Soil stockpiles shall be seeded, mulched and anchored or otherwise stabilized.

#### D. Ore Leaching Facilities

1. To ensure compliance with design and operating requirements of the approved permit, the construction, operation, and maintenance of ore leaching facilities shall be:

a. Inspected each day during operations; and

b. Inspected by a qualified professional at least twice yearly, and the permittee shall report the results along with the inspector's recommendations to the Board.

2. Upon completion of metal extraction, the leachate from the ore leaching facilities shall be treated pursuant to Sections 32 and 33 of this rule.

3. Spent ore which has been left in place or which will be removed must first be rinsed until:

a. WAD cyanide levels in the effluent rinse water are less than 0.2 mg/l:

b. The pH level of the effluent rinse water is between 6.0 and 9.0; and

c. Contaminants in any effluent from the processed ore resulting from precipitation would not degrade waters of the state.

4. Leached ore, upon completion of metal extraction and after rinsing, whether left on the base foundation or stockpiled elsewhere, shall be disposed of pursuant to Sections 31 through 35 of this rule.

E. Blasting and Noise Requirements. All activities shall be conducted in accordance with the applicable standards of 06-096 CMR 375 and other applicable law.

NOTE: See the Blasting Guidance Manual of the Office of Surface Mining Reclamation and Enforcement (OSMRE), U.S. Department of the Interior (March 1987).

F. Annual Report. The permittee shall submit to the Board, in the number of copies specified by the Board, annual reports due 1 year and 2 months from the date of issuance of the permit, and then yearly thereafter. Each report shall describe the activities completed during the past year and planned for the upcoming year. The reports shall be in a format approved by the Board and shall contain, at a minimum, the following information:

1. For the preceding 12 months:

a. The actual rate of extraction;

b. The actual area disturbed, the amount and composition of material extracted, and a survey indicating limits of all disturbed areas both surficial and underground;

c. A discussion of rock types or formations to be encountered during extraction that were not characterized in the original mine operating plan;

d. The actual area reclaimed;

e. The success of revegetation efforts;

f. The status of the reclamation materials including, where appropriate, capillary break material, textural break material, inert rock fill, clay cap materials, other subsoils, and topsoils;

g. A comparison between the available reclamation materials and the amount used for reclamation;

h. Status of all conditions of the permit;

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- i. Annual summary and evaluation of environmental monitoring;
- j. Status of any special studies required as a part of the permit;
- k. Operating summary of the mine waste unit(s) including a comparison between the actual waste stream characterization as compared with the anticipated characterization;
- l. Summary of inspection records;
- m. The financial information contained in Section 26(H)(3)(g);
- n. A description of any material changes in the financial condition of the permittee and,
- o. A description and location of all significant repairs to underground leaks and fissures and to the mine waste units, including the timing of such repairs.

2. For the upcoming 12 months:

- a. A statement describing the financial capability of the applicant to meet the requirements contained in the financial responsibility plan;
- b. The anticipated extraction, including:
  - i. The rate, types, amounts, and schedule for extracting the ore body;
  - ii. Anticipated reclamation and revegetation planned for the next year;
  - iii. A comparison between the available reclamation materials contained in Section 26(F)(1)(f) above and the anticipated reclamation needs for each type of material; and
  - iv. A revision of the financial responsibility plan emphasizing changes, if any, in costs associated with anticipated reclamation, closure, and post-closure maintenance of the site as well as the costs associated with any required corrective action; and

3. The total area reclaimed to date.

G. Wildlife Reports. The permittee shall maintain a record of any wildlife mortalities that occur in association with the permitted facility. Those reports shall be provided quarterly to the Board. In addition, the permittee shall report all wildlife mortalities that are associated with chemical-containing tanks or impoundments by the beginning of the next working day following

the occurrence or observation of those mortalities.

H. Financial Assurance. Financial responsibility for ensuring compliance with the reclamation, closure, and post-closure maintenance requirements of the permit, and the cleanup and corrective action costs of permitted or accidental releases, must be fulfilled through a trust fund as provided by this section.

1. Computation of Financial Assurance. The amount of the financial assurance required of an applicant must be approved by the Board and shall not duplicate any financial assurance provided by the applicant to other governmental agencies. The type of financial assurance must be as described under this rule and is otherwise subject to the approval of the Board. As annually or otherwise determined by the Board according to this Ordinance, the amount of the trust fund must be, at a minimum, the estimated cost to a third party for:

a. Completing the reclamation for all disturbed areas and all areas expected to be disturbed within the upcoming year;

b. Closure and post-closure maintenance requirements for mine waste already generated together with mine waste expected to be generated within the upcoming year; and

c. Corrective action costs responding to a credible accident that may occur after closure as determined by the Board, or corrective action costs as required by a corrective action plan or as otherwise determined by the Board under this Ordinance.

d. Monitoring, maintenance, and other activities listed in Section 35(B)(3) of this Ordinance which the Board determines the Town of Warren may reasonably conduct after expiration of the post closure care period.

2. Trust Fund Requirements. The permittee shall pay into a trust fund established for the benefit of the Town of Warren as follows:

a. The trust fund shall be funded by the permittee through cash deposits. In lieu of cash deposits, the permittee may provide one or more irrevocable letters of credit in a total amount (including previously provided and unexpired letters) equal to 100% of the total of all annual cash deposits otherwise required under this section.

b. The trust fund shall be established in a financial institution, acting as trustee, with trust assets under management of not less than \$200 million and whose unsecured long-term debt is rated "A-1" or better by Moody's Investor Service or "AA" or better by Standard and Poors. In addition, the trustee shall have capital stock and surplus aggregating not



less than \$25 million and a primary capital to asset ratio of not less than 8% and equity to total assets ratio of not less than 5%, determined in accordance with accounting rules of the primary federal regulator of the trustee.

c. The initial deposit into the trust fund for reclamation costs, identified in 26(H)(1)(a) above, and for credible accident response costs identified in Section 26(H)(1)(c) above, shall be made on or prior to site disturbance. Subsequent payments shall be made on or prior to the next subsequent anniversary date of permit issuance, and annually thereafter.

d. The initial deposit into the trust fund for financial assurance for closure and post-closure maintenance, identified in Section 26(H)(1)(b) above, and for activities the Board may perform after expiration of the post closure period identified in Section 26(H)(1)(d) above, shall be made in advance of the first placement of waste in a waste unit(s). Subsequent payments shall be made on or prior to the next subsequent anniversary date of permit issuance, and annually thereafter.

e. The amount and payment schedule for financial assurance for corrective action, identified in Section 26(H)(1)(c) above, shall be as specified in the corrective action plan or as otherwise determined by the Board under this Ordinance.

f. Annual deposits or increases in the required trust fund amount shall be made from the beginning of operations until the end of the post-closure period. Without limitation, changes in the amount in the trust fund may be required due to modifications of the permit, changed financial or site conditions, technology changes, inflation, anticipated changes in mining activity and waste unit utilization, or changes in requirements for closure, post-closure maintenance, corrective action, or reclamation. The permittee shall annually report to the Board, subject to the Board's approval, with or without conditions, an estimate of cost changes as provided in this Ordinance. The permit remains in effect only if all required deposits or increases are made within 30 days of the due date provided in this Ordinance. The obligation to make deposits or adjust the letter of credit amount ceases only upon approval from the Board.

g. When computing the annual inflation adjustment for reclamation, closure, post-closure, or corrective action trust funds, the Board and the permittee must use the Implicit Price Deflator for Gross National Product as published by the U.S. Department of Commerce in "Survey of Current Business," or a successor index.

h. All interest or other income resulting from the investment of funds in the trust fund shall be deposited into the trust fund, may be used to offset subsequent payments into the trust fund, and shall be subject to the same restrictions as the principal. The permittee may request from the Town of Warren release of income or interest of any balance over the required amount. The Town of Warren shall grant such a request when it finds the trust fund is adequately funded and the release will not adversely affect the ability of the fund to cover its intended expenses.

i. The Town of Warren may at its discretion grant approval for the withdrawal by the permittee of portions of the trust fund upon the permittee's verification that the sum(s) authorized have been used solely for their intended, and Board authorized, purposes provided the remaining funds are sufficient to cover expenses required by this rule. In any event, 25% of the financial assurance obligations covering closure, post-closure maintenance, and reclamation shall be retained in the trust fund until all reclamation and closure activities are completed.

j. If a permit is suspended, revoked, or not renewed, the permittee shall continue to make deposits according to this rule.

k. The Town of Warren shall be a party to the trust agreement as beneficiary and shall have the right to withdraw and use part or all of the funds in the trust fund or to require the liquidation of the assets of the trust fund, including any letter of credit, at its sole discretion, to carry out reclamation, closure, post-closure, and corrective action requirements as the Board determines necessary. The trust agreement shall provide that there shall be no withdrawals from the trust fund except as authorized in writing by the Selectmen.

l. The financial assurance cost estimates shall be made in U.S. dollars in accordance with established estimating practices and shall not incorporate any salvage value that may be realized by the sale of materials, wastes, site structures or equipment, land, or other assets associated with the site.

m. The proposed trust agreement shall be submitted to the Board for review and shall be subject to its approval.

### 3. Management of the Trust Fund

a. The trust fund shall not constitute an asset of the trustee or permittee and shall be established in such a manner so as to ensure the funds in the account will be available to the Town of Warren and not any creditor, including in the event of bankruptcy or reorganization of the trustee or permittee. The permittee shall pay all costs of managing the fund and compensating the trustee.



b. The trustee shall observe the standards in dealing with the trust fund that would be observed by a prudent person dealing with the property of another, bearing in mind the overriding investment purposes set out in Section 26(H)(3)(d) below, and shall bring to bear all special skills and expertise available to the trustee as a professional fiduciary.

c. The trustee shall not invest assets of the trust fund in any real estate or real estate investment trust (as defined in the Internal Revenue Code of 1986, 26U.S.C. 856(a), as amended), any contract for the future sale or delivery of commodities or foreign currency, any corporate or municipal bond not rated "A-1" or better by Moody's Investors Service or "AA" or better" by Standard and Poors, any equity instrument the issuer of which does not have at least one class of securities registered with the United States Securities and Exchange Commission under the Securities Exchange Act of 1934, 15 U.S.C. 78a, et seq., as amended, or any security issued by the permittee or applicant or any affiliate (as such term is defined in the Investment Company Act of 1940, 15 U.S.C. 80a-1, et seq.) thereof.

d. The trustee shall invest the assets of the fund in a manner that assures to the greatest possible extent the availability of the assets in liquid form on notice of 30 days or less and also assures the safety of the principal of the trust fund and the availability of the assets of the trust fund for a vital public purpose.

e. The trustee shall notify the Board immediately in the event that any payment or letter of credit has not been received from the permittee by the due date.

f. With respect to any letter of credit held by the trustee in the trust fund, the trustee must assure that the letter of credit is issued by a financial institution meeting the requirements of Section 26(H)(5)(c) and that the other requirements of Section 26(H)(5) are satisfied.

g. The trustee shall submit to the Board an annual statement of deposits, letters of credit, investments, and any income and principal in the trust fund, and changes in the same over the prior year.

#### 4. Close-Out or Release of the Trust Fund

a. When requesting close-out of the portion of the trust fund covering reclamation, known corrective action, and post closure maintenance, the permittee shall submit to the Board an environmental evaluation of the waste units, reclamation and any required corrective action to ensure that any remaining problems are identified and corrected before financial assurance is released. Upon the expiration of the post closure care period, the remaining trust funds necessary to cover credible

accident response costs and the monitoring and maintenance activities described in 26(H)(1)(d) above, shall not lapse.

b. When the Town of Warren makes a determination to release funds from the trust fund, it shall notify the trustee and the permittee in writing of the decision. At that time, the Selectmen shall supply the trustee and permittee with written approval to transfer the excess funds or to close the account. The Town of Warren does not release the permittee from any reclamation, closure, post-closure, or corrective action requirements or third party liability as a result of releasing any funds.

5. Letter of Credit Requirements. The following requirements shall apply to all financial assurances utilizing a letter of credit:

a. The letter of credit must be unconditional, irrevocable, issued for a period of at least 1 year, and otherwise in a form satisfactory to the Board. At least 90 days before the expiration date, the financial institution issuing the letter of credit must notify the trustee, the permittee and the Board if the letter of credit will not be renewed for an additional 1-year period, and the letter of credit shall so provide. If the permittee is unable to obtain a letter of credit that complies with this rule prior to 45 days before the expiration of the current letter of credit, the trustee shall immediately draw all funds under the letter of credit and deposit those in the trust fund. The trustee must also take all other measures necessary to maintain the letter(s) of credit as provided herein and to assure such letter(s) do not expire unless replaced with another duly qualified letter.

b. The letter of credit shall be issued so as to be drawn upon unconditionally by the trustee to meet the terms of the trust fund or otherwise at the call of the Town of Warren.

c. The financial institution issuing the letter of credit must meet the following financial criteria, as reviewed no less often than annually by the trustee:

i. Its unsecured long-term debt is rated "A-1" or better by Moody's Investor Service, or "AA" or better by Standard and Poors.

ii. It has assets of not less than \$1 billion and capital stock and surplus of not less than \$100 million and a primary capital ratio of not less than 8% and equity to total assets ratio of not less than 5% determined in accordance with accounting rules of the primary federal regulator of the financial institution.

iii. In the event that an issuer of a letter of credit ever fails to meet these criteria, the trustee shall immediately order the permittee to replace it with a properly



qualifying letter of credit, failing which the trustee shall immediately liquidate the letter of credit.

d. The proposed letter of credit shall be submitted to the Board for review and approval.

e. In the event the Town of Warren delivers to the trustee a certificate so requesting and signed by the Selectmen, the trustee shall draw down the full amount available under the letter of credit specified in the certificate and shall add to the trust fund the amount drawn down.

f. If the trustee draws on any letter of credit, the trustee shall promptly report to the Board and the permittee the amount of such draft, the section or sections of the trust agreement calling for such a draft, and the disposition of the proceeds of such draft.

g. A financial arrangement in the form of a bond but that otherwise qualifies as a letter of credit meeting the requirements of this section shall be considered a letter of credit for purposes of this rule.

6. Proof of Insurance. The applicant must include, as part of a financial responsibility plan, and provide annually thereafter as part of the annual report required under Section 26(F) of this rule, proof of comprehensive liability insurance for the site for sudden and accidental, and for non-sudden occurrences. The amount of non-sudden occurrence insurance shall be assessed by the Board on a case-by-case basis taking into account the potential of the mine site to pollute groundwater. The insurance underwriter(s) must be approved by the Board. Requirements include, but are not limited to, the following:

a. Liability insurance coverage must be provided during operation, reclamation, closure, and, where mine wastes will remain on the site after closure, during the post-closure maintenance period.

b. The level of coverage for sudden and accidental insurance must be at least \$5 million per occurrence and \$10 million annual aggregate, unless because of a greater risk, a higher minimum is required by the Board for a particular site.

c. All liability insurance coverage amounts must be exclusive of legal defense costs.

d. An applicant may not self-insure. If liability insurance is unavailable, a \$5 million letter of credit drawn upon a reputable bank which meets the criteria of Section 26(H)(5)(c) may be utilized in lieu of liability insurance for sudden and accidental occurrences.

e. The liability insurance policy may not be written as a "claims made" policy unless approved by the Board.

f. Non-Sudden insurance can take the form of insurance, or a financial mechanism providing coverage in a form acceptable to the Board other than self insurance.

g. Where Group A wastes are managed at a mine site, the level of coverage for non-sudden occurrence insurance shall be at least \$3 million per occurrence and \$6 million annual aggregate, unless because of a greater risk, a higher minimum is required by the Board for a particular site. The Board may also establish a lesser amount of coverage at a particular site where Group A wastes are managed based upon consideration of such factors as:

i. The extent of treatment employed to reduce the potential of the mine waste to pollute groundwater;

ii. The length of time Group A mine waste will remain onsite; and

iii. Other measures undertaken by the applicant to reduce the potential of the mine site to pollute groundwater.

I. Performance Requirements. All sites must meet the performance requirements specified below.

1. Performance Requirements for Groundwater Quality

a. A site shall not cause a discharge of pollutants into groundwaters of the Town of Warren that violates the Class GW-A standard as established in 38 M.R.S.A. 465-C.

b. Parameters for which performance requirements must be established in the permit are:

i. Ag, As, Ba, Cd, Cr, Hg, Pb, Se, Ni, Cu, Co, Zn;

ii. pH, nitrate, sulfate;

iii. Radionuclides including gross alpha and beta; and

iv. Other parameters determined to be present by the waste characterization conducted under Section 31 of this rule which may pose a threat to public health or the environment.

c. Performance requirements for parameters identified above must be established for each site. For each parameter, the performance requirement shall be established in the permit using the following criteria:

i. Maximum Contaminant Level (MCL) promulgated under the Safe Drinking Water Act National Primary Drinking Water Regulations, or the Rules Relating to Drinking Water as developed by the Maine Department of Human Services, whichever is lower; or

ii. The Maximum Exposure Guideline (MEG) as developed by the Maine Department of Human Services; or

iii. The health-based level that is protective of human health and the environment using a risk-based approach consistent with the following:

AA. The level established under the procedures set forth in the Maine Bureau of Health, "Policy for Identifying and Assessing the Health Risks of Toxic Substances," February 1988;

BB. For known or probable carcinogens, the concentration associated with maximum probability of excess lifetime risk of  $1 \times 10^{-6}$ ;

CC. For non-carcinogenic toxicants, the concentration that is likely to present no appreciable risk of adverse effects over a lifetime; and

DD. Environmental risk, as determined by the Board; or

iv. Naturally occurring background concentrations as determined in baseline studies may serve as performance requirements when background concentrations for specific parameters exceed the concentration set pursuant to Section 26(I)(1)(c)(i), (ii) and (iii) above.

d. Performance requirements for groundwater will also be set to ensure that surface water quality standards will be maintained. The hydraulic connection between groundwater and surface water will be assessed in order to assign any performance requirements necessary to ensure that surface water quality standards are maintained.

e. Where a performance requirement in groundwater necessary to protect surface water quality is more stringent than the applicable drinking water or health-based performance requirement, then the performance requirement necessary to protect surface water shall apply.

## 2. Performance Requirements for Surface Water Quality

a. A site shall not cause a discharge of pollutants into surface waters of the State that violates either the Surface Water Classification Program, 38 M.R.S.A. 464 et seq., or the Protection and Improvement of Waters Act, 38 M.R.S.A. 414-A.



b. Surface water performance requirements shall be established in the permit. The performance requirements for specific parameters shall be established to ensure attainment of State surface water quality standards. Title 38 M.R.S.A. 420 specifies the numeric criteria for controlling the presence of toxic substances in surface water, and a procedure for DEP to adopt new, revised, or alternative site-specific numerical criteria. These numeric criteria shall be incorporated into the performance requirements for surface water quality. Naturally occurring background concentrations as determined in baseline studies may serve as performance requirements when background concentrations for specific parameters exceed the numeric criteria identified above.

3. Performance Requirements for Air Quality. A site shall not cause a violation of an applicable State ambient air quality or emission standard.

4. Performance Requirements for Soils and Surficial Materials

a. Best management practices shall be required to control fugitive emissions and other contamination into or upon any land.

b. If the Board determines that a parameter released from, or as a result of, the mining activity creates a risk to the environment or human health, a numeric performance requirement may be established for that parameter. Such risk shall be determined based on impacts including, but not limited to, direct contact, bioaccumulation in plants and animals, and foodchain concentration that may occur on and off site.

5. Performance requirements for Existing Groundwater Uses. A mine site shall be sited, designed, constructed, operated and closed in a manner that does not substantially impair existing groundwater uses within the Town of Warren.

Section 27. Corrective Action

A. Corrective Action Trigger. If there is an exceedance of any performance requirement, the permittee must complete the following actions:

1. Notify the Board and the Town Manager orally within 24 hours of the exceedance, and in writing within 5 working days.

2. Commence corrective action as outlined below, unless the Board determines that another course of action is more appropriate.

3. Continue to monitor as required. The Board may require more frequent or more extensive monitoring as an interim measure.



4. Take all other actions necessary to minimize contamination of the environment and risk to public health.

B. Interim Measures. During implementation of corrective action, the Board may require the immediate implementation of interim measures.

C. Release From Corrective Action. The permittee may demonstrate that a source other than the activity solely caused the exceedance or that the exceedance is an artifact caused by an error in sampling, analysis, or natural variation of the environmental media being monitored. The permittee may be released from the requirement to prepare a corrective action plan if the demonstration shows, to the satisfaction of the Board, that a source other than the site caused the exceedance, or that the exceedance resulted from an error in sampling, analysis, or evaluation. Corrective action or interim measures shall continue unless and until the Board determines that the site did not cause or contribute to the exceedance.

D. Corrective Action Plan Development Schedule

1. If the Board determines that corrective action is necessary, the permittee shall submit a schedule for corrective action plan development within 14 days of that determination.

2. The schedule shall identify the specific information that will be collected for the corrective action plan and the date that the corrective action plan will be submitted to the Board for review, all subject to the approval of the Board with or without conditions.

E. Corrective Action Plan Development and Submission

The permittee shall prepare and submit 20 copies of the corrective action plan, unless otherwise specified by the Board, based on the corrective action plan development schedule approved above.

1. This plan shall, at a minimum:

a. Be protective of public health and environment;

b. Propose a remedy to control the sources of releases and ensure compliance with the performance requirements throughout operation, reclamation, closure, and post-closure maintenance;

c. Propose a schedule for implementing corrective action;

d. Provide a cost estimate for corrective action activities; and

- e. Provide financial assurance for corrective action costs pursuant to Section 26(H).
- 2. In developing the corrective action plan, at a minimum, the following shall be considered:
  - a. Extent, nature and cause of contamination;
  - b. Identification of remedies to achieve compliance with the performance requirements and to prevent future exceedances;
  - c. Availability of alternative treatment or disposal measures during implementation of the corrective action;
  - d. Evaluation of performance, reliability, timing and ease of implementation, and potential impacts (including safety and cross-media environmental impacts) of alternative corrective actions;
  - e. Potential risk to public health and the environment prior to completion of corrective actions;
  - f. Evaluation of requirements (e.g., federal, state and local permit requirements, environmental or public health requirements) that could substantially affect implementation of potential corrective actions; and
  - g. Other relevant factors specified by the Board.

#### F. Corrective Action Plan Approval

- 1. Prior to reaching a final decision on the proposed corrective action plan, the Board shall hold a public hearing and provide for a public comment period of at least 30 days.
- 2. If, after review of the proposed corrective action plan, and any comments on the plan the Board does not approve the plan, with or without conditions, the Board may require the permittee to revise the corrective action plan or prepare a new plan, which may be based on a remedy identified by the Board. In such cases, the permittee shall submit a new corrective action plan development schedule as required above. The revised plan shall address the elements identified above and any other factors that the Board determines are appropriate, and shall be reviewed and approved by the Board, with or without conditions. The Board may direct the permittee to modify the corrective action plan at any time in order to protect public health and the environment.
- 3. At any time after an exceedance of a performance requirement, the Board may, in addition to requiring the development and implementation of a corrective action plan, require the permittee to implement such interim measures as may be necessary to protect public health or the environment, including the cessation of some or all activities.



#### G. Corrective Action Plan Implementation

1. Upon approval by the Board, the permittee shall implement the approved corrective action plan.

2. The permittee shall notify persons who may be adversely affected by releases from the site.

3. During implementation of the corrective action plan, the permittee may propose an alternative corrective action plan for approval by the Board. The corrective action shall continue until the alternative corrective action plan is approved by the Board, with or without conditions.

#### H. Corrective Action Plan Completion

1. Corrective action plan implementation pursuant to this section shall be considered complete when the Board determines that compliance with the performance requirements and other legal requirements has been achieved for 12 consecutive quarters of monitoring.

2. Upon completion of corrective action, the permittee must submit to the Board certification that corrective action is complete in accordance with Section 27(H)(1) above.

I. Enforcement Reserved. The provisions of this Ordinance relating to corrective action shall not affect the Town of Warren's enforcement rights and remedies as set forth in Sections 48 and 49 of this Ordinance or under common law. In addition to any penalties the law provides, such enforcement action may seek remedial and/or mitigation work that is in accordance with a timeframe or otherwise of a manner different from that prescribed above for corrective action plans, if the Town determines such enforcement response necessary.

#### SUBCHAPTER 5. MINE WASTE TREATMENT AND MANAGEMENT

##### Section 28. Purpose of Mine Waste Treatment and Management Requirements

The purpose of this subchapter is to classify mine waste and to regulate the location, design, construction, operation, maintenance, closure, and long-term care of units for the storage, treatment and disposal of mine wastes.

##### Section 29. [Reserved]

##### Section 30. [Reserved]

##### Section 31. Waste Characterization

The characterization and analysis of mine waste required under this rule shall include, but is not limited to, tailings and waste rock. All mine waste generated, disposed of, or otherwise

handled at the site shall be analyzed and characterized at a minimum as follows:

A. Testing Frequency. Mine waste characterization and analysis shall identify the characteristics of the mine wastes. It shall be an evaluation of the quantities, variability, and physical, radiologic, and chemical properties of mine waste necessary for predicting the potential environmental impacts of mine waste handling, storage, treatment and disposal and for determining specific treatment, disposal and storage design. Evaluation shall be conducted prior to the issuance of a permit and thereafter as determined by the Board including, but not limited to, the following:

1. Changes in the character of the mine waste managed at the site; and
2. Changes in the design, operation, or management at the site which may potentially alter the characterization.

B. Mine Waste Evaluation. Testing shall be performed on the representative samples of individual mine waste from the extraction and beneficiation process, and of composite mine waste or other materials where mixed storage or disposal of individual mining waste is proposed. The major components of mine waste characterization and analysis shall include, but are not limited to, the following:

1. Identification of all mine waste which will be disposed of, stored or handled at the site, or removed from the site including classification of waste types, estimation of the generation rates and volumes of each type, and an explanation of the ultimate disposition of each type;
2. Chemical, radiologic, and mineralogic analyses of the mine wastes;
3. Description of expected particle size distributions of waste rock and analysis of particle size distribution of mill tailings;
4. Determination of the short- and long-term acid-producing characteristics of the mine waste, considering the acid producing content of the materials, the particle size and particle form of the acid-producing material, and the spatial distribution of its particles, the neutralizing effect of host materials and the effects of acid precipitation (rain, snow and dry deposition); and
5. Determination of the leaching potential of the mine wastes and determination of the composition of the resulting leachate.

C. Test Methods. The applicant shall describe in detail its proposed waste characterization program which consists of the



methods of obtaining samples of mine waste, sample preparation, sample shipment, testing, and chain-of-custody methods employed in evaluating the mine waste characteristics, and shall provide justification for the use of such methods. The acid-producing and neutralization potential shall be determined by a static test method and confirmed by a kinetic test method. The applicant shall submit its characterization program to the Board for review and approval, with or without conditions. Test methods other than those listed below may be used only if the Board first grants approval.

1. The following static test methods are typically accepted:
  - a. Acid-base accounting (Sobek 1978);
  - b. B.C. research initial test;
  - c. APP:S ratio;
  - d. Net acid production test; and
  - e. Modified acid-base accounting.
2. The following kinetic methods are typically accepted:
  - a. B.C. research confirmation test;
  - b. Modified biological oxidation test;
  - c. Humidity cell;
  - d. Shake flask test; and
  - e. Soxhlet extraction.

D. Mine Waste Characterization Report. The applicant shall submit with its application a waste characterization report consisting of all test data concerning waste analysis for each type of waste, the testing program objective together with an interpretation of the results, and options for the control of acid generation and waste containment.

E. Mine Waste Classification. Based on the mine waste characterization required above, the applicant shall propose, subject to the approval of the Board with or without conditions, classifying each mine waste as a Group A, Group B, or Group C waste according to the following criteria:

1. The mine waste has a net acid-producing potential or exhibits a characteristic of hazardous waste as defined in 06-096 CMR 850. Such waste shall be classified as Group A wastes.

NOTE: Group A waste may include, but is not limited to, waste rock, tailings, and leachate derived from those wastes.

2. The mine waste has no net acid-producing potential and may release soluble pollutants at concentrations which exceed performance requirements for groundwater or surface water. Such waste shall be classified as Group B waste.

3. The mine waste does not have the potential to violate water quality standards other than sedimentation or turbidity. Such waste shall be classified as Group C waste.

#### Section 32. General Criteria for Mine Waste Units

A. Performance Standards. All mine waste units shall be designed, constructed, operated and maintained during the development, operation, closure, and post-closure maintenance period in a manner that meets the applicable requirements of Section 25 and:

1. Meets the performance requirements for groundwater, surface water, air, and soils or surficial materials established under Section 26(I) of this rule;

2. Minimizes acid generation and acid rock drainage;

3. Provides structural stability;

4. Protects public health and the environment; and

5. Otherwise complies with applicable legal requirements.

#### B. Run-on/Runoff Control Systems

1. The applicant shall design, construct, and maintain:

a. A run-on control system to prevent or control surface water flow onto the mine waste unit during the peak discharge from at least a 24-hour, 100-year storm; and

b. A runoff control system to collect, control and treat surface water runoff from the mine waste unit of at least the water volume resulting from a 24-hour, 100-year storm.

2. Runoff from a mine waste unit shall not cause a discharge of pollutants into waters in the Town of Warren in violation of any requirements of this Ordinance or other ordinances of the Town of Warren or applicable state law.

3. All surface impoundments associated with waste units shall be designed, constructed, maintained, and operated to prevent overtopping as a result of a 24-hour, 100-year storm event. An emergency overflow spillway shall be provided for storm events equivalent to the 24-hour, 100-year storm.

C. Design Alternatives. The applicant shall evaluate the following design features for mining waste units:

1. Underdrain systems allowing for free passage of water beneath waste units;
2. Leak detection systems and redundancy features such that the failure of or leakage through a liner will not result in significant pollutant release beyond the confines of the mining waste units.
3. Use and re-use of process and impounded fluids for beneficiation and other appropriate activities to the maximum extent technically practicable; and
4. Collection, treatment and final disposal of excess impounded fluids, wastewater, and leachate.

D. Off-Site Utilization. The off-site utilization of mine waste within the Town of Warren shall be subject to approval of the Board.

E. Waste Minimization. The applicant shall demonstrate that the methods of management of mine waste will minimize the risk to public health and the environment at the site. Such demonstration shall include an analysis of the practicability of re-use, in-mine disposal, sale, recovery, treatment or processing of such wastes, and shall provide for such re-use and recovery where determined to be practicable by the Board.

### Section 33. Location, Design, Construction and Operating Criteria for Mine Waste Units

#### A. Location Standards

1. A mine waste unit for Group A waste shall not lie closer than 2,640 feet to a classified body of surface water, and a mine waste unit for Group B waste shall not lie closer than 1,500 feet to a classified body of surface water.

2. The disposal of Group C waste is prohibited closer than 300 feet to any classified body of surface water without approval of the Board. Based on the nature of Group C mine waste, in issuing an approval the Board will consider whether the disposal within 300 feet of a classified body of surface water will not result in an unlicensed direct or indirect discharge of pollutants to such body of surface water, provided the following conditions are met:

a. The Group C mine waste shall not be placed in the water, below the normal high water line, or in a wetland.



b. The Group C mine waste shall be placed so that it cannot fall or be washed into the surface water body.

c. The sideslopes shall be adequately stabilized.

d. Such other precautions are taken as necessary, in the judgment of the Board, to protect water quality.

3. The mine waste unit shall not be located within 200 feet of a fault that has had known displacement in Holocene time.

4. A mine waste unit used to manage Group A or Group B mine waste shall have an acceptable soil or a base preparation grade a minimum of 5 feet above bedrock. The base preparation grade may not include any portion of the liner system.

5. No mine waste unit shall be located in an area overlying complex hydrogeology.

6. The applicant for a mine waste unit used to manage Group A or Group B waste shall provide a thorough hydrogeologic assessment of the area underlying a proposed mine waste unit and the adjacent area that could be affected during operation of the mine waste unit or the failure of any engineered barriers to leachate and groundwater movement. The applicant may use hydrogeologic information obtained during baseline monitoring. The hydrogeologic assessment shall include, but is not limited to, the following:

a. The methods used in, and the results of, bedrock aquifer pumping tests performed as part of the hydrogeologic assessment;

b. The methods used for, and the results of, in-situ hydraulic conductivity tests performed as part of the hydrogeologic assessment of bedrock and surficial deposits; and

c. An assessment of the potential impact on the ground and surface water quality expected in the event of discharge of pollutants outside engineered containment systems. The assessment shall include the following:

i. Potential volume of release;

ii. Area and location of source;

iii. Initial concentration;

iv. Magnitude and direction of groundwater flow;

v. Attenuation capacity including dilution and a discussion of hydrodynamic and ionic dispersion, horizontal and transverse dispersivity, and vertical mixing;



vi. Recharge;

vii. Time of travel to the bedrock aquifer, classified bodies of surface water, significant sand and gravel aquifers, and public and private water supplies;

viii. Direction of travel, including flow path and contaminant transport modeling for conservative and non-conservative contaminants; and

ix. Projected extent and quality of plumes.

7. A mine waste unit for disposal of mine waste shall not overlie a significant sand and gravel aquifer, or pose an unreasonable threat to the quality of a significant sand and gravel aquifer which it does not overlie, or pose an unreasonable threat to an underlying fractured bedrock aquifer.

8. An "unreasonable threat" to the quality of a significant sand and gravel aquifer or to an underlying fractured bedrock aquifer shall be determined to exist when a parameter in exceedance of a performance requirement under this rule is able to travel from the waste unit to the aquifer in 6 years or less.

9. The Board may modify the "unreasonable threat" standard above if the applicant demonstrates that the mine waste unit siting, design or operation features a high degree of protection against groundwater pollution.

#### B. Minimum Design Standards

1. The design of waste units for the management of Group A mine wastes shall provide for a liner system which includes a composite liner, a leachate collection and removal system in the case of a dry mine waste unit, a leak detection system, and other redundancy features such that the failure or leakage through the composite liner will not result in significant pollutant releases beyond the confines of the waste units. A composite liner shall consist of the following:

a. A clay or compacted till bottom liner having a permeability of less than or equal to  $1 \times 10^{-6}$  cm/sec with a minimum 2-foot thickness; and

b. A flexible membrane liner having a minimum thickness of 40 mils.

c. Both components of the liner system shall be compatible with the mine leachate. The permeability shall be tested with the leachate as well as water. Both permeability values shall be within the required standard of this Ordinance.

2. Leachate collection ponds shall be provided with the liner system described in Section 33(B)(1) of this Ordinance except that leachate collection and removal may be excluded.

3. The design of waste units for the management of Group B mine waste shall provide for a liner system that includes a leachate collection and removal system in the case of a dry mine waste unit, a clay or till bottom liner having a permeability of less than or equal to  $1 \times 10^{-7}$  cm/sec with a minimum 3-foot thickness, a leak detection system, and other redundancy features such that failure or leakage will not result in significant pollutant releases beyond the confines of the waste units.

4. The leak detection system may be excluded if the applicant demonstrates to the satisfaction of the Board that stabilization or other treatment techniques are effective in preventing pollutant releases.

C. Engineering Design. The mine waste unit design shall be based on the results of the subsurface investigation, hydrogeological conditions of the proposed site, waste characterization, and closure objectives. The design shall address site strengths and limitations identified in the investigation, evaluate methods to utilize these strengths or overcome these limitations, and discuss the selected engineered methods to overcome the limitations. The sophistication of the engineering and design will vary according to the type of mine waste unit; the physical characteristics of the site; and the characteristics, chemical and physical stability, and volume of the mine waste. An engineering design shall be submitted as part of the application and shall meet the following requirements:

1. Any flexible membrane proposed for use as a liner must:

- a. Be supplied by a National Sanitation Foundation (NSF) certified manufacturer;
- b. Meet or exceed NSF Standard #54 specifications; and
- c. Meet required performance specifications for the proposed application.

2. Clay or till proposed for use as a liner must:

- a. Have a Liquid Limit (LL) greater than or equal to 20;
- b. Have a Plasticity Index (PI) greater than or equal to 8;
- c. Have a minimum in-place density of 90% of maximum as measured by the Standard Proctor test (ASTM-D-698);

- d. Be compacted within 4% above optimum moisture content as determined by ASTM-D698;
- e. Have a minimum fines content of 35%;
- f. Have a maximum particle size less than or equal to 3 inches; and
- g. Have a maximum compacted lift thickness of 9 inches.

3. The base preparation grade material below the liner system shall:

- a. Have a minimum in-place density of 90% of maximum as measured by the Standard Proctor test (ASTMD-698);
- b. Not be comprised of sand, gravel, stone, peat, or muck;
- c. Provide for, where necessary, the addition of fill material to the mine waste unit for grading purposes or to obtain the required separation of waste from bedrock, and demonstrate that:
  - i. Moisture will be controlled during filling;
  - ii. Density will be controlled during filling; and
  - iii. Attenuative capacity will be provided; and
- d. Provide for a maximum compacted lift thickness of 9 inches.

4. If a mine waste unit will generate leachate, the applicant shall provide a description of the leachate management methods for the unit, including the process flow diagram for water use and reuse at the site, and a water balance for each unit.

a. If a mine waste unit will generate leachate in excess of the amount reused and the leachate management method will be to collect, store, and recirculate to the unit, the on-site storage shall be based on the following requirements:

i. Sufficient storage capacity is provided to contain the excess leachate generated as determined from the site water balance information.



ii. The calculated volume of leachate to be generated shall be based on the most recent historical annual precipitation data, with a minimum of a 15-year data base.

iii. Leachate storage shall include capacity for the precipitation from a 24-hour, 100-year storm falling on the mine waste unit and the leachate storage pond (if uncovered).

b. If a mine waste unit will generate leachate in excess of the amount reused and the leachate management method will be collection, storage, and transportation either on-site or off-site for treatment, the following requirements shall be met:

i. Sufficient storage capacity is provided to contain the leachate generated over 7 consecutive days based on the average daily flow during the worst-case design month without transport to the treatment facility.

ii. The calculated volume of leachate to be treated shall be based on the most recent historical annual precipitation data, with a minimum of a 15-year data base.

iii. The off-site treatment facility shall have capacity for treatment of the precipitation from a 24-hour, 100-year storm falling on the mine waste unit and the leachate storage pond (if uncovered).

c. Leachate storage ponds must incorporate the following:

i. A minimum of 2 feet of freeboard measured to the lowest spillway elevation or an additional capacity volume equal to 25% of the total required capacity, whichever provides greater storage volume. Additional freeboard or other measures may be required to contain wave action as necessary; and

ii. A staff gauge, or similar device, installed in the pond to measure leachate depth.

d. When leachate will be collected or transported by piping, the leachate piping system must incorporate the following:

i. A minimum pipe diameter of 6 inches;

ii. Pipe materials physically and chemically compatible with the mine waste;

iii. Pipes designed and built to operate without clogging during the life of the mine waste unit and post-closure maintenance period; and

iv. Pipes designed with accessibility for routine cleaning and maintenance.



e. For a mine waste unit where leachate will be collected in a sand drainage blanket, the sand drainage blanket must incorporate the following requirements:

i. Each sand drainage layer used for leachate collection/detection must have a minimum thickness of 12 inches.

ii. The sand in the drainage layer must have a permeability of greater than or equal to  $1 \times 10^{-2}$  cm/sec.

f. The leachate transport line leading into the leachate collection pond shall be designed for cleanout of the line and for leachate sampling without the need for human access.

g. For a mine waste unit where leachate will be collected, the applicant shall submit collection system efficiency calculations.

D. Engineering Report. The engineering report for a mine waste unit shall present the basis for the engineering design and the proposed construction techniques and operational techniques, along with all data and calculations, and shall include, but is not limited to, the following where applicable:

1. An assessment of the mine waste unit site stability in relation to the proposed use of the mine waste unit site, including consolidation characteristics and a base failure analysis. The site stability shall be based on a minimum long-term factor of safety of 1.50 and a minimum short-term factor of safety of 1.25;

2. An assessment of the waste slope stability including the engineering properties of the waste and a failure analysis;

3. An assessment of the volume of leachate to be generated by the mine waste unit. As determined by the Board, a standard method for determining leachate quantity shall be used, such as "Hydrologic Evaluation of Landfill Performance (HELP) Model," (EPA/530-SW-84-009 and EPA/530-SW-84010);

4. If the applicant proposes to treat liquid mine waste or leachate derived from mine waste prior to disposal, a demonstration, to the satisfaction of the Board, that:

a. The mine waste or leachate is capable of being treated using the processes proposed, based upon trial tests and/or an engineering assessment that determine the treatment technique, its effectiveness, and any limiting factors.

b. The design measures and operating procedures will maximize the success of the treatment.

c. The mine waste unit design and components are compatible with the mine waste and the treatment process.

d. The treatment process can and will be controlled at all times so as to prevent unlicensed releases of mine waste or its constituents or derivatives and to protect the public health and safety and the environment.

5. An assessment of the failure of all engineered systems, including, without limitation, equipment, liners, leachate collection, treatment and transport, storage systems, and waste stability. The assessment shall include the following:

- a. All potential modes of failure;
- b. How each type of failure will be detected;
- c. The impacts of each type of failure on the engineered system as a whole, as well as on the components of the engineered system;
- d. Repair measures applicable for each type of failure; and
- e. Associated costs and time schedules for repairs. This requirement shall only apply to items specifically identified by the Board; and

6. A Quality Assurance/Quality Control (QA/QC) program, established and included with the application, to ensure that design concepts are implemented during construction. The QA/QC program shall include the following:

- a. A narrative description of the need for and nature of the testing program;
- b. A testing program to evaluate borrow materials, stockpiled materials, and in-place materials. The program shall also be used to evaluate manufactured products such as liners, geotextiles, and piping systems. The program is to include at least gradation, permeability, moisture/density, and destructive/nondestructive liner testing;
- c. An assessment of construction equipment and manpower skills necessary to achieve design standards;
- d. A list of required manufacturers' product certifications, installation certifications, and warranties; and
- e. Provision for inspection of the installation of flexible membrane liners and appurtenances by a qualified independent inspection team. The application shall include the qualifications to be specified for such inspection team.

E. Design Plans and Cross-Sections. As part of the engineering design for all mine waste units, the application shall include the following:

1. Detailed plan views(s) of the site, at a scale of 1 inch = 100 feet or larger, clearly indicating the following;

a. Existing grade of the mine waste unit, as established by a topographic survey, and the proposed initial and final grades. For slopes of 5% or greater, 5-foot contour intervals may be used; 2-foot contour intervals are required if the slope is less than 5%;

b. Location and elevation of the test pits and borings;

c. Location and elevation of the permanent on-site surveying benchmarks;

d. Area and annual sequence of the mine waste unit planned to be utilized for the first 5 years and every 5th year thereafter throughout the total life of the mine;

e. Location and description of all existing and proposed utilities and structures;

f. Location of surface water bodies, existing drainage ways, bogs, swamps, marshes, and wetlands;

g. Location of existing and proposed water supply wells;

h. Location of existing and proposed access roads;

i. Location of the proposed drainage diversion system, including siltation basins, if any;

j. Location of borrow pits;

k. Location of all proposed environmental and waste monitoring points;

l. Location and identification of buffer zones (strips) and visual screening provisions;

m. Location, if any, of areas for stumps and brush, areas for management of mine waste, and areas of ore storage;

n. Location of baselines for cross-section drawings of the site;

o. Location of fencing and gates;

p. Locations for storage and management of leachate; and

q. Locations of baseline monitoring points.



2. Detailed profile views of each mine waste unit are required as follows:

a. Cross-sections and longitudinal cross-sections of the mine waste unit as required to adequately describe the unit;

b. Typical cross-sections of the various road and water drainage features; and

c. Detailed profile views of the mine waste unit including the bedrock level, the seasonal high water table level, the existing land surface, the base grade, proposed lifts, the proposed final grade and final elevation of the completed disposal unit, and the test pits and borings as applicable to the mine waste unit.

F. Construction Standards. The permittee shall meet the following requirements:

1. A preconstruction conference between the permittee, its contractor(s), and the Board is required unless waived in writing by the Board.

2. The Quality Assurance/Quality Control Program approved by the Board shall be implemented at the beginning of construction and shall include continuous site inspections by qualified professionals. The qualified professional shall inspect non-specialty aspects of construction for conformance with the approved plans and specifications. Specialty items, such as flexible membrane liners, shall be inspected and tested by a qualified independent inspection team.

3. Before installation of any type of liner, an assessment shall be made of the impacts of climatic conditions, proposed installation procedures, and the proposed installation schedule on liner integrity. The liner, or liners, shall then be installed in a manner which minimizes seams and penetrations, and under conditions satisfactory to maintain the required characteristics of each liner. Flexible membrane liners are adversely affected by cold temperatures and shall be installed only during the period from April 15th through November 1st when the ambient temperature exceeds 40 deg. F. Any deviation from these requirements shall require submittal of a specific cold-weather installation plan for review and approval by the Board prior to construction.

4. The engineer responsible for construction inspection shall keep weekly construction inspection reports. The reports shall be mailed to the Board upon request. The weekly reports shall include, but are not limited to, information generated during the week for the following areas, where applicable:

a. Test results;



b. Submittals and action taken;

c. Summary of work progress, problems encountered, and how the problems were resolved; and

d. Upcoming work items for the next 2 weeks.

Proposed changes to the design may require permit modifications and shall be reported to the Board before implementation.

5. The permittee shall provide the Board with copies of significant, representative photographic documentation of each stage of construction in two forms: "instant" prints and 35-mm slides. The permittee shall provide 35-mm color slides of the completed construction with the final construction report.

6. The permittee shall provide record drawings, signed and stamped by a State of Maine registered Professional Engineer, to the Board within 30 days after construction completion for each phase.

7. A protected, permanent benchmark shall be established near the mine waste unit before the start of construction. This benchmark shall be shown on all record drawings and described in the first and the final construction reports.

8. A final construction certification and report shall be submitted by the permittee to the Board within 30 days following construction completion. The report shall include written certification, signed by the permittee's responsible officer and signed and stamped by the independent qualified professional supervising project inspection, that the mine waste unit has been constructed in accordance with the approved plans and specifications.

#### G. Operations

1. The permittee shall prepare and maintain an operations manual of current policies and procedures. A copy of the proposed operations manual shall be submitted to the Board with the application for any proposed mine waste unit. The operations manual provided with the application shall be as complete as possible. An up-to-date copy of the operations manual shall be available for inspection at the site at all times. The operations manual shall include all the information necessary to enable supervisory and operating personnel and any persons evaluating the operation of the mine waste unit to determine the sequence of operation, plans, diagrams, policies, procedures, and legal requirements that must be followed for orderly and successful operation on a daily, yearly, and life cycle basis. As a minimum, the operations manual shall address each of the areas identified in the operating requirements of this rule. The permittee shall take whatever measures are necessary to familiarize all unit operating personnel with

relevant sections of the operations manual.

2. A mine waste unit may receive only those materials approved for disposal, storage, or handling, as provided in the permit.

3. The permittee shall maintain equipment to ensure satisfactory performance capability for the various operations necessary for mine waste unit operation as necessary to meet the terms and conditions of the permit and this rule and provide for the prompt repair and replacement of such equipment.

4. The permittee shall have a contingency plan and shall effectively implement it by obtaining necessary back-up equipment and spare parts to be used during periods of equipment and power outages.

5. The permittee shall inspect mine waste unit structures on a regular basis and include these inspection reports in the annual report described in Section 26(F) of this rule. At a minimum, structures inspected shall include liners systems, pumps, berms, leachate ponds, drainage and erosion control devices, and cover systems, as appropriate. Regularly scheduled inspections and maintenance of the collection systems shall be performed. Specific inspection items to be included and frequency of inspections shall be proposed in the operating plan submitted with the application.

6. The permittee shall manage waste leachate in accordance with the standards of this rule and shall make every effort to control leachate production. A leachate monitoring plan shall be developed to monitor the quality and quantity of leachate and leachate treatment residue. The parameters to be monitored and the frequency of monitoring shall be proposed in the plan. All monitoring results of leachate and leachate treatment residue shall be submitted to the Board. The results shall be submitted in the environmental monitoring component of the annual report, unless otherwise specified by the Board.

7. The permittee shall maintain a record of required operational information, including the quantity and characterization of waste received, the portion of the mine waste unit used, data from the monitoring program, and inspection records. The permittee shall submit an annual waste unit operating summary documenting all of this information. The operating manual shall include a format for and items to be covered in the operating summary.

8. The operation of the mine waste unit shall be under the supervision and direction of a person qualified and experienced in mine waste management.



9. The permittee shall ensure that mine waste is handled in accordance with the permit, this Ordinance, and all applicable laws.

#### Section 34. Monitoring Program

The applicant shall prepare an integrated environmental monitoring plan for all waste units at the site. The plan shall detail how the applicant proposes to comply with this section and shall be submitted with the application.

A. Groundwater. The following groundwater monitoring criteria apply to all mine waste units:

1. The monitoring system must have a sufficient number of groundwater wells, at appropriate depths and locations, to detect the presence of pollutants that may migrate from a mine waste unit. The downgradient component of the monitoring system must be placed as close to the mine waste unit, or units, if monitoring more than one unit, as technically practicable, based on the site hydrogeology, to determine on a representative basis the quality of groundwater adjacent to the unit(s).

2. Background groundwater quality monitoring well(s) shall be established in an area unaffected by mining activities or waste units and hydrologically upgradient of the units to be monitored.

3. Wells must be cased to maintain the integrity of the bore hole. Casing must be screened or perforated and packed with gravel or sand, where necessary, to enable collection of samples. Annular space (i.e., space between bore hole and casing) above the sampling depth must be sealed to prevent contamination of samples and groundwater.

4. Design, location, installation, development, and decommissioning of any monitoring wells, piezometers, and other measurement, sampling, and analytical devices must be documented in the annual operating summary required under Section 33(G)(7). All these factors are subject to review and approval by the Board with or without conditions.

5. Monitoring wells, piezometers, and other measurement sampling, and analytical devices must be operated and maintained so that they conform to design specifications throughout the life of the monitoring program.

6. The number, spacing, location and depths of monitoring systems shall be proposed by the applicant and must be approved by the Board with or without conditions prior to installation. The applicant shall consider the following in its monitoring system design:

a. Characterization of saturated and unsaturated geologic units and fill materials overlying and underlying the uppermost aquifer including, but not limited to, thicknesses, stratigraphy, lithology, hydraulic conductivities, and porosities;

b. Characterization of the uppermost aquifer including, but not limited to, the thickness, flow rate, and flow direction;

c. Proximity, withdrawal rates, and uses by other current and potential future users of the aquifer potentially affected by the unit;

d. Physical and chemical characteristics and rates of release from the unit; and

e. Groundwater quality classification in the area.

7. Parameters for which the applicant must monitor shall include those for which groundwater performance requirements are established. Changes in parameters to be monitored may be made as determined by the Board.

8. Monitoring shall be at least quarterly during the life of the mine waste unit, including any post-closure maintenance period. Less frequent monitoring may be performed as approved by the Board. The monitoring results shall be submitted to the Board within 30 days of the end of each quarter in a format approved by them Board.

9. The groundwater monitoring plan shall include a sampling and analysis plan, which shall include, but is not limited to, frequency of monitoring, parameters to be analyzed for, sample collection methods, sampling equipment, field analysis and preservation methods, sample holding times, sample handling procedures, sample data sheets, analytical methods, detection limits for each parameter, data validation and reporting methods, sampling and analytical quality assurance, quality control procedures, and sampling location map. The groundwater monitoring plan and any revisions to the plan are subject to review and approval by the Board, with or without conditions.

#### B. Surface Water and Sediments

1. The applicant shall establish a surface water monitoring system that is capable of detecting releases from the mine waste unit including, but not limited to, discharges licensed under 38 M.R.S.A. 413, of any parameter for which a performance requirement has been established. This system must be capable of detecting exceedances of performance requirements.



2. The applicant shall establish a sediment monitoring system capable of detecting accumulations of pollutants in sediments within water bodies affected by the site.

3. Surface water and sediment monitoring programs required pursuant to Section 34(B)(1) and (2) above must, at a minimum, meet the following criteria, all subject to review and approval of the Board, with or without conditions.

a. Inclusion of consistent sampling and analysis procedures that are designed to ensure monitoring results that will provide a reliable indication of surface water and sediment quality. At a minimum, the program must include procedures and techniques for:

- i. Sample collection;
- ii. Sample preservation and shipment;
- iii. Analytical procedures;
- iv. Chain-of-custody control; and
- v. Level of detection;

b. Provision for surface water and sediment monitoring to determine background in the receiving water. Background samples shall be collected as close in time as possible to the collection of samples at the monitoring point; and

c. For the surface water and sediment monitoring program, specification of the monitoring frequencies for each parameter and media. Monthly monitoring shall be required for all monitored parameters in surface water unless a change in parameters or frequency of monitoring is approved by the Board. At a minimum, annual monitoring shall be required of sediments.

C. Air. Ambient air quality monitoring shall be as required by DEP pursuant to State law.

#### Section 35. Closure and Post-Closure Maintenance Criteria

##### A. Closure Maintenance Criteria

##### 1. Performance Standards

a. The applicant shall design the closure of each mine waste unit to minimize the need for maintenance, and to control the release of mine waste and constituents into the air and the groundwater and surface water, and to ensure protection of health and the environment. Closure activities must:

- i. Meet performance requirements.

ii. Comply with design, monitoring and operating criteria approved in the closure plan for the unit.

iii. Comply with the general technical requirements below.

b. At a minimum, the permittee shall undertake the following activities:

i. Provide certification by a qualified professional(s) that the mine waste unit, given its location, composition, and construction, is designed to meet current standards of practice for geotechnical engineering.

ii. Institute or maintain a run-on/runoff control system that meets the requirements of this rule.

iii. Implement and maintain monitoring systems as approved in the closure plan.

iv. Close surface impoundments used to manage Group C mine wastes in a manner that will minimize erosion and the threat of water quality degradation from sedimentation.

c. For surface impoundments, ore leaching facilities including associated solution ponds, and collection systems including trenches, piping, leachate collection systems, and equipment, which contain leach solutions, the permittee shall ensure the following:

i. Water that is not to be recycled for processing or used for closure purposes under Section 35(A)(3)(d) shall be treated and disposed of in a manner that ensures compliance with the performance requirements and shall in any event comply with the terms and conditions of the permit.

ii. Run-on/runoff control and leachate collection and management systems shall continue until runoff and leachate no longer shall contain constituents in concentrations above those described in the performance requirements for a period of time specified in the permit or otherwise provided by the Board.

## 2. Closure Plan

a. A closure plan shall be submitted at the time of application for a permit. At a minimum, the plan must include the following information for each mine waste unit:

i. The methods, designs, procedures, and processes necessary to satisfy the closure performance standards for each mine waste unit;

ii. An estimate of the maximum capacity and maximum rate of mine waste that can be managed in the unit at any time during the life of the mine waste unit;

iii. A description of activities required to close leaching operations, including compliance with the standards at the time of closure;

iv. A schedule of closure activities; and

v. A detailed cost estimate of closure activities.

b. Closure plans shall be amended to reflect applicable changes in unit design, operations, or mine waste management technology, and applicable legal requirements, at intervals not to exceed 5 years.

c. The closure plan for each mine waste unit shall minimize the on-site and off-site use or contact with mine waste if such use or contact would pose a significant risk to public health or the environment.

d. A copy of the closure plan shall be kept at the site or at an alternate location approved by the Board until the post-closure maintenance period has ended.

### 3. Closure Design Requirements

a. Closure design shall be based on the following factors:

i. The geology and geologic setting of the unit;

ii. The character of the waste, including waste treatment;

iii. The potential for and degree of contamination of the environment at the unit, if applicable;

iv. Corrective action in place or planned, if applicable;

v. The operating practices at the waste unit;

vi. The geographic location of the unit; and

vii. Any other factors which are necessary for an informed determination of an appropriate design.

b. The closure design shall minimize maintenance and control the release of parameters to ensure that performance requirements are met.



c. At a minimum, final closure requirements for dry mine waste management units are as follows:

i. Final cover for a mine waste unit shall have a permeability less than or equal to the permeability of the primary liner system.

ii. The cover shall be designed and constructed to function with the minimum maintenance possible.

iii. Closed mine waste units shall be graded and maintained to prevent ponding and to divert surface drainage from covered wastes.

iv. Areas with slopes greater than 10%, surface drainage courses, and areas subject to erosion by water and wind shall be protected to prevent such erosion.

d. At a minimum, final closure requirements for wet mine waste management units are as follows:

i. Depth of water and saturated cover, if applicable, over the waste shall be maintained.

ii. Embankments around the closed unit shall be maintained.

iii. Water column mixing through wave action and turnover shall be minimized as necessary to control acid generation and leaching of pollutants.

iv. No discharge to groundwaters shall be allowed except as licensed by the Board.

e. A protected, permanent benchmark shall be established on each closed mine waste unit. This benchmark shall be shown on all record drawings.

#### 4. Closure Trigger

a. Closure must begin if for the preceeding 12 months the mine waste unit has not received for disposal more than 10% of the average annual volume of waste received during the mine life to date, unless the permittee has applied for the extension described in Section 35(A)(4)(b) below.

b. The Board may grant an extension to the initiation of closure if the permittee demonstrates that:

i. The mine waste unit is planned to be used within the next 7 years.

ii. The mine waste unit is in compliance with performance, design, and operating requirements.



iii. The mine waste unit will continue to comply with performance, design, and operating requirements during the extension.

c. The Board may grant a 12-month extension, up to a maximum of seven extensions.

#### 5. Certification of Closure

a. Within the 90-day period following closure of the mine waste unit, the permittee shall submit certification to the Board verifying that closure has been completed in accordance with an approved closure plan.

b. Certification shall be based on a review of the mine waste facility by a qualified professional approved by the Board, and also made by a responsible officer of the permittee.

#### B. Post-Closure Maintenance Criteria

1. Applicability. Following certification of the closure, the permittee shall commence post-closure maintenance for the closed mine waste unit.

##### 2. Performance Standards

a. The permittee shall conduct post-closure maintenance activities to ensure the continued protection of public health and the environment, and to ensure the performance requirements continue to be met.

b. Site access during the post-closure maintenance period must be controlled as necessary to prevent the removal of mine waste and ensure continued effectiveness of closure and post-closure maintenance activities.

c. Post-closure land uses shall not impair the integrity of containment structures.

##### 3. Requirements

a. The Board may require the applicant to conduct, at a minimum, any or all of the following activities during post-closure maintenance:

i. Periodic sampling of the mine waste as necessary to characterize the mobilization or conversion of mine wastes or parameters;

ii. Inspection and maintenance activities necessary to maintain the structural and chemical stability of the mine waste unit;

iii. Continued operation and maintenance of runoff/runoff control systems and leachate management systems, if any;

iv. Continued operation and maintenance of groundwater and surface water monitoring stations; and

v. Any other measure necessary to prevent a violation of a performance or other legal requirement and otherwise to protect public health and the environment.

b. Mine waste units that have been closed may be reactivated or re-utilized only under a permit. The applicant shall ensure that:

i. Operations conform to the performance requirements, design operating criteria, and monitoring requirements of this rule; and

ii. If mining wastes remain in the mine waste unit following the removal of materials for additional beneficiation, or at the completion of additional storage or disposal activities, the mine waste unit is closed in compliance with the requirements of this section.

c. If any performance requirement is not met, the permittee shall develop and implement a corrective action plan pursuant to Section 27.

#### 4. Post-Closure Maintenance Plan

a. The applicant shall prepare and submit a detailed post-closure maintenance plan as part of the application. At a minimum, the plan must include the following information:

i. Description of activities and frequency of activities necessary to satisfy the performance standards;

ii. A detailed estimate of post-closure maintenance costs;

iii. Description of the planned use of the property to satisfy the post-closure maintenance performance standards, including the following information:

AA. Prevention of exposure of mine waste or constituents to the environment, unless such exposure would pose no significant risk to health or environment and is within licensed limits; and

BB. Continued maintenance of the structural and operational components of closure and post-closure; and

iv. Name, address, and telephone number of the person to contact during the post-closure maintenance period.

b. A copy of the post-closure maintenance plan shall be kept at the mine waste unit or alternate location as approved by the Board throughout the post-closure maintenance period.

5. Length of the Post-Closure Care Period. The post-closure care period for Group A and Group B wastes shall end 30 years from the time of closure certification, provided the Board then determines the mine waste unit has been in compliance with the performance requirements of this rule and the post-closure performance standards of this section, and that the site will continue to remain in compliance with such standards. The post-closure care period for Group C waste shall be 5 years from the time of closure certification.

#### 6. Deed Notation

a. During the first year following closure certification the permittee shall record a notation on the deed to property, or other instrument normally examined during a title search, if any mine waste or constituent remain at the site.

b. The deed notation shall state that the land has been used for the management of mine waste, that mine waste or constituents remain at the mine waste unit and, if applicable, that land use is restricted.

#### 7. Post-Closure Certification

a. After completion of post-closure maintenance for the mine waste unit, the permittee shall submit certification to the Board verifying completion of post-closure maintenance. All inspection records and reports pertaining to certification shall be submitted to the Board.

b. The certification shall be based on a review of the mine waste unit by a qualified professional approved by the Board and executed by a responsible officer of the applicant.

c. Approval of certification of the completion of postclosure maintenance of a waste unit by the Board does not release the permittee from any subsequent corrective action requirements or other legal responsibility.

### SUBCHAPTER 6. ADMINISTRATION AND ENFORCEMENT

#### Section 36. Applicability of Subchapter

This subchapter applies to subchapters 1-6 of this Ordinance.



### Section 37. Authority

This Ordinance is adopted pursuant to the Home Rule Power of Article VIII, Part 2, of the Constitution of the State of Maine, the laws of the United States of America and the laws of the State of Maine, including but not limited to 30-A M.R.S.A. Section 3001.

### Section 38. Applicability of Ordinance

This Ordinance applies to all persons conducting activities in the Town of Warren which are regulated by this Ordinance.

### Section 39. Severability

If any provision of this Ordinance or the application thereof to any person or circumstance is held void or invalid, such invalidity shall not affect other provisions or applications of this Ordinance that can be given effect in whole or in part without the invalid provision or application and to this end each provision of this Ordinance is declared to be severable and independent. It is the intent of the Town of Warren that each and every part, clause, paragraph, section and subsection of this Ordinance be given effect to the degree possible.

### Section 40. Effective Date

This ordinance shall be effective upon enactment. It shall apply immediately to all activities regulated by this Ordinance. Applicants in the permitting process on the state level at the time of enactment will be required to comply with all portions of this Ordinance

### Section 41. Savings Clause

Nothing in this Ordinance is intended, nor shall be construed to limit, impair, abridge, create, enlarge or otherwise affect, substantively or procedurally, the right of a person to damages or other relief on account of injury to persons or property due to any violation of this Ordinance or to activity subject to this Ordinance and to maintain any action or other appropriate procedure therefor; nor to so affect the powers of the State of Maine to initiate, prosecute and maintain actions to abate public nuisances.

Nothing in this Ordinance is intended, nor shall be construed to limit, impair or abridge substantively or procedurally the powers of the Town of Warren under state or common law to protect the general health, safety and welfare by initiating, prosecuting and maintaining actions concerning activities not in violation of this Ordinance.



## Section 42. Permit Applications

A. The Board may specify the form in which a permit application or other information is provided, as it deems necessary on a case-by-case basis. The applicant shall provide sufficient information as the Board deems necessary or desirable in order to process the permit application in accordance with the provisions of this ordinance.

B. At the Pre-application conference, (Sec 7(B)(2)) the Board will determine all permits required by the Town and the order in which permit applications are to be submitted.

C. The applicant shall as part of the application process submit to the Board copies of the most recent federal and state permits, approvals, licenses, including renewals, modifications or extensions thereto, regulating an activity for which a permit is sought under this Ordinance.

If the Town permitting process is conducted concurrent with state or federal permitting, this requirement will be waived until such federal or state permits are obtained by the applicant. However, the final Town permit will not become effective until all applicable state and federal permits have been received.

D. The applicant shall have a continuing duty to provide copies of all renewed or modified federal and state permits, approvals and licenses as well as accompanying reports, applications and records of data for activities which also require a permit under this Ordinance, and to inform the Board promptly of any modification, suspension or revocation of any such federal and state permits approvals and licenses.

In addition, copies of all correspondence between either state or federal agencies and the applicant concerning activities for which a permit is required under this Ordinance shall be forwarded to the Board.

## Section 43. Public Access to Information

Except as expressly made confidential by law, the Board shall make all documents and records available to the public in accordance with the Maine Freedom of Access Law (1 M.R.S.A. Sec 401 et seq.). The Board shall also keep confidential those documents which may remain confidential pursuant to the Maine Freedom of Access Law. The Board shall make determinations of confidentiality and any person aggrieved by such determination may appeal to a court in accordance with State law. The Board shall withhold disclosure of such information pending a final judicial determination on any claim of confidentiality. A policy for inspecting and copying documents may be established by the Town Manager, including but not limited to a reasonable charge for copying costs.

#### Section 44. Fees

A. Exploration Fee. An exploration fee of One Hundred Dollars (\$100.00) shall be paid by the applicant at the time of filing an exploration notification in accordance with Section 15 of this Ordinance.

B. Pre-Application Fee. A filing fee of One Thousand Dollars (\$1,000.00) shall be paid prior to the pre-application conference.

C. Initial Permit Application Fee. An application fee for actual direct costs up to a maximum of Fifty Thousand Dollars (\$50,000.00) incurred by the Board or its representatives in reviewing and processing the proposed baseline monitoring plan, scoping document, EIR, and permit application shall be paid. A maximum of two versions of each document requiring approval from the Board as stated in this Ordinance will be reviewed and processed by the Board as part of this fee. For any additional submissions which are required by virtue of an applicant's failure to comply with the requirements of this Ordinance, or failure to make modifications and corrections requested by the Board in the review of the first two submissions of each document, the Board shall assess actual and direct costs incurred and such assessment shall not be applied to the fifty thousand dollar maximum fee. It is therefore incumbent upon the applicant to make all modifications and corrections in an accurate, complete and timely fashion.

D. Variance Request. If the applicant applies for a variance in accordance with Section 12, actual direct costs incurred by the Board or its representatives associated with the evaluation of the variance shall be paid and such costs shall not be applied to the fifty thousand dollar maximum fee in Section 44(C).

E. Permit Renewal, Transfer or Modification. Actual direct costs associated with reviewing and processing an application for permit renewal, permit transfer or permit modification shall be paid.

F. Corrective Action. Actual direct costs associated with the review, processing and overseeing the implementation of a corrective action plan shall be paid and such costs shall not be applied to the annual fee required in Section 44(G).

G. Annual Fee. An annual fee for actual direct costs necessary for yearly compliance review and monitoring of no less than One Thousand Dollars (\$1,000.00) per year and up to a maximum of Twenty Thousand Dollars (\$20,000.00) per year shall be paid. The minimum annual fee shall be due on January 1st of each year.

Continuance of the permit requires that the annual fee and other applicable fees be paid as required.



H. For the purposes of this section, actual direct costs shall include engineering and other professional fees; personnel costs; travel; supplies; legal; and computer and other costs incurred in the performance of the Board's duties under the applicable provisions of this Ordinance.

I. Fees shall be paid within 30 days of invoice. If a plan, application or other document is withdrawn, the applicant remains liable for all costs incurred prior to such withdrawal. Upon a failure to pay the fee when due, the Board may cease its review and processing of the plan, application or other document and/or may take enforcement action to recover the fee.

#### Section 45. Computation and Enlargement of Time

In computing any period of time provided for in this Ordinance, the day of the act, event or default after which the designated period begins to run is not to be included. The last day of the period so computed is to be included unless it is on a Saturday, Sunday or legal holiday in which event the period runs until the end of the next day which is not a Saturday, Sunday or legal holiday.

When by this Ordinance or by order of the Board, an act is required to be done at or within a specified period of time, the Board may within its discretion at any time order the period enlarged for a reasonable period for good cause shown.

#### Section 46. Board Hearing Procedures

A. In conducting a public hearing as provided in this Ordinance, the Board may establish procedures for obtaining information prior to the hearing, identifying issues, stipulating certain facts or documents, identifying witnesses (expert or otherwise), conducting questioning of witnesses, consolidating the presentations by persons with similar interests, or any other matters which may expedite the orderly conduct and disposition of the proceedings.

B. Prior to any public hearing provided in this Ordinance, the Board shall provide public notice at least 10 days prior to such a hearing in the newspaper having the largest circulation in the county, and in one newspaper with a circulation area of the entire State of Maine.

C. All hearings conducted pursuant to this Ordinance may be continued for reasonable cause and reconvened from time to time and from place to place by the Board as circumstances require.

#### Section 47. Appeals

Any person aggrieved by a final decision of the Board may seek judicial review in accordance with state law within 30 days of the final decision of the Board.

## Section 48. Enforcement

A. Any violation of this Ordinance or a condition of any permit, approval, or Board order shall be deemed a nuisance.

B. It shall be the duty of the Town's Code Enforcement Officer to enforce provisions of this Ordinance. In the event that the Code Enforcement Officer has a good faith belief that a person is violating a provision of this Ordinance or a condition of any permit, approval, or Board order, he shall send written notice, describing the nature of the alleged violation to the Board, the Selectmen, and the alleged violator. Such notice may be hand-delivered or sent by first class mail postage prepaid.

C. The Board shall hold a public hearing on the Code Enforcement Officer's complaint. Such hearing may not be less than fifteen (15) days, nor more than forty-five (45) days from the date of the Board's receipt of said complaint. Notice of the time, date and place of the hearing shall be served to the alleged violator at least ten (10) days prior to the hearing. Such notice shall be given by one of these methods: delivery in hand by the Code Enforcement Officer; telecopier followed by mailing said notice to addressee by regular first class mail, postage prepaid; or by both regular first class mail, postage prepaid, and certified mail, return receipt requested. If the latter method is used, delivery shall be deemed to have occurred on the date indicated on the return receipt or three business days (inclusive of weekends and holidays) after the first class mailing, whichever occurs first.

D. If the Board finds, by preponderance of the evidence, that a violation has occurred, it shall provide an opportunity for public comment concerning the appropriate sanctions to be imposed. The sanctions are limited to a modification, suspension, or revocation of any permit issued to such violator by the Board.

E. The Selectmen may authorize the institution of legal proceedings in the name of the Town against any person violating any provision of this Ordinance, or any permit, approval or Board order issued pursuant thereto. In any such action, the Town may seek an order enjoining those acts or practices which constitute such a violation; an order directing compliance with this Ordinance, or any permit, approval, or Board order issued pursuant thereto; an order assessing fines and penalties; or any combination thereof. The legal proceedings authorized by this subsection may be issued independently of or in conjunction with the provisions of subsections (B) - (D) of this section.

F. In any action to enforce any provisions of this Ordinance where the Town of Warren prevails, the Town of Warren shall be awarded reasonable attorney fees, expert witness fees, and costs, unless the court finds that special circumstances make the award of these fees and costs unjust. If the defendant is the prevailing party, the defendant may be awarded reasonable



attorney fees, expert witness fees and costs provided by court rule.

#### Section 49. Penalties

A. Any person who violates any provision of this Ordinance or terms or conditions of any order, permit, approval or final decision of the Board shall be subject to a civil penalty, due and payable to the Town of Warren of not less than one hundred dollars per day (\$100.00), and not more than ten thousand dollars per day (\$10,000.00) or twice the economic benefit resulting from the benefit whichever is greater. If the same person has been convicted of a violation of this Ordinance within the previous two years, the maximum penalty is twenty five thousand dollars per day (\$25,000.00) or twice the economic benefit resulting from the violation, whichever is greater.

B. In setting penalties, the court shall consider but is not limited to the following:

1. Prior violations by the same person;
2. The degree of environmental damage that cannot be abated or corrected.
3. The extent to which the violation continued following an order to stop; and
4. The extent to which the Town of Warren contributed to the violation by providing incorrect information or by failing to take timely action.

C. Payment of any penalty assessed shall be made within 30 days in cash or by certified check drawn on a recognized financial institution, made payable to the "Town of Warren" in an amount equal to the full amount of the penalty.

D. If the maximum penalty amount of Section 49(A) of this Ordinance is held void or invalid, it is the intent of the Town of Warren that the provisions of 30-A M.R.S.A. 4452 be given full force and effect, and that the maximum penalty amounts authorized by such provision apply to violations of any order, permit, approval or final decision of the Board, or any provision of this Ordinance.

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Disclaimer:

This information is provided to give the public information available through the Warren Town Office. Before acting upon any information obtained here you should double check with the Town Office for the most current data and/or version. Check the date of the latest amendment for the most current version.

# **Mobile Home Park Ordinance Town of Warren**

Enacted 3/16/92 by a vote of 193 yea to 99 nay

Town of Warren

MOBILE HOME PARK ORDINANCE

**ARTICLE I – CONTENTS OF THIS ORDINANCE**

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**ARTICLE II – TITLE & PURPOSE**

§1 Title

This Ordinance shall be known and may be cited as *the Town of Warren, Maine Mobile Home Park Ordinance* and will be referred to herein as “this Ordinance”.

§2 Purpose

The purpose of this Ordinance is to ensure the comfort, convenience, safety, health and welfare of the people of the Town of Warren, Maine, to protect the environment and to promote the development of an economically sound and stable community. To this end, in approving Mobile Home Parks within the Town of Warren, Maine, the Planning Board shall consider the following criteria and before granting approval shall make written findings of fact that the provisions of these regulations have been met and that the proposed Mobile Home Park will meet the following criteria from Title 30A, M.R.S.A. §4404.

**ARTICLE III – AUTHORITY, APPLICABILITY & ADMINISTRATION**

§1 Authority

This Ordinance is enacted pursuant to Home Rule Powers as provided for in Article 8, Pt. 2, §1 of the Maine State Constitution and under the authority granted to the Town by the statutes of the State of Maine Title 30-A, M.R.S.A. Section 3001, and in accordance with the provisions of Title 30-A, M.R.S.A., Section 4358, Subsection 3.



## Article III cont.

## §2 Administration &amp; Enforcement

The provisions of this Ordinance shall apply to all proposed Mobile Home Parks within the boundaries and shall be administered by the Town of Warren Planning Board and enforced by the Town of Warren Code Enforcement Officer.

## §3 Effective Date

This Ordinance shall be effective upon its adoption by a majority vote of the eligible voters of the Town of Warren, Maine, at the March 1992 Town Meeting.

## §4 Applicability to this Ordinance

A. The provisions of this Ordinance shall apply to all proposed mobile home parks and to expansion of any existing mobile home parks within the boundaries of the Town of Warren, Maine. Mobile home subdivisions as expressly defined in Article XI, §3 of this Ordinance are not governed by this Ordinance, except in the case where the individual owners form a corporate body that owns and governs said mobile home lots in common.

B. An approved mobile home park plan shall be necessary under the terms of this Ordinance, prior to the establishment or expansion of a mobile home park, and shall consist of a site plan as required by Article VII of this Ordinance, including all attachments, signed by the Planning Board, and may include any conditions attached by the Planning Board.

C. An approved mobile home park plan shall not exempt an applicant from meeting other applicable local, state or federal requirements.

## §5 Fees

The Selectmen shall be responsible for setting the appropriate fees. The fees shall be included and listed in the Town of Warren Fee Schedule.

**ARTICLE IV – SEVERABILITY & CONFLICT**

## §1 Severability

Should any article of this Ordinance be declared by the courts of the State of Maine or by the courts of the United States to be invalid, such decisions shall not invalidate any other article or provision of this Ordinance.

## §2 Conflict with other Ordinances

This Ordinance shall in no way impair or remove the necessity of compliance with any other rule, regulation, bylaw, permit or provision of law. Where this Ordinance imposes a greater restriction upon the use of the land, buildings or structures, the provisions of this Ordinance shall prevail.

**ARTICLE V – AMENDMENT OF THIS ORDINANCE**

## §1 Initiation of Amendment

An amendment to this Ordinance may be initiated by:

## Article V Sec. 1 cont.

- A. The Planning Board provided that a majority of the Board has so voted; or
- B. Request of the Selectmen to the Planning Board; or
- C. Written petition to the Selectmen bearing signatures of registered voters of the Town of Warren, Maine numbering at least ten percent of the number who voted in the last gubernatorial election.

## §2 Adoption of Amendment

All proposed amendments to this Ordinance shall be referred to the Planning Board for their recommendation. The Planning Board may hold a public hearing on any proposed amendment. Within thirty days of receiving a proposed amendment, the Planning Board shall make known their recommendation to the Selectmen and to the Town. After receiving the recommendation of the Planning Board, the amendment shall be voted on by the voters of the Town of Warren, Maine at a Town Meeting, a majority vote being required for adoption.

**ARTICLE VI – PRE-APPLICATION****§1 PRE-APPLICATION PROCEDURE (STEP ONE)****A. PLANNING BOARD AGENDA**

At each stage of the process of Mobile Home Park review, an applicant shall request to be placed on the Planning Board's agenda at least twenty-one (21) calendar days prior to the regular scheduled meeting at which he wishes to be heard. Submission requirements shall be accompanied by the appropriate documentation as prescribed by the Planning Board and proof of any required fees paid.

**B. PRE-APPLICATION MEETING**

1. Prior to formal submission of a Mobile Home Park application, the applicant shall appear informally to discuss the proposed Mobile Home Park at the regular meeting of the Planning Board.
2. At this meeting the applicant shall submit:
  - a. Proof of the appropriate fees paid.
  - b. The Pre-Application Sketch Plan: This sketch may be a free hand drawing based on the Town Tax Map.
3. On-site Inspection: the Planning Board Chairman shall schedule an on-site inspection of the land to be subdivided at the pre-application meeting. The date set shall be scheduled so that at least a majority of the board members and the applicant will be in attendance. In addition the chairman may also request that the code enforcement officer attend the on-site inspection. The Board or its designated agent shall, at its earliest convenience and normally within 30 days, make an on-site inspection. If any conditions such as snow exist to prevent an adequate inspection in the opinion of the Board, the applicant shall be notified in writing, and any time limits for review shall be extended accordingly until an on-site inspection can be made. The applicant shall place "flagging" at the center line of any proposed roads prior to the on-site inspection.
4. Purpose of Pre-application Meeting and On-site Inspection: The purpose of both the pre-application meeting and on-site inspection is to give the Planning Board a clear understanding

Article VI, Sec. 1, B, 4 cont.

of what is proposed. Subsequent filing of a formal Mobile Home Park Application must be within twelve (12) months of the pre-application meeting.

5. Applicants Rights not Vested: Submissions and attendance at the pre-application meeting shall create no binding commitments between the applicant and the Planning Board. It shall not be considered the initiation of the review process for the purposes of bringing the plan under the protection of Title 1, M.R.S.A., §302.

## **ARTICLE VII – MOBILE HOME PARK REVIEW**

### **§1 Applicability and Review of Article VII**

The provisions of this article shall be used for Mobile Home Park Subdivision Review.

- A. Will not result in undue water or air pollution. In making this determination, the Board shall at least consider the elevation of the land above sea level and its relation to flood plains; the nature of soils and subsoils and their ability to adequately support waste disposal; the slope of the land and its effect on effluents; and the applicable state and local health and waste resource regulations;
- B. Has sufficient water available for the reasonable foreseeable needs of the Mobile Home Park;
- C. Will not cause an unreasonable burden on an existing water supply, if one is to be utilized;
- D. Will not cause unreasonable soil erosion or reduction in the capacity of the land to hold water so that a dangerous or unhealthy condition may result;
- E. Will not cause unreasonable highway or public road congestion or unsafe conditions with respect to use of the highways or public roads existing or proposed;
- F. Will provide for adequate solid and sewage waste disposal;
- G. Will not cause an unreasonable burden on the ability of a municipality to dispose of solid waste and sewage if municipal services are to be utilized;
- H. Will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetical, historic sites or rare and irreplaceable natural areas or any public rights for physical or visual access to the shoreline;
- I. Is in conformance with a duly adopted Mobile Home Park Ordinance, Comprehensive Plan, Development Plan or Land Use Plan, if any;
- J. The applicant has adequate financial and technical capacity to meet the above stated standards;
- K. Will not be situated, in whole or in part, within 250 feet of any pond, lake, river, or tidal water;
- L. The proposed Mobile Home Park will not, alone or in conjunction with existing activities, adversely effect the quality or quantity of ground water;
- M. Will not be situated in a flood-prone area as described and based on the Federal Emergency Management Agency's Flood Boundary and Flood-way Maps and Flood Insurance Rate Maps;

Article VII cont.

§2 PRELIMINARY PLAN PROCEDURE (STEP TWO)

A. PROCEDURE

1. Within twelve months of the pre-application meeting the applicant shall submit a formal application for approval of a preliminary plan with proof of the appropriate fee paid. If an application is not submitted within this period of time the Planning Board shall require a new pre-application meeting.
2. The applicant shall request to be placed on the Planning Board agenda at least twenty-one (21) calendar days prior to a regularly scheduled meeting at which he wishes to be heard.
3. Upon receiving an application for preliminary plan approval, at a regularly scheduled Planning Board meeting, the Planning Board shall issue the applicant a dated receipt.
4. Within thirty (30) days from the receipt of an application by the Planning Board at a regularly scheduled Planning Board meeting the Planning Board shall notify the applicant in writing that the application is either complete or incomplete. If the application is incomplete the Planning Board shall notify the applicant, in writing, of the specific steps necessary to make a complete application.
5. Upon receiving an application the Planning Board shall notify all property owners within 500 feet of the proposed subdivision, specifying the location and a general description of the project.
6. A public hearing shall be held within thirty (30) days of a complete preliminary plan application. The Planning Board shall give notice of the date, time and place of such a hearing to be published twice in a local newspaper with the date of the first publication at least seven (7) days prior to the hearing.
7. Within thirty (30) days after a public hearing, the Planning Board shall either approve, approve with conditions or disapprove the preliminary plan. In issuing its decision the Planning Board shall state in writing the conditions of such approval, specifically:
  - a. The changes it will require in the final plan.
  - b. The character and extent of the required improvements for which waivers have been requested and which, in the opinion of the Planning Board, may be waived without jeopardy to the public health, safety and general welfare.
  - c. The amount of the performance guarantee that the Planning Board will require for Final Plan Approval.
8. Approval of a preliminary plan shall not constitute approval of a Final Plan, rather it shall be viewed as a guide in the preparation of the Final Plan.
9. Prior to the approval of a Final Plan, the Planning Board may require additional changes in the Final Plan as the result of substantial new information.
10. The Planning Board may request an additional site inspection to view the location of lot markers, test pits and proposed roads prior to Final Plan Approval.



## Article VII, Sec. 2, A cont.

11. The Applicant shall notify the Road Commissioner and the Fire Chief of the proposed Mobile Home Park including the number of lots proposed and length of roadways. The Planning Board shall require comments from these officials (to be obtained by the applicant) in writing on the facilities to service the proposed mobile home park.

**B. PRELIMINARY PLAN SUBMISSION REQUIREMENTS**

The complete preliminary plan submission requirements shall consist of the following information:

1. The Mobile Home Park Application: The applicant shall complete and sign seven (7) copies of the Mobile Home Park Application.
2. Fee: The applicant shall submit proof of the appropriate preliminary plan fees paid.
3. Location Map: The preliminary plan shall be accompanied by seven (7) copies of a location map showing the relationship of the proposed Mobile Home Park to adjacent properties and the surrounding area. The location map shall show all the area within five hundred (500) feet of any property line of the proposed Mobile Home Park. The location map shall show:
  - a. Names of existing and proposed roads.
  - b. Boundaries of land use districts, where applicable.
  - c. Names of all owners of property abutting or directly across a road from the proposed Mobile Home Park.
  - d. The outline of the proposed Mobile Home Park together with its probable access and an indication of the future street system.
4. PRELIMINARY PLAT PLAN : The preliminary plan shall be submitted in seven (7) copies which may be printed or reproduced on paper drawn to a scale of not more than one hundred (100) feet to the inch. Where practical the sheet size of the drawings shall be 24" x 36" (inches) or as required by the Knox County Registry of Deeds. In addition, seven (7) copies of a plan reduced to a size of 11" x 14" (inches) shall be submitted. The following information shall either be shown on the preliminary plan or accompany the application for preliminary approval.
  - A. Proposed name of mobile home park along with name, address and telephone number of the applicant, and the name, address and telephone number of the owner of the property, if different from the applicant.
  - B. The date the plan was prepared with the name, address and telephone number of the person or company that prepared such.
  - C. Scale of the drawings submitted and compass rose; all dimensions to be marked in feet or decimals of a foot.
  - D. Contour lines showing elevations in relation to mean sea level at appropriate intervals to show the effect on the land of existing and proposed grades for areas proposed to be excavated or filled.
  - E. Boundaries of the tract of land showing lot lines, abutting lots, districts within 1,000 feet as defined by the Land Use Ordinance and illustrated on the Town of Warren Tax

## Article VII, Sec. 2, B, 4, E cont.

Assessor's Maps, with total acreage indicated and the Town of Warren Tax Assessor's map and lot number(s). The Planning Board may require a survey by a licensed surveyor.

- F. Verification of right, title or interest the applicant has in the property.
- G. A copy of the deed or deeds of the property together with copies of all covenants or deed restrictions, easements, rights-of-way, or other encumbrances currently affecting the property.
- H. Location of existing and proposed mobile homes and other structures.
- I. Location of buildings or other structures on abutting properties within 500 feet of the property lines of the proposed park including names and addresses.
- J. Location of existing public and private streets, roadways and rights-of-way.
- K. Location of proposed access road to the mobile home park from public streets or roadways.
- L. The following disclaimers shall be attached to the plan to be recorded at the Registry of Deeds and filed with the municipality as well as any other notes or conditions of approval:
  - 1. "The land within the park shall remain in a unified ownership and the fee to lots or portions of lots shall not be transferred."
  - 2. "No dwelling unit other than a manufactured housing unit shall be located within the park."

To any plan showing existing or proposed private roads:

- 3. "All roads in this mobile home park so marked shall remain private roads to be maintained by the developer or the lot owners and shall not be accepted or maintained by the Town of Warren, Maine."
- M. An estimate of the average daily traffic projected to be generated by the park and a traffic impact analysis, if required, as stated by Article VIII, § 6-F of this Ordinance.
- N. Location and arrangement of proposed off-street parking and loading areas and their appurtenant drives and maneuvering areas.
- O. Location of existing and proposed pedestrian walkways.
- P. Location of existing and proposed utilities and easements therefore, including sanitary sewerage, water supply, and electricity.
- Q. Location, intensity, type, size and direction of all outdoor lighting.
- R. Location and size of signs and all permanent outdoor fixtures.
- S. Location and proposed use of areas proposed for outdoor recreation or for reserved open space as per Article VIII, §5 of this Ordinance.
- T. Location and type of existing and proposed fences, hedges and other screening.

Article VII, Sec. 2, B, 4 cont.

- U. Location of existing natural drainage ways and proposed storm drainage facilities, including dimensions of culverts, pipes, etc.; Mobile Home Parks shall not be allowed in any area delineated as being within the 100 yr flood plain.
- V. An analysis of ground water impact as required by Article VIII, §7-A of this Ordinance.
- W. Information about Soils Conditions on the site of the proposed mobile home park. For subsurface sewage disposal proposed, the information shall include evidence of soil suitability according to the standards established in Article VIII, §11 of this Ordinance. The Site Plan shall show the location of soil test areas and natural wet areas.
- X. A soil erosion and sedimentation control plan, prepared in accordance with the standards contained in the latest revision of the *Environmental Quality Handbook* published by the United States Soil Conservation Service.
- Y. A "Preservation of Natural and Historic Features" map as required by Article VIII, §9 of this Ordinance.
- Z. For projects within lake watershed districts a phosphorus control analysis and plan shall be submitted for review and approval.

### §3 FINAL PLAN REVIEW PROCEDURES (STEP THREE)

#### A. PROCEDURE

1. Within six (6) months after approval of a preliminary plan, the applicant shall submit the Final Plat and supporting documentation for Final Plan Review. If the Final Plan is not submitted to the Planning Board within this period, the Planning Board may refuse, without prejudice, to act on the Final Plan and may require re-submission of the preliminary plan. The applicant shall request to be placed on the Planning Board agenda at least twenty one (21) calendar days prior to the regularly scheduled meeting at which he wishes to be heard.
2. Fee: The applicant shall submit proof of the appropriate Final Plan fees paid.
3. Prior to submittal of the Final Plan application, the following approvals shall be obtained, in writing, where appropriate.
  - a. Maine Department of Human Services, if the applicant proposes to provide a central water supply system.
  - b. The servicing sewer district, if an existing public sewage disposal system is to be used.
  - c. Maine Department of Human Services, if a centralized or shared subsurface sewage disposal system is to be utilized.
  - d. Maine Manufactured Housing Board (If Applicable)
  - e. Department of Environmental Protection (If Applicable)
4. The applicant, or his duly authorized representative, shall attend a regularly scheduled meeting of the Planning Board to discuss the Final Plan.

## Article VII, Sec. 3, A cont.

5. Upon determination that a complete application has been submitted for review, the Planning Board shall issue a dated receipt to the applicant.

**B. SUBMISSION REQUIREMENTS - FINAL PLAN**

The Final Plan shall be submitted in two (2) reproducible, stable based transparent originals, and three (3) copies. After Planning Board approval, one original will be recorded at the registry of deeds and one filed at the Town Office. The plans shall be drawn to a scale of not more than one hundred (100) feet to the inch. Where practical the sheet size of the drawings shall be 24" x 36" (inches). Space shall be reserved on the drawing for the conditions the Planning Board may impose, and the endorsement of the Planning Board. In addition, seven (7) copies of the Final Plan reduced to a size of 11 x 14" (inches) shall be submitted. The application for Final Plan approval shall include the following:

1. All of the information presented on the preliminary plan and location map and any amendments thereto as required by the Planning Board.
2. The name, registration number and seal of the land surveyor, architect, engineer, or planning consultant who prepared the plan.
3. Road names, pedestrian ways, lot easements, open spaces and other areas to be reserved for or dedicated to public use and/or ownership.
4. Sufficient data acceptable to the Code Enforcement Officer to readily determine the location, bearing and length of every street line, lot line, easement, and boundary line and to reproduce such lines upon the ground. Where practical, these should be tied to reference points previously established.
5. A copy of such covenants or deed restrictions, if any, as are intended to cover all or part of the tract.
6. Construction drawings showing a cross section of proposed roads and storm drains shall be included as required by the Planning Board.
7. Lots and blocks within the subdivision numbered in accordance with local practice.
8. Permanent monuments at all outside corners of the subdivision tract and referenced in the Final Plan. In addition, the outside perimeter of the property to be subdivided is to be clearly marked for complete identification of land boundaries.
9. Written offers of cession, in a form certified as satisfactory by the Town Attorney, of all land proposed to be dedicated to the Town of Warren.
10. A performance bond or guarantee in a form and amount meeting the requirements of Article X to secure the completion of all improvements required by the Planning Board, and written evidence that the Board of Selectmen has approved the bond or guarantee.

**C. FINAL PLAN APPROVAL AND FILING**

1. No Final Plan shall be approved by the Planning Board as long as the applicant is in default on a previously approved plan.
2. Upon findings of fact and determination that all standards in 30A M.R.S.A., § 4404 and all pertinent regulations have been met, and upon voting to approve the Mobile Home



## Article VII, Sec. 3, C, 2 cont.

Park, the Planning Board shall sign the Final Plan. The Planning Board shall specify in writing its findings of facts and reason for any conditions or denial. Any Mobile Home Park not recorded in the Registry of Deeds, by the applicant, within ninety (90) days of the date upon which the plan is approved and signed by the Planning Board shall be deemed void and shall require re-submission, review and approval.

3. At the time the Planning Board grants Final Plan approval, it may permit the plan to be divided into two or more sections subject to any conditions the Planning Board deems necessary in order to insure the orderly development of the Plan.
4. No changes, erasures, modifications, or revisions shall be made in any Final Plan after approval has been given by the Planning Board and endorsed in writing on the Plan, unless the revised Final Plan is first submitted to, and the Planning Board approves any modifications. Plan revisions after approval shall be made as further provided for in Article IX, §3 of this Ordinance. The Planning Board shall make findings that the revised plan meets the standards of 30A M.R.S.A. §4404, and these regulation. In the event that a plan is recorded without complying with this requirement, it shall be considered null and void, and the Code Enforcement Officer shall institute proceedings to have the Plan stricken from the records of the Registry of Deeds
5. The approval by the Planning Board of a Mobile Home Park plan shall not be deemed to constitute or be evidence of any acceptance by the Town of any road, easement, or other open space shown on such plan. When a park, playground, or other recreation area shall have been shown on the plan to be dedicated to the Town, approval of the Plan shall not constitute an acceptance by the municipality of such areas. The Planning Board shall require the Plan to contain appropriate notes to this effect. The Planning Board may also require the filing of a written agreement between the applicant and the Municipal Officers covering future deed and title, dedication, and provision for the cost of grading, development, equipment, and maintenance of any such dedicated area.
6. Failure to commence construction of required roads within the Mobile Home Park within one (1) year of the date of approval and signing of the Plan or failure to complete work within two (2) years of the date of approval shall render the Plan null and void and a new application must be made. Upon determining that a Mobile Home Park's approval has expired under this paragraph, the Code Enforcement Officer shall have a notice placed in the Registry of Deeds to that effect. Construction of the proposed mobile home park is subject to the provisions of Article IX, §2-D of this Ordinance.
7. Limitation on Units  
After the effective date of this Ordinance as stipulated in Article III, §3 of this Ordinance, mobile and modular homes as defined by Article XI, §3 of this Ordinance, and mobile homes meeting the safety standards contained in Article VIII, §10 of this Ordinance, may be located in a mobile home park sited within the Town of Warren, Maine. Excepting any units legally sited as of the effective date of this Ordinance as stipulated in Article III, §3 of this Ordinance, no manufactured housing unit which fails to meet the definition of mobile or modular home contained in Article XI, §3 of this Ordinance, or which otherwise fails to meet the safety standards contained in Article VIII, §10 of this Ordinance, travel trailers, units not suitable for year-round occupancy, or site built home shall be located in a mobile home park situated within the Town of Warren, Maine.
8. Expert Witnesses and Opinions  
The Planning Board shall retain the right to call, cite, reference, examine, cross-examine, quote, or question any authority, expert, professional, or experienced individual of their choice whom, in their sole opinion, may have pertinent information regarding the

Article VII, Sec. 3, C, 8 cont.

proposed mobile home park, at any time during the approval process or during the construction process; all costs of such shall be borne by the developer of the proposed mobile home park. Consultation shall be sought first from sources without fees.

#### §4. WAIVER

##### A. Waiver of Submission Requirements

Where the Planning Board makes written findings of facts that there are special circumstances of a particular site proposed to be subdivided, it may waive portions of the submission requirements to permit a more practical development, provided that the public health, safety and welfare are protected. The waivers should not have the effect of nullifying the intent and purpose of the comprehensive plan or any ordinance or regulation.

##### B. Waivers Conditionally Granted

In granting waivers to any of the provisions of these regulations, the Planning Board shall require such conditions as will assure that the objectives of these regulations are met. When the Planning Board grants a waiver to the above standards, it shall indicate such waiver on the Final Plan approval.

#### §5. APPEALS

Any aggrieved party having proper standing may within thirty (30) days, appeal any decision of the Planning Board under these regulations to the Superior Court of Knox County.

### **ARTICLE VIII – MINIMUM DESIGN & PERFORMANCE STANDARDS**

#### **§1 General Requirements**

- A. Except as stipulated below, mobile home parks shall meet all the requirements for a residential subdivision, and shall conform to all applicable State laws and local ordinances or regulations and shall be in conformity with the Land Use Ordinance of the Town of Warren, Maine. Where the provisions of this article conflict with specific provisions of the Subdivision Ordinance, or of the Land Use Ordinance, the provisions of this article shall prevail.
- B. Where a developer elects to create a mobile home park where all land is under one ownership, the park plan shall show lots and the developer shall demonstrate that the development standards described herein are met.
- C. The owner or operator of a mobile home park shall be responsible for ensuring the maintenance of all infrastructure, structures and their sites, including snow removal from all park roads and walkways and sanding where required. Park management shall conform to Maine State Laws. Compliance with this Ordinance shall not exempt the park owner, developer, or manager from complying with other applicable local, state, and federal codes and regulations.
- D. No manufactured housing may be sited within the Town of Warren, Maine without either a bill of sale indicating the name, address, dealer registration number and sales tax certificate number of the person who sold or provided the manufactured housing to the buyer locating such housing in this Town; or evidence of certification of payment of the sales tax in accordance with Title 36, M.R.S.A., Section 1760, Subsection 40 and Title 36,

Article VIII, Sec 1, D cont.

M.R.S.A., Section 1952-B. A copy of each document required for each housing unit shall be filed with the Code Enforcement Officer prior to the siting of said unit.

- E. Mobile home parks shall only be allowed in the Rural District areas designated on the Town of Warren Land Use Zoning Map.

## §2 Lot Area, Lot Width and Lot Coverage Requirements

Lots in a mobile home park shall meet the following lot area and lot width requirements.

- A. Lots served by public sewer:  
     Min. lot area: .....6,500 square feet  
     Min. lot width: .....50 feet
- B. Lots served by individual subsurface waste water disposal systems:  
     Min. lot area: .....20,000 square feet  
     Min. lot width: .....100 feet
- C. Lots served by a central sewage system approved by the Maine Department of Human Services:  
     Min. lot area: .....12,000 square feet  
     Min. lot width: .....75 feet
- D. The overall density of any park served by any subsurface wastewater disposal system shall not exceed one dwelling unit per 20,000 square feet of total park area.
- E. The overall density of the mobile home park shall be the combined area of its mobile home lots plus the sum of the area required for road rights-of-way, the area required for buffer strips (if any), the open space area as defined in Article VIII, §5-A of this Ordinance (if the park is served by a public sewer).
- F. Where lots front on a curved right-of-way or are served by a driveway, the frontage requirement shall be measured in a straight line perpendicular to the manufactured home.
- G. All buildings on the mobile home lot, including accessory buildings and structures, but excluding open decks and parking spaces, shall not cover more than 50% of the lot area.

## §3 Unit Setback Requirements

- A. The following minimum unit setbacks shall apply to all homes and accessory buildings located in the mobile home park:

	Lots served by public sewer	All other lots
Front setback	20 feet	20 feet
Side setback	10 feet	20 feet
Rear setback	10 feet	10 feet

- B. Where bordering a public road, all structures shall meet the minimum setbacks of the Land Use Ordinance.

## Article VIII, cont.

## §4 Buffering &amp; Screening

- A. A mobile home park shall have a buffer strip not less than 50 feet in width of which 25' shall remain as natural screening if, the mobile home park's residential density is at least two-times greater than:
  - 1. The density of residential development on immediately adjacent parcels of land; or
  - 2. If the immediately adjacent parcels of land are undeveloped, the maximum net residential density permitted by applicable municipal ordinances or state law. No structures or roads shall be located in the buffer strip.

## §5 Open Space Reservation

For mobile home parks served by a public sewer:

- A. An area no less than 10% of the total area of the mobile home park lots shall be reserved as open space. The area reserved as open space shall be maintained and used for its stated purpose. Parking space, driveways and streets and buffer areas are not considered useable open space but community recreation buildings, pools and courts are considered as open space.
- B. At least 50% of the reserved open space shall have slopes less than 5%, shall not be located on poorly or very poorly drained soils, and shall be accessible directly from roads within the park.
- C. All developed open space shall be designed and landscaped for the use and enjoyment of the park residents and shall be maintained for their long term use. Plans for these areas shall be submitted in the approval application.
- D. To the maximum extent possible, undeveloped open space shall be left in its natural state. Improvements to make trails for walking and jogging or to make picnic areas are permitted. Plans for these areas shall be submitted in the approval application.
- E. The developer shall submit as part of the application, a copy of that portion of the proposed mobile home park rules and a plan which specify how the open space is to be used and maintained and what conditions are to apply to its use. The plan shall specify the areas to be dedicated to open space, recreation, and storage.
- F. The Planning Board may waive the requirement for open space when the park is located within one half mile of a publicly owned recreation area of equal or greater area.
- G. Reserved open space shall not be used for future mobile home lots.

## §6 Road Design, Circulation, Traffic Impacts and Parking

Roads within a park shall be designed by a Professional Engineer, registered in the State of Maine.

- A. Roads which the applicant proposes to be dedicated as public ways shall be designed and constructed in accordance with the standards for roads as detailed in Article VII of the Subdivision Ordinance.



## Article VIII, Sec. 6 cont.

- B. Roads which the applicant proposes to remain private ways shall meet the following minimum design standards.
1. For roads:
    - i. Minimum right of way width: 23 feet
    - ii. Minimum width of traveled way: 20 feet
  2. Cul-de-sac turnarounds shall have a minimum property line radii of 66 feet and 55 foot outer edge of travel way radii, exclusive of any parking areas.
  3. All roads shall be built to acceptable engineering standards and with a professional engineer's seal as required by the Manufactured Housing Board.
  4. The park owner or management shall be responsible for snow removal and sanding on all park roads.
- C. Any mobile home park expected to generate average ~~daily~~ traffic of 200 trips per day or more shall have at least two road connections with existing public roads. Any road within a park with an average daily traffic of 200 trips per day or more, shall have at least two road connections leading to existing public roads, other roads within the park, or other roads shown on an approved subdivision plan.
- D. No individual lot within a park shall have direct vehicular access onto an existing public road.
- E. The intersection of any road within a park and an existing public road shall meet the following standards:
1. The desired angle of intersection shall be 90°. The minimum angle of intersection shall be 75°.
  2. The maximum permissible grade within 75 feet of the intersection shall be 2%.
  3. A minimum sight distance of 10 feet for every mile per hour of posted speed limit on the existing road shall be provided. Sight distances shall be measured from the driver's seat of a vehicle that is 10 feet behind the curb or edge of shoulder line with the height of the eye 3½ feet above the pavement and the height of object 4¼ feet.
  4. The center line of any road within a park intersecting an existing public road shall be no less than 125 feet from the center line of any other road intersecting that public road.
  5. No connection of a road within a mobile home park shall be made with any public road unless the public road meets or exceeds the standards for roads in Article VII of the Subdivision Ordinance.
  6. Where necessary to safeguard against hazards to traffic, pedestrians and/or to avoid traffic congestion, turning lanes, traffic directional islands, frontage roads, and traffic controls shall be provided on public roads at the developers expense.
- F. The application shall contain an estimate of the average daily traffic projected to be generated by the park. Estimates of traffic generation shall be based on the Trip Generation Manual, 1987 edition, published by the Institute of Transportation Engineers. If the park is projected to generate more than 400 vehicle trip ends per day, the application shall also include a traffic impact analysis, by a professional engineer registered in the State

Article VIII, Sec 6, F, cont.

of Maine with experience in transportation engineering.

- G. Each lot shall be legibly marked for identification, and easily accessible to emergency vehicles, permitting fire apparatus and emergency vehicles to approach within 100 feet.
- H. Curvilinear roads shall be utilized within the park wherever possible. No road within the park shall be more than 300 feet long without a curve or bend.
- I. All roads within the park and connecting with roads outside the park shall be marked with signs designating their name, appropriate safety and stop signs, and with appropriate lines and markings painted on them, all approved by the Road Commissioner. Proposed road names shall be approved by the Planning Board.
- J. On-street parking shall be prohibited within the park unless an eight foot parking lane is provided in addition to the road width requirements of Article VIII, §6-B of this Ordinance, in which case on-street parking may be permitted on the side of the road where the parking lane is located.
- K. For each mobile home lot there shall be provided and maintained at least two hard surfaced off-street parking spaces. Each parking space shall contain a minimum of 200 square feet with minimum dimensions of 10 feet by 20 feet.

#### §7 Ground Water Impacts

##### A. Assessment Submitted

Accompanying the application for approval of any mobile home park which is not served by public sewer shall be an analysis of the impacts of the proposed mobile home park on ground water quality. The hydrogeological assessment shall be prepared by a certified geologist or professional engineer registered in the State of Maine, experienced in hydrology and shall contain at least the following information.

1. A map showing the basic soils types.
2. The depth to the water table at representative points throughout the mobile home park.
3. Drainage conditions throughout the mobile home park.
4. Data on the existing ground water quality, either from test wells in the mobile home park or from existing wells on neighboring properties.
5. An analysis and evaluation of the effect of the mobile home park on ground water resources. The evaluation shall, at a minimum, include a projection of post development nitrate-nitrogen concentrations at any wells within the mobile home park, at the mobile home park boundaries and at a distance of 1000 feet from potential contamination sources, whichever is a shorter distance. For mobile home parks within the watershed of a lake, projections of the development's impact on groundwater phosphate concentrations shall also be provided.
6. A map showing the location of any subsurface wastewater disposal systems and drinking water wells within the mobile home park and within 300 feet of the mobile home park boundaries.

## Article VIII, Sec. 7, cont.

## B. Standards for Acceptable Ground Water Impacts

1. Projections of ground water quality shall be based on the assumption of drought conditions (assuming 60% of annual average precipitation).
2. No mobile home park shall increase any contaminant concentration in the ground water to more than one half of the Primary Drinking Water Standards. No mobile home park shall increase any contaminant concentration in the ground water to more than the Secondary Drinking Water Standards.
3. If ground water contains contaminants in excess of the primary standards, and the mobile home park is to be served by on-site ground water supplies, the applicant shall demonstrate how water quality will be improved or treated.
4. If ground water contains contaminants in excess of the secondary standards, the mobile home park shall not cause the concentration of the parameters in question to exceed 150% of the ambient concentration.

C. Subsurface waste water disposal systems and drinking water wells shall be constructed as shown on the map submitted with the assessment. If construction standards for drinking water wells are recommended in the assessment, those standards shall be included as a note on the Plan.

## §8 Conversion

No development or subdivision which is approved under this Ordinance as a mobile home park may be converted to another use or individual lots sold without the approval of the Planning Board, and meeting the appropriate lot size, lot width, setback and other requirements of the applicable district.

## §9 Preservation of Natural and Historic Features

The Planning Board shall require that the proposed park include a landscape and management plan that will show the preservation of scenic, historic or environmentally desirable areas or any areas identified in the Comprehensive Plan or by the Maine Critical Areas Program as rare and irreplaceable areas.

## §10 Safety Standards

The standards in Article VIII, §10 shall apply to all manufactured housing built before June 15, 1976, or any manufactured housing not built according to the National Manufactured Housing Construction and Safety Standards Act of 1974, United States Code, Title 42, Chapter 70, to be located in a mobile home park in the Town of Warren, Maine. The park owner shall have the burden of proving to the Code Enforcement Officer that these standards are met.

## A. Exit Facilities - Exterior Doors

1. Required egress doors shall not be located where a lockable interior door must be used in order to exit.
2. Homes shall have a minimum of two exterior doors not less than twelve feet from each other as measured in any straight line direction regardless of the length of travel between doors. One of the required exit doors must be accessible from the doorway of each bedroom without traveling more than 35 feet.

## Article VIII, Sec. 10, A, cont.

3. All exterior swinging doors shall provide a minimum 28 inches wide by 74 inches high clear opening. All exterior sliding glass doors shall provide a minimum 28 inches wide by 72 inches high clear opening. Locks shall not require the use of a key for operation from the inside.

## B. Exit Facilities - Egress Windows and Devices

Mobile homes shall have the following emergency egress facilities:

1. Every room designated expressly for sleeping purposes, unless it has an exit door, shall have at least one outside window or approved exit device. If an exit window or device is installed, it shall be listed in accordance with procedures and requirements of AAMA 1704-1985.
2. The bottom of the window opening shall not be more than 36 inches above the floor.
3. Locks, latches, operating handles, tabs and any other window, screen or storm window devices, which need to be operated in order to permit exiting, shall not be located in excess of 54 inches from the finished floor.

## C. Interior Doors

Each interior door, when provided with a privacy lock, shall have a privacy lock that has an emergency release on the outside to permit entry when the lock has been locked by a locking knob, lever, button or other locking devices on the inside.

## D. Fire Detection Equipment

1. At least one smoke detector (which may be a single station alarm device) shall be installed in the home in the following locations:
  - i. A smoke detector shall be installed on any wall in the hallway or space communicating with each bedroom area between the living area and the first bedroom door unless a door separates the living area from that bedroom area, in which case the detector shall be installed on the living area side as close to the door as practical. Homes having bedroom areas separated by any one or combination of communication areas such as kitchen, dining room, living room, or family room (but not a bathroom or utility room) shall have at least one detector protecting each bedroom area.
  - ii. When located in hallways, the detector shall be between the return air intake and the living area.
  - iii. The smoke detector shall not be placed in a location which impairs its effectiveness.
  - iv. Smoke detectors shall be labeled as conforming with the requirements of Underwriters Laboratory Standards No. 217, Third Edition, 1985, as amended through October 8, 1985, for single and multiple station smoke detectors.
2. Each smoke detector shall be installed in accordance with its listing. The top of the detector shall be located on a wall four inches to twelve inches below the ceiling. However, when a detector is mounted on an interior wall below a sloping ceiling, it shall be located four inches to twelve inches below the intersection on the connecting exterior wall and the sloping ceiling (cathedral ceiling). The required detector(s) shall be attached



Article VIII, Sec. 10, D, 2, cont.

to an electrical outlet box and the detector connected by permanent wiring method into a general electrical circuit. There shall be no switches in the circuit to the detector between the over-current protection device protecting the branch circuit and the detector. The smoke detector shall not be placed on the same branch circuit or any circuit protected by a ground fault circuit interrupter.

#### E. Flame Spread

1. Ceiling interior finish shall not have a flame spread rating exceeding 75.
2. Walls and ceilings adjacent to or enclosing a furnace or water heater shall have an interior finish with a flame spread rating not exceeding 25. Sealants and other trim material two inches or less in width used to finish adjacent surfaces within this space are exempt if supported by framing members or by materials having a flame spread rating not exceeding 25.
3. Exposed interior finishes adjacent to the cooking range shall have a flame spread rating not exceeding 50.
4. Kitchen cabinet doors, counter tops, back splashes, exposed bottoms, and end panels shall have a flame spread rating not to exceed 200.
5. Finish surfaces of plastic bathtubs, shower units, and tub or shower doors shall not exceed a flame spread rating of 200.
6. No burner of a surface cooking unit shall be closer than twelve horizontal inches to a window or an exterior door.

#### F. Kitchen Cabinet Protectors

1. The bottom and sides of combustible kitchen cabinets over cooking ranges to a horizontal distance of six inches from the outside edge of the cooking range shall be protected with at least  $\frac{5}{16}$  inch thick gypsum board or equivalent limited combustible material. One inch nominal framing members and trim are exempted from this requirement. The cabinet area over the cooking range or cooktops shall be protected by a metal hood with not less than a three inch eyebrow projecting horizontally from the front cabinet face. The  $\frac{5}{16}$  inch thick gypsum board or equivalent limited combustible material which is above the top of the hood may be supported by the hood. A  $\frac{3}{8}$  inch enclosed air space shall be provided between the bottom surface of the cabinet and the gypsum board or equivalent limited combustible material. The hood shall be at least as wide as the cooking range.
2. The metal hood will not be required if there is an oven at least as wide as the cooking range installed between the cabinet and the range, centered above the range.
3. Ranges shall have a vertical clearance above the cooking top of not less than 24 inches to the bottom of combustible cabinets.

#### G. Carpeting

Carpeting shall not be used in a space or compartment designed to contain only a furnace and/or water heater. Carpeting may be installed in other areas where a furnace or water heater is installed, provided that it is not located underneath the furnace or water heater.

Article VIII, Sec. 10, cont.

#### H. Heating and Fuel Burning System

A person holding a master license issued by the State of Maine Oil and Solid Fuel Examining Board shall inspect and certify in writing that the heating and fuel system meets the requirements of NFPA-31 - Installation of Oil Burning Equipment as adopted by that Board.

#### I. Electrical System

A person holding a master license issued by the State of Maine Electricians Examining Board shall inspect and certify in writing that the electrical system is safe and meets the National Electrical code in effect at the time the home was manufactured.

### §11 Sanitary Standards

#### A. Sewage Disposal

1. All water carried sewage shall be disposed of by means of one of the following:
  - i. A centralized private sewer system approved by the State of Maine Department of Human Services, serving each mobile home lot in the mobile home park.
  - ii. Individual subsurface sewage systems meeting the requirements of the State of Maine Plumbing Code
2. All subsurface sewage systems shall be located on soils approved by the local Plumbing Inspector + Licensed Soil Evaluator.

#### B. Refuse Disposal

The storage, collection and disposal of refuse in the mobile home park shall be so conducted as to create no health hazards, rodent harborage, insect breeding areas, accident or fire hazards, or air pollution.

### §12 Fire Protection

- A. If the mobile home park is to contain 20 living units or more and the park is not served by a piped central or public water supply then the developer shall construct a pond or ponds with suitable dry hydrant(s) within  $\frac{1}{2}$  mile of the proposed park to provide adequate water storage for fire-fighting purposes. An easement shall be granted to the Town of Warren, Maine granting access to and maintenance of the dry hydrant(s) where necessary. The Planning Board may waive this requirement only upon submittal of evidence that there is an existing pond with dry hydrant(s) within  $\frac{1}{2}$  mile of the proposed mobile home park or that the soil types within  $\frac{1}{2}$  mile of the proposed mobile home park will not permit their construction. The burden of proving this rests solely with the developer.
- B. If the park is served by a piped central or public water supply then the developer shall install fire hydrants within the park at the rate of one hydrant for every six units or less.

### §13 Storm Drainage

A storm drainage plan shall be prepared by a professional engineer licensed by the State of Maine

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Article VIII, Sec. 13, cont.

showing ditching, culverts, storm drains, easements, and other proposed improvements sufficient to accommodate a 25-year storm. Said storm drainage construction shall conform to the standards set forth in Article VIII, A + B of the Subdivision Ordinance.

#### §14 Storage

At least 294 cubic feet (for example, a utility building measuring approximately 6' wide by 7' long by 7' high or equivalent) of enclosed tenant storage facilities shall be conveniently provided on or near each mobile home lot for the storage of materials and equipment.

#### §15 Utility Requirements

All mobile home parks shall provide permanent electrical, water and sewage disposal connections to each mobile home in accordance with applicable state and local rules and regulations. State rules and regulations shall take precedence over local rules and regulations in the event there is a conflict.

#### §16 Signs

Signs and advertising devices shall be prohibited in the mobile home park except:

- A. One identifying sign at each entrance of the mobile home park no larger than 18 square feet which may be indirectly lit, but not flashing.
- B. Directional and informational signs for the convenience of tenants and the public relative to parking, office, traffic movement, etc.
- C. Mobile/manufactured home "for sale" signs, provided that such signs that face a public road shall be no more than 10 square feet and shall be limited to one sign per mobile home.
- D. Mobile/manufactured home address signs.
- E. Each mobile/manufactured home shall have a # on it for identification purposes. The styles and location of the identifying sign shall not interfere with vehicle sight distance.

### ARTICLE IX – ENFORCEMENT

#### §1 Construction Inspection

- A. At least five days prior to completing each major phase of construction of required improvements, the developer or builder shall:
  1. Notify the Code Enforcement Officer in writing of the time when it is proposed to complete construction of the following phases of construction so that the Municipal Officers can cause inspection to be made to assure that all municipal specifications and requirements shall be met during the construction of required improvements, and to assure the satisfactory completion of improvements and utilities required by the Planning Board:
    - i. Roads and Walkways
    - ii. Septic and Drainage
    - iii. Utilities, Lighting and Signs

Article IX, Sec. 1, A, 1, cont.

- iv. Fire Pond and Open Space, if required
  - v. Unit Siting, Buffers, and Utility Building Siting
- B. If the inspecting official finds upon inspection that any of the required improvements have not been constructed in accordance with the plans and specifications filed for the mobile home park, it shall be so reported in writing to the Selectmen, Planning Board, developer and owner of the mobile home park. The Selectmen shall take any steps necessary to preserve the rights of the Town of Warren, Maine.
- C. If at any time before or during the construction of the required improvements it appears to be necessary or desirable to modify the required improvements, the inspecting official is authorized to approve minor modifications due to unforeseen circumstances such as encountering hidden outcrops of bedrock, natural springs, etc. The inspecting official shall issue any approval under this article in writing and shall transmit a copy of the approval to the Planning Board. Revised plans shall be filed with the Chairman of the Planning Board. For major modifications, such as relocation of rights-of-way, property or lot boundaries, changes of grade by more than 1%, etc., the developer or owner shall obtain permission in writing to modify the plans from the Planning Board.
- D. Upon completion of road construction, a written certification signed by a professional engineer registered in the State of Maine shall be submitted to the Chairman of the Planning Board at a regular scheduled Planning Board meeting, at the expense of the applicant, certifying that the road(s) meet or exceed the design and construction requirements of this Ordinance.

## §2 Violations

- A. No mobile home park plan shall be recorded in the Registry of Deeds until a Final Plan has been approved and signed by the Planning Board in accordance with this Ordinance.
- B. No person, corporation or other legal entity may sell or rent or offer to sell or rent any land in a mobile home park which has not been approved by the Planning Board and recorded in the Registry of Deeds.
- C. No public utility, water district or sewer district shall serve any lot in a mobile home park for which a final Plan has not been approved by the Planning Board and recorded in the Registry of Deeds.
- D. No development of the infrastructure of a mobile home park may begin until Final Plan approval by the Planning Board and recording in the Registry of Deeds. Development includes the grading and construction of roads, the grading of lots, utility installations, siting of mobile homes, and construction of buildings.

## §3 Park Plan Amendments After Approval

No changes, erasures, or modifications shall be made in a Final Plan after approval has been given by the Planning Board unless the plan is first resubmitted and the Planning Board approves any modifications. The applicant is not required to go through the complete review process of an amendment to an existing mobile home park, unless, in the judgment of the Planning Board the amendment substantially alters the character of the original mobile home park, or unless the change constitutes a new mobile home park. If an amended Final Plan is recorded without complying with this requirement, it shall be null and void. The Code Enforcement Officer may institute proceedings to have the plan stricken from the Registry of Deeds.



Article IX, cont.

#### §4 Enforcement

The Code Enforcement Officer or the Selectmen of the Town of Warren, Maine, upon finding that any provisions of this Ordinance or the conditions of any approval(s) is being violated, are authorized to institute legal proceedings to enjoin violations of this Ordinance.

#### §5 Penalties

Any person, firm or corporation being the owner or having control or use of any residential building or infrastructure constructed or placed in violation of any of the provisions of this Ordinance shall be fined in accordance with the penalty provisions of Title 30-A M.R.S.A. Section 4452, along with any other pertinent civil penalties.

### **ARTICLE X – PERFORMANCE GUARANTEES**

#### §1 Applicability of Article X

The provisions of this article shall be in lieu of the Performance Guarantee requirements of the Subdivision Ordinance.

#### §2 Types of Performance Guarantees

With submittal of the application for Final Plan approval, the developer shall provide one of the following performance guarantees for an amount adequate to cover the total construction costs of all required improvements, taking into account the time-span of the construction schedule and the inflation rate for construction costs:

- A. Either a certified check payable to the Town or a savings account or certificate of deposit naming the Town as owner, for the establishment of an escrow account; or
- B. A performance bond payable to the Town issued by a surety company, approved by the Selectmen; or
- C. An irrevocable letter of credit from a financial institution establishing funding for the construction of the mobile home park, from which the Town may draw if construction is inadequate, approved by the Selectmen.

The conditions and amount of the guarantee shall be determined by the Board with advice of the Code Enforcement Officer, Road Commissioner, Selectmen, and/or Town Attorney.

#### §3 Contents of Guarantee

The performance guarantee shall contain a construction schedule, cost estimates for each major phase of construction taking into account inflation, provisions for inspections of each phase of construction, provisions for the release of part or all of the performance guarantee to the developer, and a date after which the developer will be in default and the Town shall have access to the funds to finish construction.

#### §4 Escrow Account

A cash contribution to the establishment of an escrow account shall be made by either a certified

## Article X, Sec. 4, cont.

check made out to the municipality, the direct deposit into a savings account, or the purchase of a certificate of deposit. For any account opened by the developer, the municipality shall be named as owner or co-owner, and the consent of the municipality shall be required for a withdrawal. Any interest earned on the escrow account shall be returned to the developer unless the municipality has found it necessary to draw on the account, in which case the interest earned shall be proportionately divided between the amount returned to the developer and the amount withdrawn to complete the required improvements.

## §5 Performance Bond

A performance bond shall detail the conditions of the bond, the method for release of the bond or portions of the bond to the developer, and the procedures for collection by the municipality. The bond documents shall specifically reference the mobile home park for which approval is sought.

## §6 Letter of Credit

An irrevocable letter of credit from a bank or other lending institution shall indicate that funds have been set aside for the construction and completion of the mobile home park and may not be used for any other project or loan.

## §7 Phasing of Development

The Board may approve plans to develop a mobile home park in separate and distinct phases. This may be accomplished by limiting final approval to those lots abutting that section of the proposed mobile home park street which is covered by a performance guarantee. When development is phased, road construction shall commence from an existing public way and shall provide for adequate fire protection and provide and maintain an adequate cul-de-sac. Final approval of lots in subsequent phases shall be given only upon satisfactory completion of all requirements pertaining to previous phases.

## §8 Release of guarantee

Prior to the release of any part of the performance guarantee, the Board shall determine to its satisfaction, in part upon the report of the inspecting official and whatever other agencies and departments may be involved, that the proposed improvements meet or exceed the design and construction requirements for that portion of the improvements for which the release is requested.

## §9 Default

If, upon inspection, the inspecting official finds that any of the required improvements have not been constructed in accordance with the plans and specifications filed as part of the application, he shall so report in writing to the Code Enforcement Officer, the Municipal Officers, the Board, and the developer or builder. The Municipal Officers shall take any steps necessary to preserve the Town's right.

## ARTICLE XI – DEFINITIONS

### §1 Construction of Language

In general, all words and terms used in this Ordinance shall have their customary dictionary meanings. More specifically, certain words and terms shall be described below.

### §2 Relationship to Other Town Ordinances

Where there is a conflict between the language contained in this Ordinance and any other Town ordinances, the stricter language shall apply for purposes of this Ordinance.

### §3 Definitions

**Central Sewage System:** "central sewage system" means that a system is designed to collect sewage off two or more individual lots and convey it to another area where the sewage is disposed in a manor approved by the Division of Health Engineering. A central system may consist of more than one cluster in different areas of the park.

**Code Enforcement Officer:** A person appointed by the Selectmen of the Town of Warren, Maine to enforce this Ordinance. Reference to the Code Enforcement Officer may be construed to include Building Inspector, Plumbing Inspector, Electrical Inspector, and the like, where applicable.

**Comprehensive Plan:** Any part or element of the overall plan for development of the Town of Warren, Maine as defined in Title 30-A, M.R.S.A. §4301 and as the same may be amended from time to time.

**Driveway:** A private vehicular entrance from a road or right-of-way. The driveway itself shall not constitute the means of legal access along which frontage may be measured.

**Environmentally sensitive areas:** Wetlands, swamps, dune areas, wildlife habitat areas, prime agricultural areas, areas with steep slopes, areas with poorly drained soils if not on a public sewer, and flood plain areas (subject to a 100 year flood).

**Family:** One or more persons occupying a premise and living as a single housekeeping unit.

**Frontage:** The linear distance between the sidelines of a lot, measured along the line that borders upon whatever right-of-way serves as legal access to the lot. For the purposes of these regulations, the following ways shall constitute legal access to a lot along which frontage may be measured:

- A. A way accepted by or established as belonging to the Town of Warren, Maine, or the State of Maine, provided access is not specifically prohibited.
- B. A road way, whether dedicated to public ownership or not, as shown on an approved mobile home park plan; this road way must have been constructed before consideration for lot access.

**Hard surfaced:** A covering for roads and walkways comprising any hard material such as packed gravel, pea stone, asphalt, concrete, or paving blocks but not including sand, soil, clay, loam, or wood.

**Land Use Ordinance:** The Town of Warren, Maine Land Use Ordinance as adopted in March

## Article XI, cont.

1983 by the Town and its subsequent amendments.

**Lot Area:** The total horizontal area within the lot lines.

**Lot Coverage:** The total horizontal area within the lot lines.

**Lot Width:** The distance between the side boundaries of the lot measured at the front setback line.

**Manufactured Housing Unit:** A structural unit or units designed for occupancy and constructed in a manufacturing facility and transported, by the use of its own chassis or an independent chassis, to a building site. The term includes any type of building which is constructed at a manufacturing facility and transported to a building site where it is used for housing and may be purchased or sold by a dealer in the interim. For the purposes of this section, two types of manufactured housing are included. These two types are:

- A. Those units constructed after June 15, 1976, commonly called "newer mobile homes," which the manufacturer certifies are constructed in compliance with the United States Department of Housing and Urban Development standards, meaning structures transportable in one or more sections, which in the traveling mode are 14 body feet or more in width and are 750 or more square feet, and which are built on a permanent chassis and designed to be used as dwellings, with or without permanent foundations, when connected to the required utilities including the plumbing, heating, air conditioning or electrical systems contained in the unit; this term also includes any structure which meets all the requirements of this subparagraph, except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the Secretary of the United States Department of Housing and Urban Development and complies with the standards established under the National Manufactured Housing Construction and Safety Standards Act of 1974, United States Code, Title 42, Section 5401, et seq.; and
- B. Those units commonly called "modular homes," which the manufacturer certifies are constructed in compliance with Title 10, Chapter 957, and rules adopted under that chapter, meaning structures, transportable in one or more sections, which are not constructed on a permanent chassis and are designed to be used as dwellings on foundations when connected to the required utilities including the plumbing, heating, air conditioning or electrical systems contained in the unit.

**Mobile Home Park Lot:** The area of land on which an individual home is situated within a mobile home park and which is reserved for use by the occupants of that home. The Planning Board may require a lot to be designated on a mobile home park plan.

**Mobile Home Park:** A parcel of land under unified ownership approved by the Planning Board designed and/or used to accommodate three or more manufactured housing units.

**Mobile Home Subdivision or Development:** A parcel of land approved by the Planning Board designed and/or used to accommodate three or more manufactured housing units on individually owned lots.

**M.R.S.A.:** The abbreviation for *Maine Revised Statutes, Annotated*, the definitive source for all state statutes as published and updated by the State of Maine.

**Normal High Water Mark of Inland Waters:** That line of the shores and banks of non-tidal water which is apparent because of the different character of the soil or the vegetation due to the prolonged action of the water. Relative to vegetation, it is that line where the vegetation changes from predominantly aquatic to predominantly terrestrial (by way of illustration, aquatic



Article XI, cont.

vegetation includes but is not limited to the following plant and plant groups: water lily, pond lily, pickerelweed, cattail, wild rice, sedges, rushes, and marsh grasses, and terrestrial vegetation included but is not limited to the following plants and plant groups, Upland grasses, aster, lady slipper, wintergreen, patridgeberry, sarsaparilla, pines, cedars, oaks, ash, alders, elms, and maples). In places where the shore or bank is of such character that the high water mark shall be estimated from places where it can be determined by the above method.

**Planning Board:** The Planning Board of the Town of Warren, Maine as created by 30, M.R.S.A. 4952. The Planning Board shall be responsible for administration of this ordinance.

**Road:** Public and private ways such as alleys, avenues, boulevards, highways, roads, streets, lanes and other rights-of-way, as well as areas on mobile home park plans designated as rights-of-way.

**Road Commissioner:** The elected officer of the Town of Warren, Maine in charge of the roads of said Town.

**Selectmen:** The primary elected officers of the Town of Warren, Maine.

**Setback:** The horizontal distance from a lot line to the nearest part of a structure.

**Setback from Water:** The horizontal distance from the normal high water mark to the nearest part of a structure.

**Subdivision Ordinance:** The Town of Warren, Maine Subdivision Ordinance as adopted August 1989 by the Town and its subsequent amendments.

§: A symbol used by legislating bodies or entities meaning "section."

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# Town of Warren



# Model Housing Code

Adopted March 16, 1970

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169 nay



# **Model Housing Code**

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## **Model Housing Code**

### **CHAPTER 733**

#### **Housing Code**

An ordinance establishing minimum standards governing the condition and maintenance of dwellings; establishing minimum standards governing supplied utilities and facilities and other physical things and conditions essential to make dwellings safe, sanitary, and fit for human habitation; establishing minimum standards governing the condition of dwellings offered for rent; fixing certain responsibilities and duties of owners and occupants of dwellings; authorizing the inspection of dwellings, condemnation of dwellings unfit for human habitation; and fixing penalties for violation.

Whereas, in the Municipality of Warren, there are, or may in the future be, dwelling structures which are so dilapidated, unsafe, dangerous, unhygienic, or insanitary as to constitute a menace to the health and safety of the people of this Municipality.

#### **General Provisions**

**Sec. 1. Scope:** This ordinance shall apply to residential premises as follows:

- I. Lots, plots, or parcels of land on which residential buildings, buildings of mixed occupancy or accessory structures are located;
- II. Residential buildings, including one and two-family dwellings, multiple dwellings, and rooming or boarding houses;

**Sec. 2. Severability:** The provisions of this ordinance shall be severable, and if any phrase, clause, sentence or provision of this ordinance, or the application thereof, to any person or circumstance is held invalid, the remainder of the ordinance and the application thereof to any other persons or circumstances shall not be affected thereby.

**Sec. 3. Definitions:** The listed terms as used in this chapter are defined as follows, unless a different meaning is plainly required by context.

- I. **Basement.** That portion of a building located partly or entirely underground but having less than half its clear floor to ceiling height below the average grade of the adjoining ground.
- II. **Cellar.** That portion of a building located partly or entirely underground but having half or more than half its clear floor to ceiling height below the average grade of the adjoining ground.
- III. **Dwelling.** Any building which is wholly or partly used or intended to be used for living or sleeping by human occupants.
- IV. **Dwelling Unit.** Any room or group of rooms located within a dwelling and forming a single habitable unit with facilities which are used or intended to be used for living, sleeping, cooking and eating.
- V. **Family.** A household constituting a single housekeeping unit occupied by one or more persons.
- VI. **Finished Grade.** Natural surface of the ground, or surface of ground after completion of any change in contour.

- VII. Habitable Space. Space occupied by one or more persons living, sleeping, eating, or cooking. Kitchenette shall not be deemed to be habitable space.
- VIII. Immediately Family. Immediate family shall mean mother, father, sister, brother, and children of the owner or occupant and spouse.
- IX. Kitchen. Space, 60 square feet or more in floor area, used for cooking or preparation of food.
- X. Kitchenette. Space, less than 60 square feet in floor area, used for cooking or preparation of food.
- XI. Mixed Occupancy. Occupancy of a building in part residential use, in part some other use not accessory thereto.
- XII. Multiple Dwelling. Any dwelling containing more than two dwelling units.
- XIII. Premises. A lot, plot, or parcel of land including the buildings or structures thereon.
- XIV. Public Space. That space used in common by the occupants of several units within a dwelling or rooming house and by the public.
- XV. Rooming House. Any dwelling, or part of any dwelling, containing one or more rooming units, in which space, is let by the owner or operator to four or more persons who are not members of his immediate family.
- XVI. Rooming Unit. Any room or group of rooms forming a single habitable unit used or intended to be used for living and sleeping, but not for cooking or eating purposes.
- XVII. Stairways. One or more flights of stairs and the necessary landings and platforms connected therewith to form a continuous passage from one floor to another.
- XVIII. Story. Portion of a building, which is between one floor level and the next higher floor level or the roof. If a mezzanine floor area exceeds one-third of the area of the floor immediately below, it shall be deemed to be a story. A basement shall be deemed to be a story only when its ceiling is six or more feet above the finished grade.
- XIX. Toilet Room. Enclosed space containing one or more water closets, which may also contain one or more lavatories, and other plumbing fixtures.

## **Space and Occupancy Requirements**

### **Sec. 4. Occupancy Requirements.**

- I. Dwelling units. Occupants shall be limited to the number determined on the basis of the floor areas of habitable rooms as follows:  
One occupant per room having floor area of at least 80 but less than 120 square feet;  
two occupants per room having floor area of at least 120, but less than 180 square feet;  
and three occupants per room having floor area of 180 or more square feet.
- II. Rooming Units. The number of occupants shall be limited to the number determined on the same basis as for dwelling units.
- III. Notice of Permitted Occupancy to be Posted. Notice shall be posted in each unit offered for rent stating the maximum number of occupants allowed under this ordinance.

### **Sec. 5. Prohibited Uses.**

- I. Sleeping. No kitchen, nonhabitable space, or public space shall be used for sleeping purposes.
- II. Preparing Meals. Meals shall not be prepared in any room other than a kitchen or kitchenette.
- III. Cellars. Cellar space shall not be used as habitable space.

- IV. Basements. No basement space shall be used as a habitable space unit unless the floors and walls are free from chronic dampness and protected from surface runoff.

## **Sec. 6. Habitable Space Requirements.**

- I. Minimum Ceiling Height. Fifty percent of the floor area shall have a minimum ceiling height of 7 feet 6 inches, and any floor area where the ceiling height is less than 5 feet shall not be considered in computing floor area.
- II. Rooms – Minimum Size. Every dwelling unit shall contain at least one habitable room having a minimum of 150 square feet of floor area with no horizontal dimension of less than 10 feet. Every other habitable space, except kitchens, shall contain not less than 80 square feet of floor area and shall have no horizontal dimension of less than seven feet.
- III. Alcoves to be part of Habitable Rooms. Every alcove having less than 60 square feet in area, except a kitchenette or foyer, shall be deemed to be part of an adjacent room. The area of the opening in the dividing partition between the alcove and the room shall be at least 80 % of the wall area of such partition, measured on the alcove side but in no case less than 40 square feet. The floor area of the alcove shall be added to the floor area of the room in determining light and ventilation requirements for the room. Any alcove with an area of more than 60 square feet shall be separately lighted and ventilated as required for habitable space.
- IV. Light and Ventilation.
  - A. Habitable space shall be provided with natural light through one or more windows, skylights, transparent or translucent panels, or any combinations thereof that open directly to the outdoors, at least six inches above the adjoining finished grade, or are above a roof. The amount of light shall be equivalent to that transmitted through clear glass equal in area to at least 10% of the floor area of the room.
  - B. Every room shall be provided with artificial light.
  - C. Every habitable room shall be provided with natural ventilation through windows or other openings in exterior walls that face directly out-of-doors above the adjoining finished grade or above a roof, or through skylights, providing total clear ventilation area that is equal to not less than 5% of the total floor area of each habitable space.
  - D. Habitable rooms may also be provided with mechanical ventilation, but this may not be substituted for natural ventilation.
- V. Miscellaneous Requirements.
  - A. Rooming units shall be separated from each other and from other spaces outside the rooming units.
  - B. A communal kitchen or dining room in a rooming house shall be accessible to the occupants sharing such kitchen or dining room without going through a dwelling unit or rooming unit of another occupant.

## **Sec. 7. Public Space.**

- I. Height. Public space shall have a minimum height of seven feet six inches measured from finished floor to finished ceiling.
- II. Light and Ventilation.
  - A. Public spaces shall be provided with electric lighting.
  - B. In public stairs, stairways, and passageways, electric lighting shall be available at all times so as to afford safe visible passage for occupants and users. Such lighting shall conform to the following requirements:



1. A sufficient number of fixtures shall be provided so that the distance between fixtures is not more than 30 feet, and so that no wall is more than 15 feet distant from a fixture.
  2. Incandescent lighting shall be based on not less than  $\frac{1}{4}$  watt per square foot of floor area, except that no fixture shall have lamp with less than 25 watts.
  3. Florescent lighting shall be based on not less than  $\frac{1}{10^{\text{th}}}$  watt per square foot of floor area, except that no fixture shall have a lamp with less than 15 watts.
  4. Where under these formulas the calculated wattage does not correspond to that of a standard lamp the next larger standard size shall be used.
- C. Public spaces shall be provided with either natural ventilation, conforming to the requirements for habitable space, or with mechanical ventilation.

## **Sec. 8. Accessory Rooms.**

### **I. Toilet Rooms and Bathrooms.**

- A. Toilet rooms and bathrooms in one and two-family dwelling shall have provisions for privacy.
- B. Toilet rooms and bathrooms for dwelling units in multiple dwellings shall be located within each dwelling unit and shall be accessible from any sleeping room without passing through any other sleeping room.
- C. In one and two family dwelling, bathrooms and toilet rooms shall be provided with floors of moisture-resistant material.
- D. In multiple dwellings, floors of bathrooms, toilet rooms and similar spaces shall be waterproof; such waterproofing shall extend six inches or more up on adjacent walls except at doors, so that floors can be flushed or washed without leaking.

### **II. Lighting and Ventilation**

- A. Kitchenettes, bathrooms, and toilet rooms shall be provided with artificial light appropriate for the use of such rooms.
- B. Laundry rooms, furnace rooms, and similar spaces shall be provided with artificial light appropriate for the intended use of such rooms.
- C. Kitchenettes shall be provided with ventilation in accordance with either of the following:
  1. Natural ventilation as required for habitable space, except that such openable areas shall be not less than 3 square feet.
  2. Mechanical ventilation exhausting not less than 100 cfm.
- D. Bathrooms and toilet rooms shall be provided with ventilation in accordance with either of the following:
  1. Natural ventilation as required for habitable space, except that such openable areas shall not be less than  $1\frac{1}{2}$  square feet.
  2. Mechanical ventilation exhausting not less than 25 cfm.
- E. Spaces in multiple dwellings, which contain central heating, air conditioning and similar equipment, shall be ventilated to the outer air, and air from these spaces shall not be recirculated to other parts of the building.
- F. Natural ventilation shall be provided in unheated attics, spaces below flat roofs, and crawl spaces. Ventilation location and not areas of openings shall be such as to minimize deterioration form condensation or other causes, in conformity with generally accepted standards.

**Sec. 9. Access and Vertical Travel between Stories.**

- I. Stairs. Stairs, both interior and exterior to serve the occupants shall be of sufficient width and in conformity with generally accepted standards.
- II. Railings. Hand railings shall be provided on all portions of stairs, balconies, landings, and stairwells.

**Sec. 10. Exits.**

- I. Exits Shall Be Unobstructed. Safe, continuous and unobstructed exits shall be provided from the interior of the building to the exterior at street or grade level. In multiple dwellings such exits shall open out.
- II. Construction and Arrangement. Exits shall be arranged, constructed and proportioned so that occupants may safely escape from the building in case of emergency.
- III. Exits in One and Two-Family Dwellings. In one and two-family dwellings there shall be two grade level exits for each unit, and only one such exit may be for joint use.
- IV. Exits in Multiple Dwellings. In multiple dwellings two exits shall be provide on each story.

**Structural Requirements for Residential Premises****Sec. 11. General Requirements.**

- I. Loads. Buildings and parts thereof shall be maintained so as to be capable of sustaining safely their own weight and the loads to which they may be subject.
- II. Loads Transmitted to Soil. Buildings shall be maintained so that loads are transmitted to the soil without undue differential settlement, unsafe deformation or movement of the building or any structural part.
- III. Protection of Structural Members. All structural members shall be protected against freezing and thawing, dampness, corrosion, wetting and drying, termites and other destructive insects, and all similar causes of deterioration.
- V. Basements and Cellars to be Kept Dry. Buildings built in soil which is water bearing at any season of the year shall be maintained so that ground and surface water will not penetrate into habitable spaces, basements and cellars.

**Sec. 12. Exterior Protection.**

- I. Foundation Walls. Foundation walls shall be maintained so as to be structurally sound and to prevent entrance of moisture, termites and vermin by shoring where necessary, installing subsoil drains at footings, grouting of masonry cracks, waterproofing of walls and joists, or other suitable means.
- II. Exterior Walls. Exterior wall components shall be maintained so as to prevent deterioration due to the elements and destructive insects by painting, installing or repairing termite shields, by poison treatment of soil, or other suitable means.
- III. Roofs. Roofing shall be maintained in watertight condition so as to prevent leakage into the building by repairs to roofing, flashings, waterproof coatings, or other suitable means.

**Sec. 13. Interior Protection.**

- I. Subterranean Crawl Space. Crawl spaces shall be maintained free of moisture and the flow of air from such spaces into walls above shall be effectively barred so as to prevent deterioration of structural members or spread of fire. Foundation walls shall have openings to provide adequate circulation of air in any subterranean crawl space. The ground in the crawl space shall be covered with a moisture barrier if the crawl space is below surrounding grade. Openings shall be blocked in stud walls to prevent flow of air and moisture into walls. Termite tubes from the soil to wood floor members above shall be kept destroyed. The soil shall be poison treated when necessary.
- II. Structural Members. Structural members shall be maintained so as to be structurally sound by shoring, reinforcement or repair when necessary, destruction of termite tubes, and other appropriate maintenance.
- III. Chimneys and Flues. Chimneys and flues shall be maintained so as to be structurally sound and to prevent leakage of gases into the structure. Flue stoppages shall be cleared, open joints sealed, masonry repaired where necessary.

**Equipment Requirements****Sec. 14. General Requirements – Equipment.**

- I. Plumbing, heating, electrical, ventilating, air conditioning, refrigerating, cooking, radiation producing equipment, elevators, dumbwaiters, escalators and other mechanical additions, installations, or systems for the use of the building shall be installed, located and maintained so that under normal conditions of use such equipment and systems will not be a danger because of structural defects, or a source of ignition or a radiation hazard, and will not create excessive noise, or otherwise become a nuisance. Equipment and systems include but are not limited to apparatus, devices, fixtures, piping, pipe hangers, pipe covering, wiring, fittings, and materials used as part of, or in connection with such installations.
- II. Equipment and systems subject to damage from freezing shall be adequately protected against freezing.
- III. Moving parts of equipment, which may be a potential hazard shall be safeguarded to protect against accidental physical contact.

**Sec. 15. Plumbing.**

- I. General. All plumbing and sewage disposal shall be in strict conformance with the State Plumbing Code and local plumbing code.
- II. Storm Drainage. Roofs and paved areas, including yards and courts shall be drained in the method as provided for in the applicable plumbing code.
- III. Sanitary Fixtures. There shall be provided within each dwelling unit not less than one water closet, one bathtub or shower, one lavatory, and one kitchen sink, all of approved type with piped cold water to all fixtures and piped hot water to all fixtures but the water closet.

**Sec. 16. Fuel Gas.**

- I. General Requirements
  - A. Fuel gas piping systems shall be installed and maintained so as to remain gas-tight, safe, and operative under all conditions of use.

- B. Fuel gas piping systems shall provide a supply of gas sufficient to meet the maximum expected demand of the installed gas burning appliances connected thereto.

II. Shutoff Valves.

- A. Gas piping systems shall have at least one accessible means for shutting off all gas supply and such means shall be maintained in good operating condition.
- B. An easily accessible shutoff valve or cock shall be provided in the piping in close proximity to, and ahead of every outlet for gas appliances.

III. Gas Refrigerators and Ranges. Gas refrigerators and ranges shall be installed with clearance for ventilation, and shall be maintained in good operating condition.

IV. Liquefied Petroleum Gas.

- A. Undiluted liquefied petroleum gas in liquid form shall not be conveyed through piping equipment and systems in buildings.
- B. Liquefied petroleum gas shall not be vaporized by devices utilizing open flame or open electrical coil.
- C. Where two or more containers are installed, connection shall be arranged so that containers can be replaced without shutting off the flow of gas to the equipment.
- D. Containers shall be designed, stored, and located so as not to be a hazard to the premises served, or to the surrounding property.
- E. Systems shall be provided with safety devices to relieve excessive pressures, and shall be arranged so that the discharge terminates at a safe location.
- F. Systems shall have at least one accessible external means for shutting off the gas. Such means shall be located outside the building, and shall be maintained in good operating condition.

## **Sec. 17. Heating.**

- I. General Requirements. Residential buildings intended for year-round occupancy shall be provided with heating equipment designed to maintain a temperature of not less than 75 degrees F. at a distance of three feet and more from exterior walls, and at a level of five feet above the floor, in habitable spaces, kitchenettes, bathrooms, and toilet rooms. The capability of the heating equipment to maintain such indoor temperature shall be based on outside temperatures of -20 degrees F.
- II. Smoke Control. Fuel-burning heat-producing equipment shall be installed and maintained so that the emission or discharge into the atmosphere of smoke, dust particles, odors or other products of combustion will not create a nuisance or be detrimental to the health, comfort, safety, or property of any person.
- III. Warm Air Heating. Ducts and other air handling equipment used for heating shall conform to the requirements of such equipment used for ventilating purposes.
- IV. Prohibited Locations for Heat-Producing Equipment. Fuel-burning water heaters shall not be located in sleeping rooms, bathrooms, or toilet rooms.
- V. Fuel Supply Connection. Heat-producing fuel-burning shall be permanently fastened and connected in place. Any liquid fuel supply connected to such equipment shall be made with pipe or tubing of solid material.
- VI. Installation and Clearance. Where heat-producing equipment is installed on, or adjacent to, combustible materials, the location, insulation, clearance, and the control of the equipment shall be such that the temperature on the surface of the combustible materials will not exceed a safe temperature.



**VII. Air Supply.**

- A. Direct-fired heat-producing equipment and the enclosure in which it is located shall be provided with a supply of air adequate both for complete combustion at the rated gross output of the equipment and for the ventilation of the enclosure to prevent the accumulation of heat or gasses.
- B. Rooms containing fuel-burning equipment shall have such air supply provided by means of one or more openings to the exterior.

**VIII. Removal of Products of Combustion.**

- A. Equipment for burning solid or liquid fuels shall be connected to suitable chimneys or flues and shall not be connected to gas vents. Unvented heaters burning liquid fuels are prohibited.
- B. Fuel-burning space heaters shall be connected to a suitable chimney or flue.
- C. Gas-fired equipment shall be connected to a suitable chimney, flue or gas vent.

**IX. Safety Devices.**

- A. Equipment capable of developing hazardous pressures or temperatures shall be provided with means to relieve safely such pressures and temperatures.
- B. Controls for the safe operation of automatically operated heat producing equipment shall be provided to function as follows:
  - 1. When failure or interruption of flame or ignition occurs the fuel supply shall be cut off.
  - 2. When a predetermined temperature or pressure is exceeded, the input of additional heat shall be prevented or reduced to a safe rate.
  - 3. When the water in a steam boiler drops below a predetermined level, the fuel supply shall be cut off.
  - 4. When failure or interruption of pilot light or main burner of liquefied petroleum gas equipment occurs, the fuel supply to each pilot light and main burner shall be cut off.

- X. Heating of Garages. Fuel-burning equipment for garages shall be installed to operate in a safe manner.

**Sec. 18. Electrical.** All buildings used for residential purposes shall be wired for electricity in conformity with the electrical code.

**Sec. 19. Cooking and Refrigeration.**

- I. Each dwelling unit shall be provided with appropriate cooking and refrigeration equipment.
- II. Cooking and refrigeration equipment shall be maintained in good operating condition.
- III. Fuel-burning cooking equipment shall be appropriately vented.

**Sec. 20. Fuel Oil.**

- I. General Requirements. Fuel oil shall be received, stored and conveyed by means of fixed liquid-tight equipment.
- II. Storage Tanks.
  - A. Tanks shall be provided with means for venting.
  - B. Tanks shall be installed and maintained so as not to be a hazard to the premises served or the surrounding property.
- III. Automatically Operated.
  - A. Boilers and furnaces using fuel oil shall be provided with remote control to stop the flow of oil during fire or other emergency.

- B. Filling, emptying and venting of tanks shall be by means of fixed piping. Pipes to underground tanks shall be pitched toward tanks. Terminals of fill and vent pipes shall be located outside buildings at a safe distance from building openings.

## **Fire Safety Requirements**

**Sec. 21. Prohibited Accumulations and Storage.** No paints, volatile oils, cleaning fluids, or similar flammable or explosive matter, and no waste paper, boxes, rags, or similar matter liable to spontaneous combustion shall be stored on residential premises except in a safe and well ventilated location.

Note: R.S., C. 97, Sec. 49 -- Storage of any matter on fire escape prohibited.

**Sec. 22. Prevention of Spread of Fire.**

- I. Walls and ceilings shall be free from cracks.  
Walls and ceilings shall be maintained free from cracks and openings, which would permit flames or excessive heat to enter the concealed space.
- II. Buildings of Mixed Occupancy - Fire Separations.  
In buildings of mixed occupancy, nonresidential space shall be separated from residential space by approved separations, which will retard the spread of fire.

**Sec. 23. Interior Finisher.** - Trim and Decorative Materials. Interior finish materials for acoustical correction, surface insulation and decorative treatment on the surfaces of walls and ceilings, and interior trim shall be materials that will not, in burning, give off excessive amounts of smoke or toxic gasses.

**Sec. 24. Fireplaces.**

- I. Connection to Chimneys. Fireplaces and similar construction used or intended to be used, for burning fuel in open fires shall be connected to approved chimneys and shall be installed so that nearby or adjacent combustible material and structural members shall not be heated to unsafe temperatures.
- II. Hearths and Linings. Hearths and linings or other parts of fireplaces shall be of materials that will not melt, disintegrate, or shatter when exposed to direct flame.
- III. Wood Mantels and Trim. Wood mantles and trim on fireplaces shall be placed and attached so that they cannot be heated to unsafe temperatures or ignited by sparks or embers from the fire.

**Sec. 25. Portable Extinguishers Required in Multiple Dwellings.** Each oil burner for boiler, furnace, or central hot water heater shall be provided with an approved hand fire extinguisher or two pails of at least 10-quart capacity filled with sand. Portable extinguishers shall be in accessible locations and in a condition, which will permit efficient operation without delay.

## **Property Maintenance Requirements**

**Sec. 26. Open Areas.**

- I. Surface and Subsurface Drainings. Surface and subsurface water shall be drained to protect

buildings and structures and to prevent development of stagnant ponds. Cutters, culverts, catch basins, drain inlets, storm water sewers, approved combination storm and sanitary sewers, or other satisfactory drainage systems shall be used where deemed necessary.

- II. Fences. Fences and other minor structures shall be maintained in safe and substantial condition.
- III. Paved Areas. Steps, walks, driveways, parking spaces, and similar paved areas shall be maintained so as to afford safe passage under normal use and weather conditions.
- IV. Yards and Courts. Yards and courts shall be kept clean and free of physical hazards, and the accumulation of debris and trash.
- V. Noxious Undergrowth. Heavy undergrowths and accumulations of plant growth which are noxious or detrimental to health shall be eliminated.

## **Sec. 27. Buildings and Structures.**

- I. Exterior Wood Surfaces. Exterior wood surfaces of buildings and structures that are not inherently resistant to deterioration shall be periodically treated with a protective coating of paint or other suitable preservative.
- II. Floors, Walls, Ceilings, Etc. Floors, walls, ceilings, furnishings and fixtures of residential buildings shall be maintained in clean and sanitary condition.
- III. Accessory Structures. Accessory structures shall be maintained so as to be free of conditions detrimental to safety and/or health.

## **Sec. 28. Infestation and Screening.**

- I. Grounds, Buildings and Structures. Grounds buildings, and structures shall be maintained free of insect, vermin, and rodent harborage and other infestation. Methods used for exterminating insects, vermin, and rodents shall conform with generally accepted practices.
- II. Cellar and Basement Windows and Openings to be Screened. Windows and other openings in basement and cellars shall be appropriately screened with wire mesh or other suitable materials to prevent ingress of insects, rodents and other vermin.
- III. Windows and Doors to be Screened during Certain Months. From May 1 to October 1, entrances to residential buildings shall be provided with self-closing type screens and windows and other openings used for ventilation shall be appropriately screened.

## **Sec. 29. Garbage and Refuse**

- I. Storage, Handling and Disposal. Adequate sanitary facilities and methods shall be used for the collection, storage, handling and disposal of garbage and refuse.
- II. Storing Refuse in Public Halls Prohibited. In multiple dwellings garbage and refuse shall not be stored or allowed to accumulate in public halls and stairways.

## **Compliance**

## **Sec. 30. Responsibility of Owners**

- I. Owners of premises shall be responsible for compliance with this ordinance, and shall remain responsible therefore regardless of the fact that this section may also place certain responsibilities on operators and occupants and regardless of any agreements between owners and operators or occupants as to which party shall assume such responsibility.

- II. Owners of premises shall be responsible for proper maintenance, condition and operation of service facilities.

**Sec. 31. Responsibilities of Rooming House Operators.** Rooming house operators shall be responsible for compliance with this ordinance in regard to the following:

- I. Limiting occupancy to the maximum permitted by this ordinance;
- II. Maintenance of safe and sanitary conditions in all parts of rooming house premises;
- III. Maintenance and operation of all required service facilities;
- IV. Maintenance of all plumbing, cooking and refrigeration fixtures and appliances within his control, as well as other building equipment and facilities, in an operative, clean, and sanitary condition;
- V. Sanitary maintenance of walls, floors, and ceilings;
- VI. Keeping exits clear and unencumbered;
- VII. Disposal of building garbage and refuse in a clean and sanitary manner;
- VIII. Extermination of insects, rodents, or other pests on the premises;
- IX. Hanging and removing required screens.

**Sec. 32. Responsibilities of Occupants.** Occupants of dwelling units shall be responsible for compliance with this ordinance in regard to the following:

- I. Limiting occupancy of that part of the premises which he occupies or controls to the maximum permitted by this ordinance.
- II. Maintenance of that part of the premises, which he occupies or controls in a clean, sanitary and safe condition.
- III. Maintenance of all plumbing, cooking, and refrigeration fixtures and appliances, as well as other building equipment and storage facilities in that part of the premises which he occupies or controls, in a clean and sanitary condition, and providing reasonable care in the operation and use thereof.
- IV. Keeping exits from his dwelling unit clear and unencumbered.
- V. Disposal of garbage and refuse into provided facilities in a clean and sanitary manner.
- VI. Extermination of insects, rodents, or other pests within his dwelling unit.
- VII. Hanging and removing required screens.
- VIII. Keeping his domestic animals and pets in an appropriate manner and under control.

## **Administration**

**Sec. 33. Building Coordinator.** This ordinance shall be administered by the Building Coordinator.

- I. **Adopted Rules and Regulations.** The Building Coordinator is hereby authorized to adopt rules and regulations necessary for securing the compliance with this ordinance, providing that such rules and regulations shall not be in conflict with any provision of this ordinance. A certified copy of all such rules and regulations shall be filed with the municipal clerk.
- II. **Cooperation.** The Building Coordinator shall cooperate with other municipal governmental, and private agencies engaged in the study and improvement of housing condition.

**Sec. 34. Inspection.**

- I. **Conduct Surveys.** The Building Coordinator is hereby authorized to conduct surveys of housing in any area of the municipality to determine the condition of premises, extent of



- deterioration, lack of facilities, inadequate maintenance, unsafe and insanitary condition, extent of overcrowding, land use, and other relevant factors.
- II. Periodic Examinations. Periodic examinations shall be made not less than once every five years of all premises within the scope of this ordinance.
  - III. Investigate Complaints. The Building Coordinator shall investigate all complaints of alleged housing violations.
  - IV. Right of Entry. The Building Coordinator, in the performance of his duties, shall have the right to enter any premises at reasonable hours for the purpose of making the examinations required by this ordinance.
  - V. Owners and Occupants to Give Free Access. Owners, agents, operators, and occupants shall provide access to all parts of the premises within their control to the Building Coordinator while acting in the performance of duties.

### **Sec. 35. Enforcement.**

- I. Orders. The Building Coordinator shall issue an order in writing requiring the remedying of all conditions found to exist in or on any premises in violation of provisions of this ordinance or of rules and regulations adopted thereunder. The order shall state a reasonable time for compliance.
- II. Dwellings to be Posted. Where violations of this ordinance exist and pose an immediate hazard or danger to the health, safety or welfare of building occupants or of the public, the Building Coordinator may declare the premises unfit for human habitation and order the evacuation of all occupants. The premises shall be posted with notices of such order prominently displayed at every entrance.
- III. Removal of Notice Prohibited. It shall be unlawful to deface or remove the placard from any premises, which have been condemned as unfit for human habitation and posted as such.
- IV. Posted Premises Not To Be Used for Human Habitation. No premises, which have been condemned and posted as unfit for human habitation shall again be used for human habitation until written approval is secured from, and, such notice is removed, by the Building Coordinator, the Building Coordinator shall remove such notice whenever the defect or defects upon which the condemnation order was based have been eliminated.

**Sec. 36. Violations.** Any person found guilty of violating any provision of this ordinance shall be subject to a fine of not more than \$100 for each offense. Each day in which a violation is proved to exist shall constitute a separate offense under this section.

ATTN TED EZELL

TOWN OF WARREN ORDINANCE  
RESTRICTING VEHICLE WEIGHT ON POSTED WAYS

Section 1. Purpose and Authority

The purpose of this ordinance is to prevent damage to town ways and bridges in the Town of Warren which may be caused by vehicles of excessive weight, to lessen safety hazards and the risk of injury to the traveling public, to extend the life expectancy of town ways and bridges, and to reduce the public expense of their maintenance and repair.

This ordinance is adopted pursuant to 30-A M.R.S.A. Section 3009 and 29-A M.R.S.A. Section 2388 and 2395.

Section 2. Definitions

The definitions contained in Title 29-A M.R.S.A. shall govern the construction of words contained in this ordinance. Any words not defined therein shall be given their common and ordinary meaning.

Section 3. Restrictions and Notices

The Municipal Officers or designated representative may, either permanently or ~~seasonally~~, impose such restrictions on the gross registered vehicle weight of vehicles as may, in their judgment, be necessary to protect the traveling public and prevent abuse of the highways, and designate the town ways and bridges to which the restrictions shall apply.

Whenever notice has been posted as provided herein, no person may thereafter operate any vehicle with a gross registered weight in excess of the restriction during any applicable time period on any way or bridge so posted unless otherwise exempt as provided herein. NO RESTRICTION IF ROAD IS SOLIDLY FROZEN FOR TEMPORARY POSTINGS IF SO NOTED ON THE POSTING, SEE NOTE 1 BELOW.\*\*

\*\* NOTE 1: "Solidly Frozen" means that the air temperature is below 32 F and no water is showing in the cracks of the road.

The notice shall contain, at a minimum, the following information: the name of the way or bridge, the gross registered weight limit, the time period during which the restriction applies, the date on which the notice was posted, and the signatures of a majority of the municipal officers or designated representative.

The notice shall be conspicuously posted at each end of the restricted portion of the way or bridge in a location clearly visible from the travelway. Whenever a restriction expires or is lifted, the notices shall be removed wherever posted. Whenever a restriction is revised or extended, existing notices shall be removed and replaced with new notices.

No person may remove, obscure, or otherwise tamper with any notice so posted except as provided herein.

#### Section 4. Exemptions

The following vehicles are exempt from this ordinance:

- (a) any vehicle while delivering home heating fuel;
- (b) any vehicle while engaged in highway maintenance or repair under direction of the State or Town;
- (c) any emergency vehicle (such as firefighting apparatus or ambulances);
- (d) any school transportation vehicle;
- (e) any public utility vehicle while providing service or repairs; and
- (f) any vehicle whose owner or operator holds a valid permit from the municipal officers or designated appointee as provided herein.

#### Section 5. Permits

The owner or operator of any vehicle not otherwise exempt as provided herein may apply in writing to the municipal officers for a permit to operate on a posted way or bridge notwithstanding the restriction. The municipal officers or representative may issue a permit only upon all of the following findings:

- (a) no other route is reasonably available to the applicant;
- (b) it is a matter of economic necessity and not mere convenience that the applicant use the way or bridge; and
- (c) the applicant has tendered cash, a bond, or other suitable security running to the Town of Warren in an amount sufficient, in their judgment, to repair any damage to the way or bridge which may reasonably result from the applicant's use of same (if applicable).

Even if the municipal officers or designee make the foregoing findings, they need not issue a permit if they determine the applicant's use of the way or bridge could reasonably be expected to create or aggravate a safety hazard or cause substantial damage. They may also limit the number of permits issued or outstanding as may, in their judgment, be necessary to preserve or protect the highways.

In determining whether to issue a permit, the municipal officer shall consider the following factors:

- (a) the gross registered weight of the vehicle;
- (b) the current and anticipated condition of the way or bridge;
- (c) the number and frequency of vehicle trips proposed;
- (d) the cost and availability of materials and equipment for repairs;
- (e) the extent of use by other exempt vehicles; and
- (f) such other circumstances as may, in their judgment, be relevant.

The municipal officers or designee may issue permits subject to reasonable conditions, including but not limited to restrictions on the actual load weight and the number or frequency of vehicle trips, which shall be clearly noted on the permit.

#### Section 6. Administration and Enforcement

This ordinance shall be administered and may be enforced by the municipal officers or their duly authorized designee (such as road commissioner, code enforcement officer, or law enforcement officer).

#### Section 7. Penalties

Any violation of this ordinance shall be a civil infraction subject to a fine of not less than \$250.00 nor more than \$1000.00. Each violation shall be deemed a separate offense. In addition to any fine, the Town of Warren may seek restitution for the cost of repairs to any damaged way or bridge and reasonable attorney fees and costs.

Prosecution shall be in the name of the Town of Warren and shall be brought in the Maine District Court.



**Section 8. Amendments**

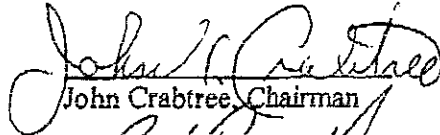
This ordinance may be amended by the municipal officers at any properly noticed meeting.

**Section 9. Severability; Effective Date**

In the event any portion of this ordinance is declared invalid by a court of competent jurisdiction, the remaining portions shall continue in full force and effect.

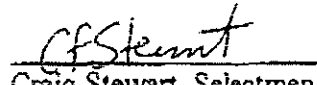
This ordinance shall take effect immediately upon enactment by the municipal officers at any properly noticed meeting.

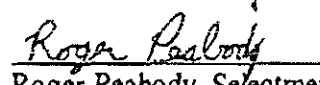
Given under our hands, this Restricting Vehicle Weight on Posted Roads Ordinance is enacted on the 3rd day of November in the year nineteen hundred ninety-nine.

  
John Crabtree, Chairman

  
Richard Parent Jr., Selectmen

  
Edmund LaFlamme, Selectmen

  
Craig Stewart, Selectmen

  
Roger Peabody, Selectmen

SITE PLAN REVIEW ORDINANCE  
TOWN OF WARREN, MAINE

I. Purpose

Substantial development or major changes in the uses of land cause a profound impact on the cost and efficiency of municipal services and on the environment of the Town. Such development can have impacts on schools, sewers, waterlines, and other public utilities; recreational facilities; liquid and solid waste disposal; fire protection; open space; road systems and circulation; traffic congestion; placement of buildings and structures; property values; water quality; the visual characteristics of the neighborhood and Town; and the general health, safety, and welfare of the community. It is the purpose of this section to minimize such impacts caused by development, and to accomplish the following objectives with the least possible regulation:

- a. To establish a fair and reasonable set of standards for evaluation each development proposal impartially on its own merits;
- b. To provide local protection from those particular nuisances which are not governed by State law or regulations;
- c. To suggest ways in which development proposals may be modified so that potential problems and nuisances would be minimized or prevented;
- d. To balance the right of land owners to use their land for the purposes stated in paragraph 1. b. above, with the corresponding right of abutting and neighboring land owners to live without undue disturbance from noise, smoke, fumes, dust, odor, glare, traffic, or storm water run-off, or the pollution of ground or surface water resources;
- e. To provide a Public Hearing process through which town residents may raise questions and receive answers about how new development proposals would affect them;
- f. To protect property values; and
- g. To reduce the off-site (external) problems created by development, thereby decreasing the cost of maintaining or improving municipal facilities.

II. Authority and Administration

- a. This Ordinance is adopted pursuant to the Home Rule Power of Article VIII, Part 2, of the Maine Constitution and 30-A M.R.S.A., Section 3001.
- b. The Warren Planning Board shall administer this Ordinance.

### III. Applicability

This section shall apply to:

- a. Proposals for new construction of non-residential buildings or structures and of multi-family dwellings, including accessory buildings and structures, having a total area for all floors of more than 1,500 square feet.
- b. Resumption of conforming and non-conforming uses which have been discontinued for at least one (1) year.
- c. Existing uses (conforming and non-conforming) which seek to expand by either 1,500 square feet within any five (5) year period, with regard to floor-space, parking area, seating capacity, or outdoor storage area, and the addition of weeks or months to a business's operating seasons which exceeds 20%.
- d. Existing uses (conforming and non-conforming) which seek to expand by the addition of hours to a work day which creates a negative impact on the surrounding area.
- e. New Proposal to pave, strip, grade, fill or remove earth materials from areas of more than 10,000 square feet within a five (5) year period.
- f. Any additional proposal of sufficient size and complexity and potential impact as to warrant review by the Planning Board.
- g. Existing pits and quarries whether approved or grandfathered shall require Planning Board review under the Site Plan Review Ordinance if any of the following apply:
  1. Existing permitted pits/quarries that are sold or there is a transfer of ownership or operation shall be subject to review before the anniversary date of the original Site Plan approval to determine that they are operating within the previous permitted use guidelines by Site Plan Review.
  2. A change of use as defined in the Land Use Ordinance.
  3. If the approved pit exceeds five (5) acres.
  4. There is a change of the reclamation plan.
  5. There is a change in business plan, which increases the activity in the pit or the number of yards removed by 25% (twenty-five) or more.
  6. Gravel pits shall be limited to a maximum of less than five (5) acres. The amount to be reclaimed shall be determined per the new Site Plan Review Ordinance before any additional contiguous area can be opened up or topsoil removed.

- h. Quarries, quarrying or quarry type activities shall be reviewed under this ordinance.

This section does not apply to single-family or two-family dwellings and/or accessory buildings, to home occupations, or to agricultural and forest land management practices. ALL other uses not excluded herein will require Site Review.

#### IV. Review Procedures

##### A. Informal preapplication procedure

1. All applicants must make a presentation to the Planning Board, presenting a sketch plan of the project.
2. Planning Board may offer suggestions toward the drafting of formal plans and review with the applicant the appropriate information required for the project.
3. The sketch plan should be drawn and the lot number and appropriate tax map should be indicated for reference.

##### B. Application Procedures

1. Within six (6) months of the preapplication conference, the applicant shall submit the following at a regular monthly meeting accompanied by an application fee. (Current fee schedule available at Town Office).
  - a. Seven (7) copies of a formal Site Plan Review application. Application forms are available at the Town Office.
  - b. Seven (7) copies of a map showing the following information and drawn to a scale of not more than 100 feet to the inch and not less than 40 feet to the inch on standard 24 Inch 36 inch paper.

Information provided on this drawing should include:

1. Name and address of applicant and development.
2. Scale and true north or magnetic indicator.
3. Total land area of the site.
4. Location of development on the site.



5. Location of watercourses, marshes or bedrock on the site.
  6. Existing soil conditions as described by either a soil scientist, geologist, engineer, or Soil Conservation Service medium intensity soil survey.
  7. Location of proposed public utilities, culverts, wells and leachfields.
  8. Location of fencing, screening or landscape work.
  9. Contour lines may be required and specified by the Planning Board showing elevations in relation to mean sea level.
  10. Municipal tax map and lot numbers and names of abutting landowners shown on map.
  11. The Planning board may also require an updated survey completed by a licensed Maine surveyor or engineer.
- c. Seven (7) copies of a site location map, showing the following information and drawn to a scale of not more than 100 feet and not less than 40 feet to the inch to fit on standard 24 inch x 36 inch paper.
1. Exact dimensions and acreage of parcel.
  2. Location of all buildings within 300 feet of the property boundaries.
  3. Location of all other structures, wells, sewer systems, water-bodies and easements, drainage ways, public and private water ways and roads within 300 feet of the boundary lines.
  4. The size, shape and location of existing and proposed buildings on the parcel.
  5. Location and dimensions of on-site pedestrian and vehicular access ways, parking areas, loading and unloading facilities, design of ingress and egress of vehicles to and from the site onto public streets, and curb and sidewalk lines.
2. The applicant shall attend a meeting of the Planning Board to discuss his application and all supporting data requested.
  3. Upon determining that a complete application has been submitted for review and appropriate fees have been paid, the Planning Board shall issue a dated receipt.

4. The Planning Board will hold a public hearing on all applications within 60 days of submitted application.
5. The Planning Board shall notify all landowners within 500 feet from applicant's property lines.
6. The Planning Board may solicit written comments from the road commissioner, fire chief, school superintendent and sanitary district and utilities on the impact of the proposed development on the services they provide.
7. Before the Planning board gives final approval, the applicant must meet one (1) of the performance guarantees contained in Section VII.
8. Sixty (60) days after submission of a completed application (dated receipt), the Board shall act to approve, approve with conditions, or disapprove the site plan application submitted or amended. The time limit for review may be extended by mutual agreement between the Planning Board and the applicant. In respect to all review criteria, the burden of proof rests with the applicant.

## V. Criteria and Standards

Before granting approval of any Site Plan Review application, the Planning Board shall consider the following criteria and shall determine that the proposed activity is in accordance with the provisions of this Ordinance.

### A. Air and Water Pollution

Will not result in undue water or air pollution either on or off the site. In making this determination, the Planning Board shall consider: the elevation of land above sea level and its relation to the flood plains, the nature of soils and sub-soils and their ability to adequately support waste disposal and the slope of the land and its effect on effluents. Adequate provision shall be made for surface drainage so that removal of surface water will not adversely affect neighboring properties. Has sufficient water available for reasonably foreseeable needs of the development including, but not limited to potable water and fire control water and will not, alone or in conjunction with other activities adversely affect the quality or quantity of the ground water. Will not cause an unreasonable burden on existing water supplies including private ground water.

DUST, FUMES, VAPORS AND GASES: emission of dust, dirt, fly ash, fumes, vapors or gases which could damage human health, animals, vegetation, or property, or which could soil or stain persons or property, at any point beyond the lot line of the commercial or industrial establishment creating that emission shall be prohibited. All such activities shall also comply with applicable Federal and State regulations.

ODOR: No land use or establishment shall be permitted to produce offensive or harmful odors perceptible beyond their lot lines, either at ground or habitable elevation.

B. Soil Erosion:

Will not cause unreasonable soil erosion or reduction in the capacity of the land to hold water so that a dangerous or unhealthy condition may result both on and off site. Until a disturbed area is stabilized, sediment in run-air water shall be trapped by the use of debris basins, sediment basins, silt traps, or other acceptable methods as determined by the Site Review Boards. The top of a cut or the bottom of a fill section shall not be closer than ten feet to an adjoining property, unless otherwise specified by the Planning Board. Extraction operations (sandpits, rock quarries, etc.) shall not be permitted within 60 feet of any property line, except as provided for in the Zoning Ordinance.

C. Traffic Congestion:

Will not cause unreasonable highway or public road congestion or unsafe conditions with respect to use of the highways or public roads existing or proposed both on and off site. The proposed site shall provide for safe entrances and exits.

D. Solid Waste and Sewage Waste Disposal:

The applicant shall provide for the disposal of all solid and liquid wastes on a timely basis and in an environmentally safe manner. No provisions shall be made for disposal of human medical waste including human body parts. The Review Board shall consider the impact of particular industrial or chemical wastes or by-products upon the town's Sanitary Landfill (in terms of volume, flammability or toxicity) and may require the applicant to dispose of such wastes elsewhere, in conformance with all applicable State and Federal regulations. The Board may require the applicant to specify the amount and exact nature of all industrial or chemical wastes to be generated by the proposed operation.

E. Scenic and Natural Beauty:

Will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites or rare and irreplaceable natural areas.

F. Comprehensive Plan and Ordinance:

Is in conformance with all Warren Ordinances, Comprehensive Plan and Land Use Plans of the Town of Warren.

G. 100 Year Flood Elevation:

All principal structures within the development, located within designated Flood Hazard Areas, shall be constructed with the lowest floor, including the basement, at least one (1) foot above the 100-year flood elevation.

H. Relationship of Structure to the Environment:

Proposed structures shall relate harmoniously to the land and existing buildings. Special attention shall be paid to the bulk, location and height of buildings. In historical areas, the Planning Board may require new construction to harmonize with surrounding properties to be designed so as not to be architecturally incompatible. Exposed storage areas, service areas, utility buildings and similar structures shall be screened. Industrial and commercial uses, exposed storage areas, utility buildings shall establish a buffer zone appropriate for the activity to screen visually the uses year round.

I. Glare:

No land use or establishment shall be permitted to produce a strong, dazzling light or reflection of that light beyond its lot lines onto neighboring properties, or onto any town way so as to impair the vision of the driver of any vehicle upon that town way. All such activities shall also comply with applicable Federal and State regulations.

- J. Excessive noise at unreasonable hours shall be required to be muffled so as not to be objectionable due to intermittence, beat frequency, shrillness, or volume (please refer to table below). The maximum permissible sound pressure level of any continuous, regular or frequent source of sound produced by any commercial or industrial activity regulated by this Ordinance shall be as established by the time period and type of land use listed below. Sound pressure levels shall be measured on a sound level meter at all major lot lines of the proposed site, at a height of at least four (4) feet above the ground surface. (Please see addendum to this Ordinance for explanation of these noise levels).

	<u>Sound Pressure Level Limit</u>	
	<u>7 a.m. –8 p.m.</u>	<u>8 p.m. –7 a.m.</u>
Residential	50 dB(A)	45 dB(A)
Rural	55 dB(A)	45 dB(A)
Commercial	65 dB(A)	55 dB(A)
Industrial	70 dB(A)	60 dB(A)

The following uses and activities shall be exempt from the sound pressure level regulations: temporary noises created by construction, timbering or agriculture.



#### K. Performance Guarantees:

The final plan shall be accompanied by a performance guarantee or, at the discretion of the Planning Board, a conditional agreement. The performance guarantee shall be for an amount adequate to cover the total construction costs of all required improvements for roads, utilities, sewage collection and other improvements for all infrastructure to be used publicly or privately maintained and used in common.

##### Type of Guarantees

1. A certified check payable to the Town of Warren;
2. A savings account passbook issued in the name of the Town of Warren;
3. An irrevocable letter of credit from a financial institution acceptable to the Planning Board;
4. A faithful performance bond running to the Town of Warren and issued by a surety company licensed to do business In the State of Maine.

##### General Conditions

1. The Planning Board may modify or waive any of the above application requirements or performance standards when the Planning Board determines that, because of special circumstances of the site or the size of the project such application requirements or standards would not be applicable or would be an unnecessary burden upon the applicant and not adversely affect the abutting landowners and the general health, safety and welfare of the Town.
2. Approval of the site plan and any building permit issued for development within the scope of this Ordinance shall expire after a period of twelve (12) months if construction has not been substantially commenced.
3. Conditions: The Planning Board may, in order to carry out the purposes of this section, require additional conditions necessary to protect the public interest and to fit such uses harmoniously into their neighborhood. The Planning Board may impose such reasonable conditions on approvals granted under this Ordinance as it may deem necessary or appropriate to further the applicant's compliance with the review criteria or other provisions of this Ordinance. Such conditions may include, but are not limited to, specifications for: increased setbacks and yards; specified water supplies for sewage disposal facilities; type of vegetation;

landscaping and planting screens; periods and methods of operation; routing of traffic; professional operation, maintenance, and inspection of sanitary facilities; and performance guarantees. Such conditions imposed, and the reasons therefore, shall be written as part of those permits issued by the Planning Board which involve additional conditions.

#### VI. Validity and Severability and Conflicts with other Ordinances

- A. Should any section or provision of this Ordinance be declared by the courts to be invalid, such decision shall not invalidate any other section or provisions of this Ordinance.
- B. Whenever the requirements of this Ordinance differ from the requirements of any other lawfully adopted rules, regulations, ordinances, deed restrictions or covenants the most restrictive or that imposing the higher standard shall govern.

#### VII. Appeals

If the Planning Board disapproves an application or grants approval with conditions that are objectionable to the applicant or any abutting landowner or any aggrieved party, or when it is claimed that the provisions of the Ordinance do not apply, or that the true intent and meaning of the Ordinance have been misconstrued or wrongfully interpreted, the applicant, and abutting landowner, or aggrieved party may appeal the decision of the Planning Board in writing to the Board of Appeals within 30 days of the Planning Board's decision. The Board of Appeals may reverse the Planning Board's decision only upon the findings that there has been an error of law or that the facts leading to the decision or the interpretation of these facts, by the Planning Board were erroneous. The appeal shall be consistent with Section 16 of Warren's Shoreland Use Ordinance. In making its review, the Board of Appeals shall conduct a public hearing in accordance with Title 30, M.R.S.A., Section 2691 (3).

#### VIII. Violations

All violations by any person, including but not limited to a landowner, a landowner's agent or a contractor who orders or conducts any activity in violation of this Ordinance, shall be considered a nuisance and constitute a land use violation and shall be prosecuted and penalized in accordance with Title 30-A MRSA Subsection 4452.

# Town of Warren

## Site Plan Review Ordinance

Adopted August 17, 1989  
Amended March 20, 2001  
Amended March 29, 2011

# **TOWN OF WARREN**

## **SPECIAL AMUSEMENT ORDINANCE**

### **Article I: TITLE: PURPOSE & DEFINITIONS**

#### **Section 101: Title**

This Ordinance shall be known and may be cited as the Special Amusement Ordinance of the Town of Warren, Maine.

#### **Section 102: Purpose**

The purpose of this Ordinance is to control the issuance of special permits for music, dancing or entertainment in facilities:

**Sub. A:** licensed by the State of Maine to sell liquor as required by 28 MSRA #702 and located within the legal boundaries of the Town of Warren.

**Sub. B:** Bottle Clubs as defined in Title 28, Section II, Sub Section 1-A.

#### **Section 103: Definitions**

##### **103.1 Entertainment**

For the purpose of this Ordinance, “entertainment” shall include any amusement, performance, exhibition or diversion for patrons or customers of the licensed premises whether provided by professional entertainers or by full-time or part-time employees of the licensed premises whose incidental duties include activities with an entertainment value.

##### **103.2 Licensee**

For the purpose of this Section, “Licensee” shall include the holder of all licenses issued under the Alcoholic Beverage Statutes of the State of Maine, pr. Any person, individual, partnership, firm, association, corporation, or other legal entity, or any agent, or employee of any such license.

### **Article II: GENERAL**

#### **Section 201: Permit Required**

No licensee for the sale of liquor to be consumed on his licensed premises shall permit, on his licensed premises, any music, except radio or other mechanical



device, any dancing or entertainment of any sort unless the licensee shall first obtain from the Town of Warren a Special Amusement Permit signed by at least a majority of the Board of Selectmen.

Applications for all Special Amusement Permits shall be made in writing to the Board of Selectmen and shall state the name of the applicant; his residence address; the nature of his business; the location to be used; whether the applicant has ever had a license to conduct the business therein described either denied or revoked and, if so, the applicant shall describe those circumstances specifically whether the applicant, including all partners or corporate officers, has ever been convicted of a felony and; if so, the applicant shall describe specifically those circumstances; and any additional information as may be needed by the Board in issuing of the permit, including but not limited to a copy of the applicant's current liquor license.

No permit shall be issued for anything or act, or premises, if the premises and building to be used for the purposes do not fully comply with all ordinances, articles, bylaws, or rules and regulations of the municipality.

The fee for a Special Amusement Permit shall be \$50.00

The Board of Selectmen shall, prior to granting a permit and after reasonable notice to the municipality and the applicant, hold a public hearing within 15 days of the date the request was received, at which the testimony of the applicant and that of the public shall be taken.

The municipal officers shall grant a permit unless they find that the issuance of the permit will be detrimental to the public health, safety or welfare, or would violate municipal ordinances, or rules and regulations, articles or bylaws.

A permit shall be valid only for the license year of the applicant's existing liquor license.

## **Section 202: INSPECTIONS**

Whenever inspections of the premises used for or in connection with the operation of a licensed business which has obtained a Special Amusement Permit are provided for or required by ordinance or State law, or are reasonably necessary to secure compliance with any ordinance provision or State law, it shall be the duty of the licensee, or the person in charge of the premises to be inspected, to admit any officer, official, or employee of the municipality authorized to make the inspection at any reasonable time that admission is requested.

In addition to any other penalty which may be provided; the Board of Selectmen may revoke the Special Amusement Permit of any licensee in the municipality who refuses to permit any such officer, official, or employee to make an inspection, or who interferes with such officer, official, or employee while in the performance of his duty. Provided, that no license or Special Amusement Permit shall be revoked unless written demand for the inspection is made upon the licensee or person in charge of the premises, at the time it is sought to make the inspection.

### **Section 203: SUSPENSION OR REVOCATION OF A PERMIT**

The Board of Selectmen may, after a public hearing preceded by notice to interested parties, suspend, or revoke any Special Amusement Permits which have been issued under this Ordinance on the grounds that the music, dancing, or entertainment so permitted constitutes a detriment to the public health, safety, or welfare, or violates any municipal ordinances, articles, bylaws, or rules and regulations.

### **Section 204: RULES & REGULATIONS**

The Board of Selectmen is hereby authorized, after public notice and hearing, to establish written rules and regulations governing the issuance, suspension, and revocation of Special Amusement Permits, the classes of permits, the music, dancing, or entertainment permitted under each class, and other limitations on these activities required to protect the public health, safety and welfare. These rules and regulations may specifically determine the location and size of permitted premises, the facilities that may be required for the permitted activities on those premises, and the hours during which the permitted activities are permitted.

Such rules and regulations shall be additional to and consistent with all sections of this Ordinance.

### **Section 205: PERMIT & APPEAL PROCEDURES**

**205.1** Any licensee requesting a Special Amusement Permit from the Board of Selectmen shall be notified in writing of their decision no later than fifteen (15) days from the date his request was received. In the event that a licensee is denied a permit, the licensee shall be provided with the reasons for the denial in writing. The licensee may not re-apply for a permit within 30 days after an application for a permit has been denied.

**205.2** Any licensee who has requested a permit and has been denied, or whose permit has been revoked or suspended, may within 30 days of the denial,

suspension or revocation, appeal the decision to the Warren Board of Appeals. The Board of Appeals may grant or reinstate the permit if it finds that the permitted activities would not constitute a detriment to the public health, safety, or welfare, or that the denial, revocation or suspension was arbitrary or capricious, or that the denial, revocation, or suspension was not based by a preponderance of the evidence on a violation of any ordinance, article, bylaw, or rule or regulation of the municipality.

#### **Section 206: ADMISSION**

A licensed hotel, Class A restaurant, Class A tavern or restaurant malt liquor licensee who has been issued a Special Amusement Permit may charge admission in designated areas approved by the municipal Special Amusement Permit.

### **Article III: PENALTY, SEPARABILITY & EFFECTIVE DATE**

#### **Section 301 PENALTY**

Whoever violates any of the provisions of this Ordinance shall be punished by a fine of not more than One Hundred Dollars (\$100.00) for the first offense, and up to Two Hundred Dollars (\$200.00) for the subsequent offenses, to be recovered, on complaint, to the use of the Town of Warren.

#### **Section 302: SEPARABILITY**

The invalidity of any provisions of this Ordinance shall not invalidate any other part

#### **Section 303: EFFECTIVE DATE**

The effective date of this Ordinance shall be **March 18, 1981**

Disclaimer: This information is provided to give the public information available through the Warren Town Office. Before acting upon any information obtained here you should double check with the Town Office for the most current data and/or version. Check the date of the latest amendment for the most current version.

## **Town of Warren**

# **Subdivision Ordinance**

As adopted at Special Town Meeting October 21, 1999



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## ARTICLE 1 - PURPOSES

The purposes of this Ordinance is to ensure the comfort, convenience, safety, health and welfare of the people of the Town of Warren, to protect the rural character and to promote and control the orderly development of an economically sound community. To this end, in approving subdivisions within the Town of Warren, Maine, the Planning Board shall consider the following criteria and before granting approval shall make written findings of fact that the provisions of these regulations have been met and that the proposed subdivision will meet the following criteria from Title 30A, M.R.S.A. §4404 of which the burden of proof rests solely with the subdivider.

- 1.1 To provide for an expeditious and efficient process for the review of proposed subdivisions;
- 1.2 To clarify the approval criteria of the state Subdivision Law, found in Title 30-A M.R.S.A., §4404;
- 1.3 To control the potential negative impacts from new subdivisions on neighboring properties and on the municipality.
- 1.4 To assure that new development in the Town of Warren meets the goals and conforms to the policies of the Warren Comprehensive Plan in that such development:
- 1.5 Will not result in undue water or air pollution. In making this determination, the Board shall at least consider the elevation of the land above sea level and the relation to the flood plains; the nature of the soils and subsoils and their ability to adequately support waste disposal; the slope of the land and its effect on effluents; and the applicable state and local health and waste resource regulations;
- 1.6 Will not have undue adverse effect on the scenic, rural or natural beauty of the area, aesthetic, historic sites or rare and irreplaceable natural areas or any public rights for physical or visual access to the shoreline;
- 1.7 Has sufficient domestic water available for reasonable foreseeable needs of the subdivision, where applicable, and will not cause an unreasonable burden on existing water supply, if one is to be utilized;
- 1.8 Will not, alone or in conjunction with existing activities, adversely affect the quality or quantity of ground water;
- 1.9 Will not cause unreasonable soil erosion or reduction in the capacity of the land to hold water so that a dangerous or unhealthy condition may result;
- 1.10 That whenever situated in whole or in part within 250 feet of any pond, lake, river or tidal waters, the proposed subdivision will not adversely affect the quality of that body of water or unreasonably affect the shoreline of that body of water. Furthermore, when lots in a subdivision have frontage on an outstanding river segment, the proposed subdivision plan must require principal structures to have a combined lot shore frontage and setback from normal highwater mark of no less than 500 feet. To avoid circumventing the intent of this provision, whenever a proposed subdivision adjoins a shoreland strip narrower than 250 feet which is not lotted, the proposed subdivision shall be reviewed as if the lot lines extended to the shore.
- 1.11 Will provide for adequate solid and sewerage waste disposal, and will not cause an unreasonable burden on the ability of the municipality to dispose of solid waste and sewerage if municipal services are to be utilized;
- 1.12 Will not cause unreasonable highway or public road congestion or unsafe conditions with respect to use of the highways or public roads existing or proposed;
- 1.13 To assure that the subdivider will determine, based on the Federal Emergency Management Agency's Flood and Boundary and Floodway maps and Flood Insurance Rate Maps, whether the subdivision is in a flood prone area. If the subdivision or any part of it is in such an area, the subdivider shall determine the 100 year flood

elevation and flood hazard boundaries within the subdivision. The proposed subdivision plan must include a condition of plat approval requiring that the principal structures on lots in the subdivision will be constructed with their lowest floor, including the basement, at least one foot above the 100 year flood elevation.

- 1.14** To assure the subdivider has or obtains adequate technical and financial capacity to meet the above stated standards.

## **ARTICLE 2 - AUTHORITY AND ADMINISTRATION**

### **2.1 Authority.**

- A. These standards have been prepared in accordance with the provisions of Title 30-A M.R.S.A., §4403.
- B. These standards shall be known and may be cited as "Subdivision Regulations of the Town of Warren, Maine."

### **2.2 Administration.**

- A. The Planning Board of the Town of Warren, hereinafter called the Board, shall administer these regulations.
- B. The provisions of these regulations shall pertain to all land and buildings proposed for subdivision within the boundaries of the Town of Warren.

### **2.3 Amendments.**

- A. These regulations may be amended by the Legislative Body of the Town of Warren.
- B. A public hearing shall be held prior to the adoption of any amendment. Notice of the hearing shall be provided at least seven days in advance of the hearing.

### **2.4 Severability.**

If any provision of this Ordinance or the application thereof to any person or circumstance is held void or invalid, such invalidity shall not affect other provisions or applications of this Ordinance that can be given effect in whole or in part without the invalid provision or application and to this end each provision of this Ordinance is declared to be severable and independent. It is the intent of the Town of Warren that each and every part, clause, paragraph, section and subsection of this Ordinance be given effect to the degree possible.

## **ARTICLE 3 - DEFINITIONS**

In general, words and terms used in these regulations shall have their customary dictionary meanings. More specifically, any word or term defined in the Warren Land Use Ordinance shall have the definition contained in that ordinance unless defined differently below. Where there is a conflict between the language contained in this Subdivision Ordinance or any other Town Ordinance, the stricter language shall apply for the purposes of these regulations. Other words and terms used herein are defined as follows:

**Abutter:** One whose property abuts is contiguous or joins at a border or boundary, including the property across the street, road, public way or private way; the owner of any property within 500 feet of a proposed subdivision or within 500 feet of parcel of land from which a subdivision is created.

**Affordable Housing:** Housing units which will meet the sales price and/or rental targets for housing affordability.

**Agriculture:** The cultivation of soil, producing or raising crops, Christmas trees, ornamentals or livestock, including gardening as a commercial operation.

**Applicant:** The person applying for subdivision approval under these regulations and or his authorized agent as conveyed in writing.

**Automobile Graveyard (automobile junkyard):** Shall mean a yard, field or other area used as a place of storage of three or more unserviceable, discarded, worn-out or junked motor vehicles or parts thereof other than temporary storage by an establishment or place of business which is engaged primarily in doing auto repair work for the purpose of making repairs to render a motor vehicle serviceable.

**Average Daily Traffic (ADT):** The average number of vehicles per day that enter and exit the premises or travel over a specific section of road.

**Bed & Breakfast:** A single family owner occupied dwelling in which lodging or lodging and meals are offered to guests for compensation of no more than three (3) bedrooms for lodging purposes.

**Boarding House:** Any residential structure where lodging or lodging and meals are provided for compensation for a period of at least two (2) weeks and where a family residing in the building acts as the proprietor or owner and where there are no provisions for cooking in any individual room other than the main kitchen.

**Body of Water:** Shall include the following:

1. Pond or Lake: Any impoundment, natural or manmade, which collects and stores surface water.
2. Stream or River: A free flowing drainage outlet with a defined channel which has flowing water for at least three months during the year and which lacks terrestrial vegetation for more than three (3) months during the year.
3. Tidal: Any area upon which tidal action occurs.

**Buffer Area:** A part of a property or an entire property, which is not built upon and is specifically intended to separate and thus minimize the effects of a land use activity (e.g. noise, dust, visibility, glare, etc.) on adjacent properties or on sensitive natural resources.

**Building:** Any structure and its attachments such as decks, breezeways, and porches, which is supported by columns or walls for the housing or enclosure of persons, animals, or personal property excluding mobile homes which have a separate definition.

**Building Height:** The vertical distance measured between the average finished grade of the ground of a building to the highest point of the structure, not including chimneys, spires antennas, non-accessible towers or similar accessory structures.

**Campground:** Any premises established for camping for which a fee is charged.

**Capital Improvements Program(CIP):** The municipality's proposed schedule of future projects listed in order of construction priority together with cost estimates and the anticipated means of financing each project.

**Capital Investment Plan:** The portion of the comprehensive plan that identifies the projects for consideration for inclusion within the capital improvements program, together with an estimate of the order of magnitude for the cost of each project.

**Cluster Development:** A subdivision or development in which the lot sizes are reduced below those normally required in the zoning district in which the development is located in return for the provision of permanent open space owned in common by the lot and/or unit owners, the Town or a land conservation organization. Clustering shall not be

used to increase the overall net residential density of any development.

**Code Enforcement Officer (CEO):** A person appointed by the municipal officers or officials to administer and enforce these Ordinances. Reference to the Code Enforcement Officer may be construed to include Alternate Code Enforcement Officer(s), Building Inspector, Plumbing Inspector, Electrical Inspector and the like, where applicable.

**Commercial Use:** Connected with the buying or selling of goods or services or the provision of facilities for a fee.

**Common Open Space:** Land within or related to a subdivision, not individually owned or within an individual lot, which is designed and intended for the common use or enjoyment of the residents of the development or the general public. It may include complementary structures and improvements, typically used for maintenance and operation of the open space, such as for outdoor recreation.

**Complete Application:** An application shall be considered complete upon submission of the required fee and all information required by these regulations, or by a vote by the Board to waive the submission of required information. The Board shall issue a written statement to the applicant upon its determination that an application is complete.

**Complete Substantial Construction:** The completion of a portion of the improvements which represents no less than thirty percent of the costs of the proposed improvements within a subdivision. If the subdivision is to consist of individual lots to be sold or leased by the subdivider, the cost of construction of buildings on those lots shall not be included. If the subdivision is a multifamily development, or if the applicant proposes to construct the buildings within the subdivision, the cost of building construction shall be included in the total costs of proposed improvements.

**Comprehensive Plan:** A document or interrelated documents adopted by the Legislative Body, containing an inventory and analysis of existing conditions, a compilation of goals for the development of the community, an expression of policies for achieving these goals, and a strategy for implementation of the policies.

**Conservation Easement:** A non-possessory interest in real property imposing limitations or affirmative obligations, the purposes of which include retaining or protecting natural, scenic or open space values of real property; assuring its availability for agricultural, forest, recreational or open space use; protecting natural resources; or maintaining air or water quality.

**Constructed:** Includes built, erected, altered, reconstructed, moved upon, or any physical operations on the premises which are required for construction. Excavation, fill, paving, drainage and the like shall be considered part of construction.

**Construction Drawings:** Drawings showing the location, profile, grades, size and type of drains, sewers, water mains, underground power and telephone ducts, pavements, cross sections of roads, miscellaneous structures, drainage and other easements and similar items.

**Contiguous Lots:** Lots in the same ownership which adjoin at any line or point, except that lots on opposite sides of a public or private road shall be each considered a separate parcel unless such road was established by the owner of the land on both sides thereof.

**Density:** The number of dwelling units per acre of land as defined in the Land Use Ordinance.

**Developed Area:** Any area on which a site improvement or change is made, including buildings, landscaping, parking areas, and streets.

**Direct Watershed of a Great Pond:** That portion of the watershed which drains directly to the great pond without first passing through an upstream great pond. For the purposes of these regulations, the watershed boundaries shall be as delineated in the comprehensive plan. Due to the scale of the map in the comprehensive plan there may be small inaccuracies in the delineation of the watershed boundary. Where there is a dispute as to exact location of a watershed boundary, the Board or its designee and the applicant shall conduct an on-site investigation to determine where the drainage divide lies. If the Board and the applicant can not agree on the location of the drainage divide based on the on-site investigation, the burden of proof shall lie with the applicant to provide the Board with information from a



professional land surveyor showing where the drainage divide lies.

**Driveway:** A private vehicular accessway from a road or right-of-way serving two dwelling units or less. The driveway itself shall not constitute the means of legal access along which frontage may be measured.

**Dwelling:** Any building, mobile home or structure or portion thereof designed or used for residential purposes.

1. Single Family Dwelling shall mean any building containing only one (1) dwelling unit for occupation by not more than one (1) family.
2. Two Family Dwelling shall mean any building containing only two (2) dwelling units for occupation by not more than two (2) families.
3. Multi Family Dwelling shall mean any building containing three (3) or more dwelling units such buildings being designed for residential use and occupancy by three (3) or more families living independently of one another, with the number of families not exceeding the number of dwelling units.

**Dwelling Unit:** A room or suite of rooms designed and equipped exclusively for use by one (1) family as a habitation and which contains independent living, cooking, sleeping bathing and sanitary facilities. The term includes manufactured housing and mobile homes, but not recreational vehicles or motel units.

**Engineered Subsurface Waste Water Disposal System:** A subsurface waste water disposal system designed, installed, and operated as a single unit to treat and dispose of 2,000 gallons of waste water per day or more; or any system designed to be capable of treating waste water with higher biological oxygen demand and total suspended solids concentrations than domestic waste water.

**Expansion:** In relation to a building, expansion shall mean: enlargement of floor area, or enlargement of building enclosure. In relation to use: the addition of weeks or months to a business' operating season, the addition of hours to a business day, the use of more floor area or ground area, or the provision of additional seats or seating capacity.

**Family:** One or more persons occupying a premises and living as a single housekeeping unit.

**Filling:** Depositing or dumping any matter on or into the ground or water.

**Final Subdivision Plan:** The final drawings on which the applicant's plan of subdivision is presented to the Planning Board for approval and which, if approved, may be recorded with the municipal officers and at the Registry of Deeds.

**Flood Plain:** The lands adjacent to a body of water which have been or may be covered by the base flood.

**Forest Management Activities:** Includes timber cruising, and other forest source evaluation activities, pesticide applications, timber stand improvement, pruning, timber harvesting and other forest harvesting and regeneration activities of forest stands and other similar associated activities.

**Freshwater Wetland:** Areas which are inundated or saturated by surface or ground water at a frequency and for a duration sufficient to support, and which under normal circumstances do support, a prevalence of wetland vegetation typically adapted for life in saturated soils; and are not part of a great pond, coastal wetland, river, stream or brook. Freshwater wetlands may contain small stream channels or inclusions of land that do not conform to the above criteria.

**Frontage:** The linear distance between sidelines of a lot, measured along the line that borders upon whatever right-of-way serves as the legal access to the lot. For the purposes of these regulations, the following ways shall constitute legal access to a lot along which frontage may be measured:

1. A way accepted by or established as belonging to the Town of Warren or State of Maine, providing access is not specifically prohibited.
2. A road way, whether dedicated to public ownership or not, as shown on an approved subdivision plan; this

roadway must have been constructed before consideration for lot access.

**Great Pond:** Any inland body of water which in a natural state has a surface area in excess of ten acres, and any inland body of water artificially formed or increased which has surface area in excess of thirty acres, except for the purposes of these regulations, where the artificially formed or increased inland body of water is completely surrounded by land held by a single owner.

**High Intensity Soil Survey:** A map prepared by a Certified Soil Scientist, identifying the soil types down to 1/8 acre or less at a scale equivalent to the subdivision plan submitted. The soils shall be identified in accordance with the National Cooperative Soil Survey. The map shall show the location of all test pits used to identify the soils, and shall be accompanied by a log of each sample point identifying the textural classification and the depth to seasonal high water table or bedrock at that location. Single soil test pits and their evaluation for suitability for subsurface waste water disposal systems shall not be considered to constitute high intensity soil surveys.

**Home Occupation or Profession:** Home occupation or profession shall mean any professional office located within a home or one accessory structure, such as accountant, attorney, dentist, doctor, beautician, antique dealer, real estate salesman, insurance broker, architect, machinist, engineer or similar profession, or any customary home occupation which involves the production manufacture, and sale of a product or minor repair work, exclusive of repairs to motor vehicles and engines, but including small engine repair of chain saws, snowmobiles, lawnmowers and other similar devices. A home occupation or profession shall be clearly incidental and secondary to the use of the dwelling for residential purposes and shall not change the character of the residence.

**100-Year Flood:** The highest level of flood that, on the average, has a one percent chance of occurring in any given year.

**High Water Mark:**

**Coastal Waters:** The elevation at which vegetation changes from predominantly salt tolerant to predominantly non-salt tolerant. By way of illustration, salt tolerant vegetation includes, but is not limited to: salt marsh grass, salt meadow hay, black arrowgrass, seaside lavender, silverweed, salt marsh bullrush, seaside plantain, orach, salt marsh sedge, salt marsh aster. In places where vegetation is not present, the high water mark shall be the identifiable debris line left by non-storm tidal action. On a sand dune, the high water mark shall be the mean seaward limit of salt tolerant vegetation.

**Inland Waters:** That line which is apparent from visible markings, changes in the character of soils due to prolonged action of the water or changes in vegetation, and which distinguishes between predominantly aquatic and predominantly terrestrial land. In the case of wetlands adjacent to rivers, streams, brooks, or ponds, the normal high-water mark is the upland edge of the wetland, and not the edge of the open water.

**Hotel:** A building in which lodging or meals and lodging are offered to the general public for compensation and ingress and egress to and from the rooms is made primarily through an inside lobby or office. The hotel may contain such accessory services and facilities as newsstands, personal grooming facilities and restaurants.

**Industrial:** Connected with the assembly, fabrication, finishing, manufacturing, packaging or processing of goods or the extraction of minerals.

**Inn:** A building which contains a dwelling unit occupied by an owner or resident manager, in which up to ten (10) lodging rooms, or any number of lodging rooms and meals, are offered to the general public for compensation and in which entrance to bedrooms is made through a lobby or other common room. Inn includes such terms as guest house, lodging house and tourist house, but not bed and breakfast, hotel or motel.

**Land Use Ordinance:** The *Land Use Ordinance* of the Town of Warren, Maine as approved and amended by the Legislative Body of the Town of Warren.

**Level of Service:** A description of the operating conditions a driver will experience while traveling on a particular street or highway calculated in accordance with the provisions of the *Highway Capacity Manual*, 1991 edition,

published by the National Academy of Sciences, Transportation Research Board. There are six levels of service ranging from Level of Service A, with free traffic flow and no delays to Level of Service F, with forced flow and congestion resulting in complete failure of the roadway.

**Lot:** A parcel of land occupied or capable of being occupied by one (1) building and the accessory buildings or uses customarily incidental to it, including such open spaces as are required by ordinances, and having frontage upon a public street, right-of-way or private way.

**Lot Area:** The total horizontal area within the lot lines.

**Lot Coverage:** The percentage of the lot covered by all buildings.

**Lot width:** The distance between the side boundaries of the lot measured at the front setback line.

**Manufacturing:** The making of goods and articles by hand or machinery. Manufacturing shall include assembling, fabricating, finishing, packaging or processing operations.

**Minimum Lot Area:** The land area of a parcel not including the area of land which is a part of a right-of-way for a thoroughfare or easement.

**Mobile Home (Manufactured Home):** A detached single-family residence with the following characteristics:

1. Manufactured as relocatable living unit without a permanent foundation, designed for long-term, year round occupancy and containing sleeping accommodations, a toilet, a tub or shower bath, and kitchen facilities, including major appliances, with plumbing and electrical connections provided for attachment to outside systems;
2. Designed to be transported after fabrication, on its own chassis, and connected to utilities upon being placed on a permanent foundation or mobile home stand; and
3. Designed to be installed with only incidental unpacking and assembling operations;
4. Constructed after June 15, 1976, and which the manufacturer certifies is constructed in compliance with U.S. Department of Housing and Urban Development standards established under the National Manufactured Housing Construction and Safety Standards Act of 1974, U.S. Code, Title 42, Section 5401, et. seq. and amendments;
5. A mobile home which does not comply with the requirements of subsection (4) above but which was lawfully in use as a dwelling in the Town of Warren on the date of adoption of this Ordinance may be relocated to any lot where a mobile home is permitted by district regulations of this Ordinance.

A mobile home shall be constructed to remain a mobile home subject to all regulations applying thereto, whether or not the wheels, axles, hitch or other appurtenances of mobility are removed and the interior facilities are modified.

**Mobile Home Parks:** A plot of land designed and/or used to accommodate three (3) or more mobile homes. Such facility shall meet the standard for 30A M.R.S.A. §4358, the regulations relating to mobile home parks promulgated by the manufactured home board and the regulations of the Town of Warren.

**Motel:** A building in which lodging is offered to the general public for compensation, and where entrance to rooms is made directly from outside of the building.

**Multifamily Development:** A subdivision which contains three or more dwelling units on land in common ownership, such as apartment buildings, condominiums or mobile home parks.

**Municipal Engineer:** Any registered professional engineer hired or retained by the municipality, either as staff or on a consulting basis.

**Net Residential Acreage:** The total acreage available for the subdivision, as shown on the proposed subdivision plan, minus the area for streets or access and the areas that are unsuitable for development as outlined in Section 12.10.C.3.

**Net Residential Density:** The average number of dwelling units per net residential acre.

**New Structure or Structures:** Includes any structure for which construction begins on or after the date of enactment of this ordinance. The area included in the expansion of an existing structure is deemed to be a new structure.

**Non-Conforming Use:** Use of land or structures that is not permitted, but which is allowed to remain solely because it was in lawful existence at the time the Ordinance or subsequent amendments took effect. If the use of the non-conforming structure is discontinued for more than twelve (12) consecutive months, the rights to continue the non-conforming use is lost.

**Non-Contiguous Offsetting Land:** Land not connected to a subdivision which can be used to offset density requirements for subdivisions within the village district.

**Nursing Home:** Any facility which provides meals, lodging and nursing care for compensation.

**Open Space:** A parcel or parcels of land, or an area of water, or a combination of land and water, within a development, which is designed and intended for the use and enjoyment of the residents of the development. Streets, off-street parking areas and sidewalks are not included under the definition of open space.

**Parking Space:** An area of two hundred (200) square feet exclusive of drives or aisles, for the parking of vehicles.

**Person:** Includes a firm, association, organization, partnership, trust, company, or corporation, as well as an individual.

**Personal Services:** A business which provides services but not goods such as hairdressers, shoe repair, etc.

**Planning Board:** The Planning Board of the Town of Warren as created by 30 M.R.S.A. §4952.

**Plat:** A map of the town, section or subdivision showing the location and boundaries of individual parcels of land subdivided into lots with streets, alleys, easements, etc., usually drawn to scale.

**Preliminary Plan:** The preliminary drawings indicating the proposed layout of the subdivision and other information as may be required by these regulations. Approval of a preliminary subdivision plan shall not constitute approval of the final subdivision plan.

**Principal Structure:** The structure in which the primary use of the lot is conducted.

**Principal Use:** The primary use to which the premises are devoted.

**Professional Engineer:** A professional engineer, registered in the State of Maine.

**Professional Offices:** The place of business for doctors, lawyers, accountants, architects, engineers, surveyors, psychologists, counselors and similar professions, but not including financial institutions or personal services.

**Public Water System:** A water supply system that provides water to at least 15 service connections or services water to at least 25 individuals daily for at least 30 days a year.

**Recording Plan:** An original of the Final Plan, suitable for recording at the Registry of Deeds and which need show only information relevant to the transfer of an interest in the property, and which does not show other information presented on the plan such as sewer and water line locations and sizes, culverts, and building lines.

**Reserved Affordable Housing:** Affordable housing which is restricted by means of deed covenants, financing restrictions, or other binding long term methods to occupancy by households making 80% or less of the area median

household income.

**Restaurant:** An establishment where meals are prepared and served to the public for consumption and compensation:

1. Standard Restaurant: A business involving the preparation and serving of meals for consumption on the premises, requiring moderate amounts of time between the period of ordering and serving the meal.
2. Fast Food Restaurant: A business involving the preparation and serving of meals for consumption on and off the premises, normally requiring short amounts of time between the period of ordering and serving of the meal which is usually served in edible or disposable containers.
3. Drive-In Restaurant: A business involving the preparation and serving of meals for consumption on the premises in a motor vehicle or off the premises, normally requiring short amounts of time between the period of ordering and serving of the meal which is usually served in edible or disposable containers.

**Re-subdivision:** The further subdivision of an existing subdivision or any change in the plan for an approved subdivision which affects the lot lines, including land transactions by the subdivider or lot owner, not indicated on the approved plan, or the relocation of any street or lot line in the subdivision.

**Retail:** Connected with the sale of goods to the ultimate consumer for direct use and consumption and not for trade.

**Rights-of-Way:** When there is no defined right-of-way, the common traveled way will be considered to be the right-of-way for the purpose of this ordinance and will be considered to be no less than 30 ft. wide, 15 ft. either side of centerline of the common way, or to the outside wrought portion (area which is presently being used for highway purposes) whichever is greater.

**Road:** Public and private way such as town roads, public rights-of-way and private rights-of-way.

1. Town Road: A strip of lane held by the Town for passage and use by the general public by motor vehicle and for which the Town has maintenance responsibility.
2. Private Rights-of-Way: A way that the general public has no right to pass over by foot or by vehicle, and for which the Town has no maintenance responsibility.

**Setback:** The horizontal distance from a lot line to the nearest part of the structure.

**Setback From Water:** The horizontal distance from the normal high water mark to the nearest part of the structure.

**Shallow to bedrock soils:** Soils less than 24 inches to bedrock.

**Sight Distance:** The length of an unobstructed view from a particular access point to the farthest visible point of reference on a roadway. Used in these regulations as a reference for unobstructed road visibility.

**Sign:** A display surface, fabric or device containing organized and related elements (letters, pictures, products or sculptures) composed to form a single unit, designed to convey information visually and which is exposed to view. In cases where matter is displayed in a random or unconnected manner without organized relationship, each such component shall constitute a sign.

**Sketch Plan:** Conceptual maps, renderings, and supportive data describing the project proposed by the applicant for initial review prior to submitting an application for subdivision approval.

**Street:** Public and private ways such as alleys, avenues, highways, roads, and other rights-of-way, as well as areas on subdivision plans designated as rights-of-way for vehicular access other than driveways.

**Street Classification:**



1. Arterial Street: A major thoroughfare which serves as a major traffic way for travel between and through the municipality. The following roadways shall be considered arterial streets: NUMBERED STATE HIGHWAYS.
2. Collector Street: A street with average daily traffic of 200 vehicles per day or greater, or streets which serve as feeders to arterial streets, and collectors of traffic from minor streets.
3. Cul-de-sac: A street with only one outlet and having the other end for the reversal of traffic movement.
4. Industrial or Commercial: Streets servicing industrial or commercial uses.
5. Minor Residential Street: A street servicing only residential properties and which has an average daily traffic of less than 200 vehicles per day.
6. Private Right-of-Way: A minor residential street which is not intended to be dedicated as a public way.

**Structure:** Anything constructed or erected, the use of which requires a fixed location on the ground or an attachment to something having a fixed location on the ground, including buildings, commercial park rides and games, satellite receiving dishes, carports, decks, porches, and other building features, but not including signs, sidewalks, fences, driveways and parking lots.

**Subdivision:** The division of a tract or parcel of land into 3 or more lots within any 5-year period, that begins after September 23, 1971. This definition applies whether the division is accomplished by sale, lease, development, buildings or otherwise. The term "subdivision" also includes the division of a new structure or structures on a tract or parcel of land into 3 or more dwelling units within a 5-year period, the construction or placement of 3 or more dwelling units on a single tract or parcel of land, or the division of an existing structure or structures previously used for commercial or industrial use into 3 or more dwelling units within a 5-year period.

In determining whether a tract or parcel of land is divided into 3 or more lots, the first dividing of such tract or parcel shall be considered to create the first 2 lots and the next dividing of either of the first 2 lots, by whomever accomplished, unless otherwise exempted herein shall be considered to create a third lot, unless:

- a. Both dividings are accomplished by a subdivider who has retained one of the lots for the subdivider's own use as a single-family residence or for open space land as defined in Title 36 M.R.S.A., §1102 for a period of at least 5 years before the second dividing occurs; or
- b. The division of the tract or parcel is otherwise exempt under this definition.

A lot of 40 or more acres shall not be counted as a lot, except where the lot or parcel from which it was divided is located entirely or partially within any shoreland area as defined in Title 38 M.R.S.A., §435, or the municipality's shoreland zoning.

A division accomplished by devise, condemnation, order of court, gift to a person related to the donor by blood, marriage or adoption or a gift to a municipality or by transfer of any interest in land to the owner of land abutting that land does not create a lot or lots for the purposes of these regulations, unless the intent of the transferor in any transfer or gift is to avoid the objectives of these regulations. If real estate exempt under this paragraph by a gift to a person related to the donor by blood, marriage or adoption is transferred within 5 years to another person not related to the donor of the exempt real estate by blood, marriage or adoption, then the previously exempt division creates a lot or lots for the purposes of this definition. The granting of a bona fide security interest (mortgage) in an entire lot that has been exempted from the definition under this paragraph, or subsequent transfer of that entire lot by the original holder of the security interest (mortgage) or that person's successor in interest, does not create a lot for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of these regulations. No further division of a gifted parcel can be further divided in less than ten (10) years without adherence to this ordinance.

Division of land under this paragraph exempted from these regulations shall be limited to a maximum of five

(5) lots. Further division or the creation of more than five lots shall be subject to the regulations of this ordinance.

In determining the number of dwelling units in a structure, the provisions regarding the determination of the number of lots shall apply, including exemptions from the definition of a subdivision of land.

**Subdivision, Major:** Any subdivision containing more than four lots or dwelling units, or any subdivision containing a proposed street.

**Subdivision, Minor:** Any subdivision containing four lots or dwelling units or less.

**Tract or Parcel of Land:** All contiguous land in the same ownership, provided that lands located on opposite sides of a public or private road shall be considered each a separate tract or parcel of land unless such road was established by the owner of land on both sides thereof.

**Undue Hardship:** That the land in question cannot yield a reasonable return unless a variance is granted; that the need for a variance is due to unique circumstances of the property and not to the general conditions in the neighborhood; that the granting of a variance will not alter the essential character of the locality; that the hardship is not the result of action taken by the applicant or a prior owner; and that the variance is not contrary to the intent of this Ordinance.

**Usable Open Space:** That portion of the common open space which due to its slope, drainage characteristics and soil conditions can be used for active recreation, horticulture or agriculture. In order to be considered usable open space, the land must not be poorly drained or very poorly drained, have ledge outcroppings, or areas with slopes exceeding 10%.

**Variance:** A relaxation of the terms of an Ordinance where such variance would not be contrary to the public interest where, owing to the conditions peculiar to the property and not a result of the action of an applicant, a literal enforcement of this ordinance would result in unnecessary and undue hardship. A financial hardship shall not constitute ground for granting a variance. The crucial points of a variance are undue hardship and unique circumstances applying to the property. A variance is not justified unless both elements are presented in the case.

**Village District:** For the purposes of this ordinance only, the Village District shall be defined as a circular area with a radius of three-quarters (3/4) mile, the center of which is the center of the Main Street Bridge over the St. George River in the Town of Warren.

**Wholesale:** Selling to retailers or jobbers rather than consumers.

**Yard:** The area between a structure and the property boundary.

**Zone:** An area, region or division of the Town distinguished from adjacent parts by some distinctive feature or character; or a boundary established by the Town to encourage that area to acquire a distinct feature or character.

## **ARTICLE 4 - ADMINISTRATIVE PROCEDURE**

In order to establish an orderly, equitable and expeditious procedure for reviewing subdivisions and to avoid unnecessary delays in processing applications for subdivision review, the Board shall prepare a written agenda for each regularly scheduled meeting. The agenda shall be prepared no less than 21 days in advance of the meeting, distributed to the Board members and any applicants appearing on the agenda, and posted at the municipal offices. Applicants shall request to be placed on the Board's agenda at least 21 days in advance of a regularly scheduled meeting by contacting the Code Enforcement Officer. However, the Board shall take no action on any application not appearing on the Board's written agenda.

## **ARTICLE 5 - PRE-APPLICATION MEETING, SKETCH PLAN AND SITE INSPECTION**

### **5.1 Purpose.**

The purpose of the pre-application meeting and on-site inspection is for the applicant to present general information regarding the proposed subdivision to the Board and receive the Board's comments prior to the expenditure of substantial sums of money on surveying, soils identification, and engineering by the applicant.

### **5.2 Procedure.**

- A. The applicant shall present the Pre-application Sketch Plan and make a verbal presentation regarding the site and the proposed subdivision.
- B. Following the applicant's presentation, the Board may ask questions and make suggestions to be incorporated by the applicant into the application.
- C. On-site inspection: The Planning Board Chairman at the pre-application meeting shall schedule an on-site inspection of the land to be subdivided. The date shall be scheduled so that at least a majority of the board members and the applicant will be in attendance. In addition, the chairman may request that the code enforcement officer attend the on-site inspection.

### **5.3 Submission.**

The pre-application Sketch Plan shall show in simple sketch form the proposed layout of streets, lots, buildings and other features in relation to existing conditions. The Sketch Plan, which does not have to be engineered and may be a free-hand penciled sketch, should be supplemented with general information to describe or outline the existing conditions of the site and the proposed development. It will be most helpful to both the applicant and the Board for site conditions such as steep slopes, wet areas and vegetative cover to be identified in a general manner. The sketch plan shall be superimposed on or accompanied by a copy of the assessor's map(s) on which the land is located. The Sketch Plan shall be accompanied by:

- A. A copy of a portion of the U.S.G.S. topographic map of the area showing the outline of the proposed subdivision unless the proposed subdivision is less than ten acres in size.
- B. A copy of that portion of the county soil survey covering the proposed subdivision, showing the outline of the proposed subdivision.

### **5.4 Contour Interval and On-Site Inspection.**

Within thirty days of the pre-application meeting, the Board shall hold an on-site inspection of the property and inform the applicant in writing of the required contour interval on the Preliminary Plan, or Final Plan in the case of a Minor Subdivision. The applicant shall place "flagging" at the centerline of any proposed streets, and at the approximate intersections of the street centerlines and lot corners, prior to the on-site inspection. The Board shall not conduct on-site inspections when there is more than one foot of snow on the ground.

### **5.5 Rights not Vested.**

The pre-application meeting, the submittal or review of the sketch plan or the on-site inspection shall not be considered the initiation of the review process for the purposes of bringing the plan under the protection of Title 1 M.R.S.A., §302.

### **5.6 Establishment of File.**

Following the pre-application meeting the Board shall establish a file for the proposed subdivision. All correspondence and submissions regarding the preapplication meeting and application shall be maintained in

the file.

## **ARTICLE 6 - MINOR SUBDIVISION**

### **6.1 General.**

The Board may require, where it deems necessary to make a determination regarding the criteria for approval from Title 30-A M.R.S.A., §4404, or the standards from Article 11 of these regulations, that a Minor Subdivision comply with some or all of the submission requirements for a Major Subdivision.

### **6.2 Procedure.**

- A. Within six months after the on-site inspection by the Board, and at least ten days prior to the applicant's scheduled meeting with the Board, the applicant shall submit an application for approval of a final plan to the Board. Applications shall be submitted by mail to the Board in care of the municipal office or delivered by hand to the municipal office. Failure to submit the application within six months shall require re-submission of the Sketch Plan to the Board. The final plan shall approximate the layout shown on the Sketch Plan, plus any recommendations voted upon by the Board.
- B. All applications for final plan approval for a Minor Subdivision shall be accompanied by a non-refundable application fee as set by the Selectmen. Fees must be paid by the applicant during office hours at the Town Office prior to application review by the Planning Board. In addition, the Planning Board may require funds deposited into an escrow account to be used by the Planning Board for the hiring of independent consulting services to review the application. This amount shall not exceed \$1,000.00 for a minor subdivision. Funds not used by the Planning Board shall be returned to the applicant once the subdivision is approved, denied or the applicant withdraws his application.
- C. The applicant, or his duly authorized representative, shall attend the meeting of the Board to present the final plan. Failure to attend the meeting to present the final plan shall result in a delay of the Board's receipt of the plan until the next meeting at which the applicant is scheduled to attend.
- D. Within 7 working days from the time that an application for final plan approval of a minor subdivision is initially presented, the Board shall:
  - 1. Issue a dated receipt to the applicant.
  - 2. Within 14 days notify by certified mail all owners of abutting property that an application for subdivision approval has been submitted, specifying the location of the proposed subdivision and including a general description of the project. A list of the abutters shall be provided to the Planning Board by the applicant at the Board meeting at which the application is initially presented.
  - 3. Notify the clerk and the review authority of the neighboring municipalities if any portion of the subdivision abuts or crosses the municipal boundary.
- E. Within thirty days of the receipt of the final plan application, the Board shall determine whether the application is complete and notify the applicant in writing of its determination. If the application is not complete, the Board shall notify the applicant of the specific additional material needed to complete the application.
- F. Upon a determination that a complete application has been submitted for review, the Board shall notify the applicant in writing of that determination.
- G. Within 30 days of determining that it has received a complete application, the Board shall publish a

notice of the date, time and place of the hearing in a newspaper of general circulation in the municipality at least two times, the date of the first publication to be at least seven days prior to the hearing and shall post the notice in the Town Office.. A copy of the notice shall be mailed to the applicant and abutters.

- H. Within thirty days from the public hearing or within another amount of time deemed appropriate by the Board after determining a complete application has been received, or within another time limit as may be otherwise mutually agreed to by the Board and the applicant, the Board shall make findings of fact, and conclusions relative to the criteria contained in Title 30-A M.R.S.A., §4404 and the standards of Article 11. If the Board finds that all the criteria of the Statute and the standards of Article 11 have been met, they shall approve the final plan. If the Board finds that any of the criteria of the statute or the standards of Article 11 have not been met, the Board shall either deny the application or approve the application with conditions to ensure all of the criteria and standards will be met by the subdivision. The Board shall issue a written notice of its decision to the applicant, including its findings, conclusions and any reasons for denial or conditions of approval.
- I. When granting approval to a preliminary plan, the Board shall state the conditions of such approval, if any, with respect to:
  - 1. The specific changes which it will require in the final plan;
  - 2. The character and extent of the required improvements for which waivers may have been requested and which the Board finds may be waived without jeopardy to the public health, safety, and general welfare; and:
  - 3. The construction items for which cost estimates and performance guarantees will be required as pre-requisite to the approval of the final plan.

### **6.3 Submissions.**

The final plan application shall consist of the following items:

- A. Application Form.
- B. Location Map. The location map shall be drawn at a size adequate to show the relationship of the proposed subdivision to the adjacent properties, and to allow the Board to locate the subdivision within the municipality. The location map shall show:
  - 1. Existing subdivisions within 2,500 feet of the proposed subdivision.
  - 2. Locations and names of existing and proposed streets.
  - 3. Boundaries and designations of zoning districts.
  - 4. An outline of the proposed subdivision and any remaining portion of the owner's property if the final plan submitted covers only a portion of the owner's entire contiguous holding.
  - 5. A letter from the fire chief indicating that the plan meets all applicable fire protection standards of this ordinance.
- C. Final Plan. The subdivision plan for a Minor Subdivision shall consist of two reproducible, stable-based transparencies, one to be recorded at the Registry of Deeds, the other to be filed at the municipal office, and three copies of one or more maps or drawings drawn to a scale of not more than one hundred feet to the inch. The reproducible transparencies shall be embossed with the seal of the individual responsible for preparation of the plan. Plans for subdivisions containing more than one hundred acres may be drawn at a scale of not more than two hundred feet to the inch provided all



necessary detail can easily be read. Plans shall be no larger than 24 by 36 inches in size, and shall have a margin of two inches outside of the border lines on the left side for binding and a one inch margin outside the border along the remaining sides. Space shall be provided for endorsement by the Board. Three copies of all information accompanying the plan shall be submitted. In addition, one copy of the Plan(s) reduced to a size of 8 ½ by 11 inches or 11 by 17 inches, and all accompanying information shall be mailed to each Board member and to the CEO by the applicant so that it is received no less than seven days prior to the meeting.

D. Application Requirements.

The application for approval of a Minor Subdivision shall include the following information. The Board may require additional information to be submitted, where it finds necessary in order to determine whether the criteria of Title 30-A M.R.S.A., §4404 are met.

1. Proposed name of the subdivision, or identifying title, and the name of the municipality in which it is located, plus the assessor's map and lot numbers.
2. Verification of right, title, or interest in the property.
3. A standard boundary survey of the parcel, giving complete descriptive data by bearings and distances, made and certified by a professional land surveyor. The corners of the parcel shall be located on the ground and marked by monuments. The plan shall indicate the type of monument found or to be set at each lot corner.
4. A copy of the most recently recorded deed for the parcel. A copy of all deed restrictions, easements, rights-of-way, or other encumbrances currently affecting the property.
5. A copy of any deed restrictions intended to cover all or part of the lots or dwellings in the subdivision.
6. An indication of the type of sewage disposal to be used in the subdivision.
  - a. When sewage disposal is to be accomplished by connection to the public sewer, a written statement from the sanitary district, stating that the district has the capacity to collect and treat the waste water for the specified number of dwellings, shall be furnished.
  - b. When sewage disposal is to be accomplished by subsurface waste water disposal systems, test pit analyses, prepared by a Licensed Site Evaluator shall be provided. A map showing the location of all test pits dug on the site shall be submitted.
7. An indication of the type of water supply system(s) to be used in the subdivision.
  - a. When water is to be supplied by public water supply, a written statement from the servicing water district shall be submitted indicating that there is adequate supply and pressure for the subdivision and that the district approves the plans for extensions where necessary. Where the district's supply line is to be extended, a written statement from the fire chief, stating approval of the location of fire hydrants, if any, and a written statement from the district approving the design of the extension shall be submitted.
  - b. When water is to be supplied by private wells, evidence of adequate ground water supply and quality shall be submitted by a well driller or a hydrogeologist familiar with the area.
8. The date the plan was prepared, north point, and graphic map scale. All pages in the

submission shall be numbered consecutively in the form: 1 of \_\_, 2 of \_\_ ...

9. The names and addresses of the record owner, applicant, and individual or company who prepared the plan, and abutting property owners.
10. A high intensity soil survey by a Certified Soil Scientist. Wetland areas shall be identified on the survey, regardless of size.
11. The number of acres within the proposed subdivision, location of property lines, existing buildings, vegetative cover type, and other essential existing physical features. The location of any groupings or areas containing trees 24 inches or larger in diameter at breast height shall be shown on the plan. On wooded sites, the plan shall indicate the area where clearing for lawns and structures shall be permitted and/or any restrictions to be placed on clearing existing vegetation.
12. The location of all rivers, streams and brooks within or adjacent to the proposed subdivision. If any portion of the proposed subdivision is located in the direct watershed of a great pond, the application shall indicate which great pond.
13. Contour lines at the interval specified by the Board, showing elevations in relation to mean sea level.
14. The zoning district in which the proposed subdivision is located and the location of any zoning boundaries affecting the subdivision.
15. The location and size of existing and proposed sewers, water mains, culverts, and drainage ways on or adjacent to the property to be subdivided.
16. The location, names, and present widths of existing streets and highways, and existing and proposed easements, building lines, parks and other open spaces on or adjacent to the subdivision. The plan shall contain sufficient data to allow the location, bearing and length of every street line, lot line, and boundary line to be readily determined and be reproduced upon the ground. These lines shall be tied to reference points previously established.
17. The width and location of any streets, public improvements or open space shown upon the official map and the comprehensive plan, if any, within the subdivision.
18. The location of any open space to be preserved and a description of proposed improvements and its management.
19. All parcels of land proposed to be dedicated to public use and the conditions of such dedication. Written offers to convey title to the municipality of all public open spaces shown on the plan, and copies of agreements or other documents showing the manner in which open spaces to be retained by the applicant or lot owners are to be maintained shall be submitted. If open space or other land is to be offered to the municipality, written evidence that the municipal officers are satisfied with the legal sufficiency of the written offer to convey title shall be included. The town is in no way obligated to accept such offers.
20. If any portion of the subdivision is in a flood-prone area, the boundaries of any flood hazard areas and the 100-year flood elevation, as depicted on the municipality's Flood Insurance Rate Map, shall be delineated on the plan.
21. A hydrogeologic assessment prepared by a Certified Geologist or Registered Professional Engineer, experienced in hydrogeology, when the subdivision is not served by public sewer and:

- a. Any part of the subdivision is located over a sand and gravel aquifer, as shown on a map entitled "Hydrogeologic Data for Significant Sand and Gravel Aquifers," by the Maine Geological Survey, 1985, Map No. 9 (1979); or Map 18 (1987); or Map 19 (1979).
- b. The subdivision has an average density of more than one dwelling unit per 120,000 square feet.

The Board may require a hydrogeologic assessment in other cases where site considerations or development design indicate greater potential of adverse impacts on ground water quality. These cases include extensive areas of shallow to bedrock soils; or cluster developments in which the average density is less than one dwelling unit per 100,000 square feet but the density of the developed portion is in excess of one dwelling unit per 120,000 square feet; or proposed use of shared or common subsurface waste water disposal systems.

The hydrogeologic assessment shall be conducted in accordance with the provisions of Section 11.12.A.1 below.

- 22. An estimate of the amount and type of vehicular traffic to be generated on a daily basis and at peak hours. Trip generation rates used shall be taken from *Trip Generation Manual*, 1991 edition, published by the Institute of Transportation Engineers. Trip generation rates from other sources may be used if the applicant demonstrates that these sources better reflect local conditions.
- 23. For subdivisions involving 40 or more parking spaces or projected to generate more than 400 vehicle trips per day, a traffic impact analysis, prepared by a Registered Professional Engineer with experience in traffic engineering, shall be submitted. The analysis shall indicate the expected average daily vehicular trips, peak-hour volumes, access conditions at the site, distribution of traffic, types of vehicles expected, effect upon the level of service of the street giving access to the site and neighboring streets which may be affected, and recommended improvements to maintain the desired level of service on the affected streets.
- 24. A storm water management plan, prepared by a registered professional engineer in accordance with the *Stormwater Management for Maine: Best Management Practices*, published by the Maine Department of Environmental Protection (1995). The Board may not waive submission of the storm water management plan unless the subdivision is not in the watershed of a great pond, the proposed subdivision will not involve grading which changes drainage patterns, and the addition of impervious surfaces such as roofs and driveways is less than 5% of the area of the subdivision.
- 25. An erosion and sedimentation control plan prepared in accordance with the *Maine Erosion and Sedimentation Control Handbook for Construction: Best Management Practices*, published by the Maine Department of Transportation, September 1997. The Board may not waive submission of the erosion and sedimentation control plan unless the subdivision is not in the watershed of a great pond, the proposed subdivision will not involve grading which changes drainage patterns, and the addition of impervious surfaces such as roofs and driveways is less than 5% of the area of the subdivision.

**Note: Items 21-25 may be waived by the Planning Board for residential subdivisions if site conditions do not warrant review of these criteria.**

- 26. Areas within or adjacent to the proposed subdivision which have been identified as high or moderate value wildlife habitat by the Maine Department of Inland Fisheries and Wildlife or within the comprehensive plan. If any portion of the subdivision is located within an area designated as a critical natural area by the comprehensive plan or the Maine Natural Areas Program the plan shall indicate appropriate measures for the preservation of the values which qualify the site for such designation.

27. If the proposed subdivision is in the direct watershed of a great pond, a phosphorus control plan.
  - a. For subdivisions which qualify for the simplified review procedure as described in Section 11.17.A.2, the plan shall indicate the location and dimensions of vegetative buffer strips or infiltration systems.
  - b. For subdivisions which do not qualify for the simplified review procedure as described in Section 11.17.A.2, the following shall be submitted.
    - i. A phosphorus impact analysis and control plan conducted using the procedures set forth in Phosphorus Control in Lake Watersheds: A Technical Guide for Evaluating New Development, published by the Maine Department of Environmental Protection, September, 1992 revision.
    - ii. A long-term maintenance plan for all phosphorus control measures.
    - iii. The contour lines shown on the plan shall be at an interval of no less than five feet.
    - iv. Areas with sustained slopes greater than 25% (25 ft. per 100 ft.) covering more than one acre shall be delineated.
28. All areas within or adjacent to the proposed subdivision which are either listed on or eligible to be listed on the National Register of Historic Places, or have been identified in the comprehensive plan as sensitive or likely to contain such sites.
29. The location and method of disposal for land clearing and construction debris.

## **ARTICLE 7 - PRELIMINARY PLAN FOR MAJOR SUBDIVISION**

### **7.1 Procedure.**

- A. Within six months after the on-site inspection by the Board, the applicant shall submit an application for approval of a preliminary plan at least 21 days prior to a scheduled meeting of the Board. Applications shall be submitted by mail to the Board in care of the municipal offices or delivered by hand to the municipal offices during business hours. Failure to submit an application within six months shall require resubmission of the Sketch Plan to the Board. The preliminary plan shall approximate the layout shown on the Sketch Plan, plus any recommendations voted upon by the Board.
- B. All applications for final plan approval for a Major Subdivision shall be accompanied by a non-refundable application fee as set by the Selectmen. Fees must be paid by the applicant during office hours at the Town Office prior to application review by the Planning Board. In addition, the Planning Board may require funds deposited into an escrow account to be used by the Planning Board for the hiring of independent consulting services to review the application. This amount shall not exceed \$2,500.00 or \$250.00 per lot whichever is greater. Funds not used by the Planning Board shall be returned to the applicant once the subdivision is approved, denied or the applicant withdraws his application.
- C. The applicant, or the applicant's representative, shall attend the meeting of the Board to present the preliminary plan application. Failure to attend the meeting to present the preliminary plan application shall result in a delay of the Board's receipt of the plan until the next meeting at which the applicant is scheduled to attend.

- D. Within 7 working days of the meeting at which an application for preliminary plan approval of a major subdivision is initially presented, the Board shall:
1. Issue a dated receipt to the applicant.
  2. Within 14 days, notify by certified mail all owners of abutting property that an application for subdivision approval has been submitted, specifying the location of the proposed subdivision and including a general description of the project. A list of abutters shall be provided to the Planning Board by the applicant at the Board meeting at which the application is initially presented.
  3. Notify the clerk and the review authority of the neighboring municipalities if any portion of the subdivision abuts or crosses the municipal boundary.
- E. Within thirty days of the receipt of the preliminary plan application, the Board shall determine whether the application is complete and notify the applicant in writing of its determination. If the application is not complete, the Board shall notify the applicant of the specific additional material needed to complete the application.
- F. Upon determination that a complete application has been submitted for review, the Board shall notify the applicant in writing of its determination.
- G. The Board shall hold a public hearing within thirty days of determining that it has received a complete application, shall publish a notice of the date, time and place of the hearing in a newspaper of general circulation in the municipality at least two times, the date of the first publication to be at least seven days prior to the hearing, and shall post the notice in the Town Office. A copy of the notice shall be mailed to the applicant.
- H. Within thirty days from the public hearing or within another amount of time deemed appropriate by the Board of determining a complete application has been received, if no hearing is held, or within another time limit as may be otherwise mutually agreed to by the Board and the applicant, the Board shall make findings of fact on the application, and approve, approve with conditions, or deny the preliminary plan application. The Board shall specify in writing its findings of facts and reasons for any conditions or denial.
- I. When granting approval to a preliminary plan, the Board shall state the conditions of such approval, if any, with respect to:
1. The specific changes which it will require in the final plan;
  2. The character and extent of the required improvements for which waivers may have been requested and which the Board finds may be waived without jeopardy to the public health, safety, and general welfare; and:
  3. The construction items for which cost estimates and performance guarantees will be required as pre-requisite to the approval of the final plan.
- J. Approval of a preliminary plan shall not constitute approval of the final plan or intent to approve the final plan, but rather it shall be deemed an expression of approval of the design of the preliminary plan as a guide to the preparation of the final plan. The final plan shall be submitted for approval by the Board upon fulfillment of the requirements of these regulations and the conditions of preliminary approval, if any. Prior to the approval of the final plan, the Board may require that additional information be submitted and changes in the plan be made as a result of further study of the proposed subdivision or as a result of new information received.



## 7.2 Submissions.

The preliminary plan application shall consist of the following items.

- A. Application Form.
- B. Location Map. The location map shall be drawn at a size adequate to show the relationship of the proposed subdivision to the adjacent properties, and to allow the Board to locate the subdivision within the municipality. The location map shall show:
  - 1. Existing subdivisions within 2,500 feet of the proposed subdivision.
  - 2. Locations and names of existing and proposed streets.
  - 3. Boundaries and designations of zoning districts.
  - 4. An outline of the proposed subdivision and any remaining portion of the owner's property if the preliminary plan submitted covers only a portion of the owner's entire contiguous holding.
- C. Preliminary Plan. The preliminary plan shall be submitted in three copies of one or more maps or drawings which may be printed or reproduced on paper, with all dimensions shown in feet or decimals of a foot. The preliminary plan shall be drawn to a scale of not more than one hundred feet to the inch. Plans for subdivisions containing more than one hundred acres may be drawn at a scale of not more than two hundred feet to the inch provided all necessary detail can easily be read. In addition, one copy of the plan(s) reduced to a size of 8 1/2 by 11 inches or 11 by 17 inches, and all accompanying information shall be mailed to each Board member and the CEO by the applicant so that it is received no less than seven days prior to the meeting.
- D. Application Requirements. The application for preliminary plan approval shall include the following information. The Board may require additional information to be submitted, where it finds necessary in order to determine whether the criteria of Title 30-A M.R.S.A., §4404 are met.
  - 1. Proposed name of the subdivision and the name of the municipality in which it is located, plus the Assessor's Map and Lot numbers.
  - 2. Verification of right, title and interest in the property.
  - 3. A standard boundary survey of the parcel, giving complete descriptive data by bearings and distances, made and certified by a professional land surveyor. The corners of the parcel shall be located on the ground and marked by monuments.
  - 4. A copy of the most recently recorded deed for the parcel. A copy of all deed restrictions, easements, rights-of-way, or other encumbrances currently affecting the property.
  - 5. A copy of any deed restrictions intended to cover all or part of the lots or dwellings in the subdivision.
  - 6. An indication of the type of sewage disposal to be used in the subdivision.
    - a. When sewage disposal is to be accomplished by connection to the public sewer, a letter from the Warren Sanitary District shall be provided, stating the district has the capacity to collect and treat the waste water from the proposed number of dwelling units in the subdivision.
    - b. When sewage disposal is to be accomplished by subsurface waste water disposal

systems, test pit analyses, prepared by a Licensed Site Evaluator or Certified Soil Scientist shall be provided. A map showing the location of all test pits dug on the site shall be submitted.

7. An indication of the type of water supply system(s) to be used in the subdivision.  
  
When water is to be supplied by public water supply, a written statement from the servicing water district shall be provided indicating there is adequate supply and pressure for the proposed number of dwelling units in the subdivision.
8. The date the plan was prepared, north point, and graphic map scale. All pages in the submission shall be numbered consecutively in the form: 1 of \_\_, 2 of \_\_ ...
9. The names and addresses of the record owner, applicant, and individual or company who prepared the plan and of all adjoining property owners and abutters within 500 ft.
10. A high intensity soil survey by a Certified Soil Scientist. Wetland areas shall be identified on the survey, regardless of size.
11. The number of acres within the proposed subdivision, location of property lines, existing buildings, vegetative cover type, and other essential existing physical features. The location of any grouping or area containing trees 24 inches or larger in diameter at breast height shall be shown on the plan.
12. The location of all rivers, streams and brooks within or adjacent to the proposed subdivision. If any portion of the proposed subdivision is located in the direct watershed of a great pond, the application shall indicate which great pond.
13. Contour lines at the interval specified by the Board, showing elevations in relation to Mean Sea Level.
14. The zoning district in which the proposed subdivision is located and the location of any zoning boundaries affecting the subdivision.
15. The location and size of existing and proposed sewers, water mains, culverts, and drainage ways on or adjacent to the property to be subdivided.
16. The location, names, and present widths of existing streets, highways, easements, building lines, parks and other open spaces on or adjacent to the subdivision.
17. The width and location of any streets, public improvements or open space shown upon the official map and the comprehensive plan, if any, within the subdivision.
18. The proposed lot lines with approximate dimensions and lot areas.
19. All parcels of land proposed to be dedicated to public use and the conditions of such dedication.
20. The location of any open space to be preserved and a description of proposed ownership, improvement and management.
21. The area on each lot where existing forest cover will be permitted to be removed and converted to lawn, structures or other cover and any proposed restrictions to be placed on clearing existing vegetation. (This information shall be noted on individual deeds).
22. If any portion of the subdivision is in a flood-prone area, the boundaries of any flood hazard areas and the 100-year flood elevation, as depicted on the municipality's Flood Insurance

Rate Map, shall be delineated on the plan.

23. A hydrogeologic assessment prepared by a Certified Geologist or Registered Professional Engineer, experienced in hydrogeology, when the subdivision is not served by public sewer and:
  - a. Any part of the subdivision is located over a sand and gravel aquifer, as shown on a map entitled "Hydrogeologic Data for Significant Sand and Gravel Aquifers," by the Maine Geological Survey, 1985, Map No. 9 (1979); or Map 18 (1987); or Map 19 (1979).
  - b. The subdivision has an average density of no more than one dwelling unit per 120,000 square feet.

The Board may require a hydrogeologic assessment in other cases where site considerations or development design indicate greater potential of adverse impacts on ground water quality. These cases include extensive areas of shallow to bedrock soils; or cluster developments in which the average density is less than one dwelling unit per 120,000 square feet but the density of the developed portion is in excess of one dwelling unit per 80,000 square feet; or the proposed use of shared or common subsurface waste water disposal systems.

The hydrogeologic assessment shall be conducted in accordance with the provisions of Section 11.12.A.1 below.
24. An estimate of the amount and type of vehicular traffic to be generated on a daily basis and at peak hours. Trip generation rates used shall be taken from *Trip Generation Manual*, 1991 edition, published by the Institute of Transportation Engineers. Trip generation rates from other sources may be used if the applicant demonstrates that these sources better reflect local conditions.
25. For subdivisions involving 40 or more parking spaces or projected to generate more than 400 vehicle trips per day, a traffic impact analysis, prepared by a Registered Professional Engineer with experience in traffic engineering, shall be submitted. The analysis shall indicate the expected average daily vehicular trips, peak-hour volumes, access conditions at the site, distribution of traffic, types of vehicles expected, effect upon the level of service of the street giving access to the site and neighboring streets which may be affected, and recommended improvements to maintain the desired level of service on the affected streets.
26. Areas within or adjacent to the proposed subdivision which have been identified as high or moderate value wildlife habitat by the Maine Department of Inland Fisheries and Wildlife or within the comprehensive plan. If any portion of the subdivision is located within an area designated as a unique natural area by the comprehensive plan or the Maine Natural Areas Program the plan shall indicate appropriate measures for the preservation of the values which qualify the site for such designation.
27. If the proposed subdivision is in the direct watershed of a great pond, and qualifies for the simplified review procedure for phosphorus control, the plan shall indicate the location and dimensions of vegetative buffer strips or infiltration systems and the application shall include a long-term maintenance plan for all phosphorus control measures.
28. All areas within or adjacent to the proposed subdivision which are either listed on or eligible to be listed on the National Register of Historic Places, or have been identified in the comprehensive plan as sensitive or likely to contain such sites.

## **ARTICLE 8 - FINAL PLAN FOR MAJOR SUBDIVISION**

## 8.1 Procedure.

- A. Within six months after the approval of the preliminary plan, the applicant shall submit an application for approval of the final plan at least 21 days prior to a scheduled meeting of the Board. Applications shall be submitted by mail to the Board in care of the municipal offices or delivered by hand to the municipal offices during business hours. If the application for the final plan is not submitted within six months after preliminary plan approval, the Board shall require re-submission of the preliminary plan, except as stipulated below. The final plan shall approximate the layout shown on the preliminary plan, plus any changes required by the Board.

If an applicant cannot submit the final plan within six months, due to delays caused by other regulatory bodies, or for other reasons, the applicant may request an extension. Such a request for an extension to the filing deadline shall be filed, in writing, with the Board prior to the expiration of the six month period. In considering the request for an extension the Board shall make findings as to whether the applicant has made due progress in preparation of the final plan and in pursuing approval of the plans before other agencies, and that municipal ordinances or regulations which may impact on the proposed development have not been amended.

- B. All applications for final plan approval for a major subdivision shall be accompanied by an application fee as set by the Selectmen per lot or dwelling unit payable by check to the municipality.
- C. Prior to submittal of the final plan application, the following approvals shall be obtained in writing, or a letter provided stating that such additional approvals are not required.
1. Maine Department of Environmental Protection, under the Site Location of Development Act.
  2. Maine Department of Environmental Protection, under the Natural Resources Protection Act or if a storm water management permit or a waste water discharge license is needed.
  3. Maine Department of Human Services, if the applicant proposes to provide a public water system.
  4. Maine Department of Human Services, if an engineered subsurface waste water disposal system(s) is to be utilized.
  5. U.S. Army Corps of Engineers, if a permit under Section 404 of the Clean Water Act is required.
  6. Any other State or Federal approvals as may be required.

The burden of proof rests with the applicant to assure that all required State and Federal permits are secured.

- D. If the preliminary plan identified any areas listed on or eligible to be listed on the National Register of Historic Places, in accordance with Section 7.2.D.28, the applicant may be required by the Planning Board to submit a copy of the plan and a copy of any proposed mitigation measures to the Maine Historic Preservation Commission prior to submitting the final plan application.
- E. The applicant, or the applicant's duly authorized representative, shall attend the meeting of the Board to discuss the final plan. Failure to attend the meeting to present the final plan application shall result in a delay of the Board's receipt of the plan until the next meeting which the applicant is scheduled to attend.
- F. At the meeting at which an application for final plan approval of a major subdivision is initially presented, the Board shall issue a dated receipt to the applicant.

- G. Within thirty days of the receipt of the final plan application, the Board shall determine whether the application is complete and notify the applicant in writing of its determination. If the application is not complete, the Board shall notify the applicant in writing of the specific additional material needed to complete the application.
- H. Upon determination that a complete application has been submitted for review, the Board shall issue a dated receipt to the applicant.
- I. The Board shall hold a hearing within thirty days of determining it has received a complete application, shall publish a notice of the date, time and place of the hearing in a newspaper of local circulation at least two times, the date of the first publication to be at least seven days before the hearing, and shall post the notice in the Town Office. In addition, the notice of the hearing shall be posted in at least three prominent places within the municipality at least seven days prior to the hearing.
- J. The Board shall notify the road commissioner, school superintendent, police and fire chief, and the sanitary district where applicable of the proposed subdivision, the number of dwelling units proposed, the length of roadways, and the size and construction characteristics of any multi-family, commercial or industrial buildings. The Board may request that these officials comment upon the adequacy of their department's existing capital facilities to service the proposed subdivision. Information provided by these entities may be used by the Planning Board in determining whether to approve the application, or what terms and conditions to place upon an application.
- K. Before the Board grants approval of the final plan, the applicant shall meet the performance guarantee requirements contained in Article 13.
- L. Within thirty days from the public hearing or within another time limit as may be otherwise mutually agreed to by the Board and the applicant, the Board shall make findings of fact, and conclusions relative to the criteria for approval contained in Title 30-A M.R.S.A., §4404 and the standards of these regulations. If the Board finds that all the criteria of the statute and the standards of these regulations have been met, they shall approve the final plan. If the Board finds that any of the criteria of the statute or the standards of these regulations have not been met, the Board shall either deny the application or approve the application with conditions to ensure all of the standards will be met by the subdivision. The reasons for any conditions shall be stated in the records of the Board.

## **8.2 Submissions.**

The final plan shall consist of one or more maps or drawings drawn to a scale of not more than one hundred feet to the inch. Plans for subdivisions containing more than one hundred acres may be drawn at a scale of not more than two hundred feet to the inch provided all necessary detail can easily be read. Plans shall be no larger than 24 by 36 inches in size, and shall have a margin of two inches outside of the border line on the left side for binding and a one inch margin outside the border along the remaining sides. Space shall be reserved on the plan for endorsement by the Board. Two reproducible, stable-based transparencies, one to be recorded at the Registry of Deeds, the other to be filed at the municipal office, and three copies of the plan shall be submitted. The applicant may instead submit one reproducible stable-based transparent original of the final plan and one recording plan with three copies of the final plan. In addition, one copy of the final plan, reduced to a size of 8 1/2 by 11 inches or 11 by 17 inches, and all accompanying information shall be mailed to each Board member and the CEO no less than seven days prior to the meeting. All information for the plan shall be kept in the Town Office and shall be available for viewing during office hours.

The final plan shall include or be accompanied by the following information.

- A. Proposed name of the subdivision and the name of the municipality in which it is located, plus the assessor's map and lot numbers.



- B. The number of acres within the proposed subdivision, location of property lines, existing buildings, watercourses, and other essential existing physical features.
- C. An indication of the type of sewage disposal to be used in the subdivision. When sewage disposal is to be accomplished by connection to the public sewer, a written statement from the sanitary district indicating the district has reviewed and approved the sewerage design shall be submitted.
- D. An indication of the type of water supply system(s) to be used in the subdivision.
  - 1. When water is to be supplied by an existing public water supply, a written statement from the servicing water district shall be submitted indicating the district has reviewed and approved the water system design. A written statement shall be submitted from the fire chief approving all hydrant locations or other fire protection measures deemed necessary.
  - 2. When water is to be supplied by private wells, evidence of adequate ground water supply and quality shall be submitted by a well driller or a hydrogeologist familiar with the area.
- E. The date the plan was prepared, north point, graphic map scale.
- F. The names and addresses of the record owner, applicant, and individual or company who prepared the plan.
- G. The location of any zoning boundaries affecting the subdivision.
- H. If different than those submitted with the preliminary plan, a copy of any proposed deed restrictions intended to cover all or part of the lots or dwellings in the subdivision.
- I. The location and size of existing and proposed sewers, water mains, culverts, and drainage ways on or adjacent to the property to be subdivided.
- J. The location, names, and present widths of existing and proposed streets, highways, easements, buildings, parks and other open spaces on or adjacent to the subdivision. The plan shall contain sufficient data to allow the location, bearing and length of every street line, lot line, and boundary line to be readily determined and be reproduced upon the ground. These lines shall be tied to reference points previously established. The location, bearing and length of street lines, lot lines and parcel boundary lines shall be certified by a professional land surveyor. The original reproducible plan shall be embossed with the seal of the professional land surveyor and be signed by that individual.
- K. Street plans, meeting the requirements of Section 12.2.B.2.
- L. A storm water management plan, prepared by a registered professional engineer in accordance with *Stormwater Management for Maine: Best Management Practices*, published by the Maine Department of Environmental Protection (1995). The Board may not waive submission of the storm water management plan unless the subdivision is not in the watershed of a great pond, the proposed subdivision will not involve grading which changes drainage patterns, and the addition of impervious surfaces such as roofs and driveways is less than 5% of the area of the subdivision.
- M. An erosion and sedimentation control plan prepared in accordance with the *Maine Erosion and Sedimentation Control Handbook for Construction: Best Management Practices*, published by the Maine Department of Transportation, September 1997. The Board may not waive submission of the erosion and sedimentation control plan unless the subdivision is not in the watershed of a great pond, the proposed subdivision will not involve grading which changes drainage patterns, and the addition of impervious surfaces such as roofs and driveways is less than 5% of the area of the subdivision.
- N. The width and location of any streets or public improvements or open space shown upon the official map and the comprehensive plan, if any, within the subdivision.

- O. A Listing of all parcels of land proposed to be dedicated to public use and the conditions of such dedication. Written offers to convey title to the municipality of all public ways and open spaces shown on the Plan, and copies of agreements or other documents showing the manner in which open spaces to be retained by the developer or lot owners are to be maintained shall be submitted. If proposed streets and/or open spaces or other land is to be offered to the municipality, written evidence that the Municipal Officers are satisfied with the legal sufficiency of the written offer to convey title shall be included.
- P. The boundaries of any flood hazard areas and the 100-year flood elevation as depicted on the municipality's Flood Insurance Rate Map, shall be delineated on the plan.
- Q. If any portion of the proposed subdivision is in the direct watershed of a great pond, and does not qualify for the simplified review procedure for phosphorus control under Section 11.17.A.2, the following shall be submitted or indicated on the plan.
1. A phosphorus impact analysis and control plan conducted using the procedures set forth in *Phosphorus Control in Lake Watersheds: A Technical Guide for Evaluating New Development*, published by the Maine Department of Environmental Protection, revised September, 1992. The analysis and control plan shall include all worksheets, engineering calculations, and construction specifications and diagrams for control measures, as required by the *Technical Guide*.
  2. A long-term maintenance plan for all phosphorus control measures.
  3. The contour lines shown on the plan shall be at an interval of no less than five feet.
  4. Areas with sustained slopes greater than 25% covering more than one acre shall be delineated.
- R. A list of construction items, with cost estimates, that will be completed by the applicant prior to the sale of any lot or issuance of any local building or subsurface waste water or interior plumbing permits, and evidence that the applicant has financial commitments or resources to cover these costs.
- S. A list of construction and maintenance items including all roadways, drainage devices and structures, permanent utilities, and erosion control measures, with both capital and annual operating cost estimates, that must be financed by the municipality, or quasi-municipal districts. These lists shall include but not be limited to:

Schools, including busing

Street maintenance and snow removal

Police and fire protection

Solid waste disposal

Recreation facilities

Storm water drainage

Waste water treatment

Water supply

The applicant shall provide an estimate of the net increase in taxable assessed valuation at the

completion of the construction of the subdivision.

- T. The location and method of disposal for land clearing and construction debris.
- U. A letter from the Fire Chief and the Road Commissioner stating their acceptance of the application.

### **8.3 Final Approval and Filing.**

- A. No plan shall be approved by the Board as long as the applicant is in violation of the provisions of a previously approved Plan within the municipality.
- B. Upon findings of fact and determination that all standards in Title 30-A M.R.S.A., §4404, and these regulations have been met, and upon voting to approve the subdivision, the Board shall sign the final plan. The Board shall specify in writing its findings of facts and reasons for any conditions of approval or denial. One copy of the signed plan shall be retained by the Board as part of its permanent records. One copy of the signed plan shall be forwarded to the tax assessor. One copy of the signed plan shall be forwarded to the code enforcement officer. Any subdivision not recorded in the Registry of Deeds within ninety days of the date upon which the plan is approved and signed by the Board shall become null and void. Once the plan is recorded at the Registry of Deeds, the CEO shall be so notified by the applicant.
- C. At the time the Board grants final plan approval, it may permit the Plan to be divided into two or more sections subject to any conditions the Board deems necessary in order to ensure the orderly development of the Plan. If any municipal or quasi-municipal department head notified of the proposed subdivision informs the Board that their department or district does not have adequate capital facilities to service the subdivision, the Board shall require the plan to be divided into two or more sections subject to any conditions the Board deems necessary in order to allow the orderly planning, financing and provision of public services to the subdivision. If the superintendent of schools indicates that there is less than 20% excess classroom capacity existing in the school(s) which will serve the subdivision, considering previously approved but not built subdivisions, the Board shall require the plan to be divided into sections to prevent classroom overcrowding. If the expansion, addition or purchase of the needed facilities is included in the municipality's capital improvements program, the time period of the phasing shall be no longer than the time period contained in the capital improvements program for the expansion, addition or purchase.
- D. No changes, erasures, modifications, or revisions shall be made in any final plan after approval has been given by the Board and endorsed in writing on the plan, unless the revised final plan is first submitted and the Board approves any modifications, except in accordance with Article 10. The Board shall make findings that the revised plan meets the criteria of Title 30-A M.R.S.A., §4404, and the standards of these regulations. In the event that a Plan is recorded without complying with this requirement, it shall be considered null and void, and the Board shall institute proceedings to have the plan stricken from the records of the Registry of Deeds.
- E. The approval by the Board of a subdivision plan shall not be deemed to constitute or be evidence of any acceptance by the municipality of any street easement, or other open space shown on such plan. When a park, playground, or other recreation area shall have been shown on the plan to be dedicated to the municipality, approval of the plan shall not constitute an acceptance by the municipality of such areas. The Board shall require the plan to contain appropriate notes to this effect. The Board may also require the filing of a written agreement between the applicant and the municipal officers covering future deed and title dedication, and provision for the cost of grading, development, equipment, and maintenance of any such dedicated area.
- F. Except in the case of a phased development plan, failure to complete substantial construction of the subdivision within five years of the date of approval and signing of the plan shall render the plan null and void. Upon determining that a subdivision's approval has expired under this paragraph, the Board shall have a notice placed in the Registry of Deeds to that effect. Substantial construction shall include road base and pavements, drainage structures, and permanent utilities.

## **ARTICLE 9 - REVISIONS TO APPROVED PLANS**

### **9.1 Procedure.**

An applicant for a revision to a previously approved plan shall, at least 21 days prior to a scheduled meeting of the Board, request to be placed on the Board's agenda. If the revision involves the creation of additional lots or dwelling units, the procedures for preliminary plan approval shall be followed. If the revision involves only modifications of the approved plan, without the creation of additional lots or dwelling units, the procedures for final plan approval shall be followed.

### **9.2 Submissions.**

The applicant shall submit a copy of the approved plan as well as three copies of the proposed revisions. The application shall also include enough supporting information to allow the Board to make a determination that the proposed revisions meet the standards of these regulations and the criteria of the statute. The revised plan shall indicate that it is the revision of a previously approved and recorded plan and shall show the title of the subdivision and the book and page or cabinet and sheet on which the original plan is recorded at the Registry of Deeds.

### **9.3 Scope of Review.**

The Board's scope of review shall be limited to those portions of the plan which are proposed to be changed.

### **9.4 Revision to an approved subdivision.**

No lot may be further divided and no lot line may be changed or altered without the approval of the Planning Board.

## **ARTICLE 10 - INSPECTION AND ENFORCEMENT**

### **10.1 Inspection of Required Improvements.**

- A. At least five days prior to commencing construction of required improvements, the subdivider or builder shall:
  - 1. Notify the code enforcement officer in writing of the time when he proposes to commence construction of such improvements, so that the code enforcement officer can arrange for inspections to assure that all municipal specifications, requirements, and conditions of approval are met during the construction of required improvements, and to assure the satisfactory completion of improvements and utilities required by the Board.
- B. If the inspecting official finds upon inspection of the improvements that any of the required improvements have not been constructed in accordance with the plans and specifications filed by the subdivider, the inspecting official shall so report in writing to the municipal officers, Board, and the subdivider and builder.
- C. If at any time it appears necessary or desirable to modify the required improvements before or during the construction of the required improvements, the inspecting official is authorized to approve minor modifications due to unforeseen circumstances such as encountering hidden outcrops of bedrock, natural springs, etc. The inspecting official shall issue any approval under this section in writing and shall transmit a copy of the approval to the Board. Revised plans shall be filed with the Board. For major modifications, such as relocation of rights-of-way, property boundaries, changes of grade by

more than 1%, etc., the subdivider shall obtain permission from the Board to modify the plans in accordance with Article 9.

- D. Prior to the sale of any lot, the subdivider shall provide the code enforcement officer with a letter from a professional land surveyor, stating that all monumentation shown on the plan has been installed.
- E. Upon completion of street construction and all other improvements, a written certification signed by a professional engineer and the CEO shall be submitted to the planning board at the expense of the applicant, certifying that the proposed right of way and other improvements meets or exceeds the design and construction requirements of these regulations. If there are any underground utilities, the servicing utility shall certify in writing that they have been installed in a manner acceptable to the utility. "As built" plans shall be submitted to the code enforcement officer and the Planning Board.
- F. The subdivider shall be required to maintain all improvements and provide for snow removal on streets and sidewalks until control is placed with a lot owners' association.
- 1. The Board shall not approve any subdivision plan unless proposed streets are designed in accordance with any local ordinance or the specifications contained in these regulations. Approval of a final plan by the Board shall not be deemed to constitute or be evidence of acceptance by the municipality of any street or easement.

## **10.2 Violations and Enforcement.**

- A. No plan of a division of land within the municipality which would constitute a subdivision shall be recorded in the Registry of Deeds until a final plan has been approved by the Board in accordance with these regulations.
- B. A person shall not convey, offer or agree to convey any land in a subdivision which has not been approved by the Board and recorded in the Registry of Deeds.
- C. A person shall not sell, lease or otherwise convey any land in an approved subdivision which is not shown on the plan as a separate lot.
- D. No public utility, water district, sanitary district or any utility company of any kind shall serve any lot in a subdivision for which a final plan has not been approved by the Board.
- E. Development of a subdivision without Board approval shall be a violation of law. Development includes grading or construction of roads, grading of land or lots, or construction of buildings which require a plan approved as provided in these regulations and recorded in the Registry of Deeds.
- F. No lot in a subdivision may be sold, leased, or otherwise conveyed or any local building, subsurface waste water or interior plumbing permit issued before the street upon which the lot fronts, including any and all connections to other roads, streets, lanes, rights-of-way, and cul-de-sacs are completed in accordance with these regulations. No unit in a multi-family development shall be occupied or any local building, subsurface waste water or interior plumbing permit issued, before the street upon which the unit is accessed is completed in accordance with these regulations.
- G. Violations of the above provisions of this section are a nuisance and shall be punished in accordance with the provisions of Title 30-A M.R.S.A., §4452.



## **ARTICLE 11 - PERFORMANCE STANDARDS**

The performance standards in this article are intended to clarify and expand upon the criteria for approval found within the subdivision statute (Title 30-A M.R.S.A., §4404). In reviewing a proposed subdivision, the Board shall review the application for conformance with the following performance standards and make findings that each has been met prior to the approval of a final plan. Compliance with the design guidelines of Article 12 shall be considered to be evidence of meeting the appropriate performance standards. Proposed subdivisions not in compliance with the design guidelines of Article 12 may be considered, but the applicant shall provide clear and convincing evidence that the proposed design will meet the performance standard(s) and the statutory criteria. In all instances the burden of proof shall be upon the applicant to present adequate information to indicate all performance standards and statutory criteria for approval have been or will be met.

### **11.1. Pollution.**

- A. The proposed subdivision shall not discharge waste water to a water body without a license from the Maine Department of Environmental Protection.
- B. Discharges of storm water shall be treated to remove oil, grease, and sediment prior to discharge into surface waterbodies. When the subdivision is within the watershed of a great pond, the storm water shall be treated in order to remove excess nutrients.

### **11.2. Sufficient Water.**

- A. Water Supply.
  - 1. Any subdivision within the area designated in the comprehensive plan for future public water supply service shall make provisions for connection to the public system. When public water supply service will not be available at the time of construction of the subdivision, a "capped system" shall be installed within the subdivision to allow future connection when service becomes available without excavation within the right-of-way of any street within the subdivision.
  - 2. When a subdivision is to be serviced by a public water system, the complete supply system within the subdivision including fire hydrants shall be installed at the expense of the applicant. The applicant or a properly formed land owners' association will be responsible for all payments. The size and location of mains, gate valves, hydrants, and service connections shall be reviewed and approved in writing by the servicing water company or district and the fire chief.
  - 3. When a proposed subdivision is not within the area designated for public water supply service in the comprehensive plan, water supply shall be from individual wells or a private community water system.
    - a. Individual wells shall be sited and constructed to prevent infiltration of surface water, and contamination from subsurface waste water disposal systems and other sources of potential contamination.
    - b. Lot design shall permit placement of wells, subsurface waste water disposal areas, and reserve sites for subsurface waste water disposal areas in compliance with the Maine Subsurface Wastewater Disposal Rules and the Well Drillers and Pump Installers Rules.
    - c. If a central water supply system is provided by the applicant, the location and protection of the source, the design, construction and operation of the system shall conform to the standards of the Maine Rules Relating to Drinking Water (10-144A

C.M.R. 231).

- d. In areas where the comprehensive plan has identified the need for additional water storage capacity for fire fighting purposes, the applicant shall provide adequate water storage facilities. Facilities may be ponds with dry hydrants, underground storage reservoirs or other methods acceptable to the fire chief. An easement shall be granted to the municipality granting access to and maintenance of dry hydrants or reservoirs where necessary. The Board may waive the requirement for water storage only upon submittal of evidence that the soil types in the subdivision will not permit their construction or installation and that the fire chief has indicated in writing that alternate methods of fire protection are available.

**B. Water Quality.**

Water supplies shall meet the primary drinking water standards contained in the Maine Rules Relating to Drinking Water. If existing water quality contains contaminants in excess of the secondary drinking water standards in the Maine Rules Relating to Drinking Water, that fact shall be disclosed in a note on the plan to be recorded in the Registry of Deeds.

**11.3. Impact on Existing Water Supplies.**

In meeting the standards of Section 11.2.A, a proposed subdivision shall not generate a demand on the source, treatment facilities or distribution system of the servicing water company or district beyond the capacity of those system components, considering improvements that are planned to be in place prior to occupancy of the subdivision. The applicant shall be responsible for paying the costs of system improvements to the district's or company's system as necessary to alleviate existing deficiencies.

**11.4 Soil Erosion.**

- A. The proposed subdivision shall prevent soil erosion from entering waterbodies, wetlands, and adjacent properties.
- B. The procedures outlined in the erosion and sedimentation control plan shall be implemented during the site preparation, construction, and clean-up stages.
- C. Topsoil shall be considered part of the subdivision and shall not be removed from the site except for surplus topsoil from roads, parking areas, and building excavations.

**11.5 Traffic Conditions.**

- A. In general, provision shall be made for vehicular access to the subdivision and circulation within the subdivision in such a manner as to:
  - 1. Safeguard against hazards to traffic and pedestrians in existing streets and within the subdivision;
  - 2. Avoid traffic congestion on any street; and
  - 3. Provide safe and convenient circulation on public streets and within the subdivision.
- B. More specifically, access and circulation shall also conform to the following standards.
  - 1. The vehicular access to the subdivision shall be arranged to avoid through traffic use of existing streets.

2. The street giving access to the subdivision and neighboring streets and intersections which can be expected to carry traffic generated by the subdivision shall have the capacity or be suitably improved to accommodate that traffic and avoid unreasonable congestion. No subdivision shall reduce the Level of Service (LOS) of the street giving access to the subdivision and neighboring streets and intersections to "E" or below.
3. Where necessary to safeguard against hazards to traffic and pedestrians and/or to avoid traffic congestion, provision shall be made for turning lanes, traffic directional islands, frontage roads, sidewalks, bicycleways and traffic controls within existing public streets.
4. Accessways to non-residential subdivisions or to multifamily developments shall be designed to avoid queuing of entering vehicles on any street. Left lane storage capacity shall be provided to meet anticipated demand. A study or analysis to determine the need for a left-turn storage lane shall be done.
5. Where topographic and other site conditions allow, provision shall be made for street connections to adjoining lots of similar existing or potential use within areas of the municipality designated as growth areas in the comprehensive plan; or in non-residential subdivisions when such access shall be provided if it will:
  - a. Facilitate fire protection services as approved by the fire chief; or
  - b. Enable the public to travel between two existing or potential uses, generally open to the public, without need to travel upon a public street.
6. Street Names, Signs and Lighting.

Streets which join and are in alignment with streets of abutting or neighboring properties shall bear the same name. Names of new streets shall not duplicate, nor bear phonetic resemblance to the names of existing streets within the municipality, and shall be subject to the approval of the CEO and the "911" officer. No street name shall be the common given name of a person. The developer shall either install street name, traffic safety and control signs meeting municipal specifications or reimburse the municipality for the costs of their installation. Street lighting shall be installed as approved by the Board.
7. Clean-up.

Following street construction, the developer or contractor shall conduct a thorough clean-up of stumps and other debris from the entire street right-of-way. If on-site disposal of the stumps and debris is proposed, the site shall be indicated on the plan, and be suitably covered with fill and topsoil, limed, fertilized, and seeded. All on-site disposal shall be in compliance with all existing State requirements.

## **11.6 Sewage Disposal.**

### **A. Public System.**

1. The sanitary district shall certify that providing service to the proposed subdivision is within the capacity of the system's existing collection and treatment system or improvements planned to be complete prior to the construction of the subdivision
2. When a subdivision is proposed to be served by the public sewage system, the complete collection system within the subdivision, including manholes and pump stations, shall be installed at the expense of the applicant.
3. The sanitary district shall review and approve the construction drawings for the sewerage

system. The size and location of laterals, collectors, manholes, and pump stations shall be reviewed and approved in writing by the servicing sanitary district or department.

**B. Private Systems.**

1. When a proposed subdivision is not within the area designated for public sewage disposal service in the comprehensive plan, connection to the public system shall not be permitted. Sewage disposal shall be private subsurface waste water disposal systems or a private treatment facility.
2. The applicant shall submit evidence of site suitability for subsurface sewage disposal prepared by a Maine Licensed Site Evaluator in full compliance with the requirements of the State of Maine Subsurface Wastewater Disposal Rules.
  - a. The site evaluator shall certify in writing that all test pits which meet the requirements for a new system represent an area large enough to a disposal area on soils which meet the Disposal Rules.
  - b. On lots in which the limiting factor has been identified as being within 24 inches of the surface, a second site with suitable soils shall be shown as a reserve area for future replacement of the disposal area. The reserve area shall be shown on the plan and restricted so as not to be built upon.
  - c. In no instance shall a disposal area be on a site which requires a New System Variance from the Subsurface Wastewater Disposal Rules.

**11.7 Impact on the Municipality's Ability to Dispose of Solid Waste.**

If the additional solid waste from the proposed subdivision exceeds the capacity of the municipal solid waste facility, causes the municipal facility to no longer be in compliance with its license from the Department of Environmental Protection, or threatens to cause the municipality to exceed its contract with a non-municipal facility, the applicant shall make alternate arrangements at his own expense for the disposal of solid waste. The alternate arrangements shall be at a disposal facility which is in compliance with its license. The Board may not require the alternate arrangement to exceed a period of five years.

**11.8. Impact on Natural Beauty, Aesthetics, Historic Sites, Wildlife Habitat, Rare Natural Areas or Public Access to the Shoreline.**

**A. Preservation of Natural Beauty and Aesthetics.**

1. The plan shall, by notes on the final plan and deed restrictions, limit the clearing of trees to those areas designated on the plan.
2. Except in areas of the municipality designated by the comprehensive plan as growth areas, the subdivision shall be designed to minimize the visibility of buildings from existing public roads.
3. The Board may require the application to include a landscape plan that will show the preservation of any existing trees larger than 24 inches diameter breast height, the replacement of trees and vegetation, and graded contours.
4. When a proposed subdivision street traverses open fields the plans shall include the planting of trees or shrubberies to screen houses within the subdivision.

**B. Retention of Open Spaces and Natural or Historic Features.**

1. If any portion of the subdivision is located within an area designated as open space or greenbelt, that portion shall be reserved for open space preservation.
2. If any portion of the subdivision is within the village district, the applicant shall take reasonable measures to design the dwellings so that they compliment and blend aesthetically with the other structures in the village. Architectural considerations should include roof pitch, siding, trim detail, site placement and basic historic building styles already existing within the village
3. If any portion of the subdivision is located within an area designated as a unique natural area by the Maine Natural Areas Program the plan shall indicate appropriate measures for the preservation of the values which qualify the site for such designation.
4. If any portion of the subdivision is designated a site of historic or prehistoric importance by the comprehensive plan or the Maine Historic Preservation Commission, appropriate measures for the protection of the historic or prehistoric resources shall be included in the plan. Protection measures shall be approved in writing by the Maine Historical Preservation Commission and recorded on the appropriate deed.
5. The subdivision shall reserve sufficient undeveloped land to provide for the recreational needs of the occupants. The percentage of open space to be reserved shall depend on the identified needs for outdoor recreation in the portion of the municipality in which the subdivision is located according to the comprehensive plan, the proposed lot sizes within the subdivision, the expected demographic makeup of the occupants of the subdivision, and the site characteristics.
6. Land reserved for open space purposes shall be of a character, configuration and location suitable for the particular use intended.
7. Reserved open space land may be dedicated to the municipality.
8. If development is in the village district, non-contiguous land may be used in lieu of open space requirements to meet the density requirements outlined in this ordinance. This offsetting land must meet the requirements for developable land as outlined in this ordinance and must have at least 33 ft. border upon an existing town road. The total amount of the non-contiguous land used to offset a village district subdivision must be comprised of only one off site parcel.

C. Protection of Significant Wildlife Habitat.

If any portion of a proposed subdivision lies within:

1. 250 feet of the following areas identified and mapped by the Department of Inland Fisheries and Wildlife or the comprehensive plan as:
  - a. Habitat for species appearing on the official state or federal lists of endangered or threatened species;
  - b. High and moderate value waterfowl and wading bird habitats, including nesting and feeding areas;
  - c. Shorebird nesting, feeding and staging areas and seabird nesting islands;
  - d. Critical spawning and nursery areas for Atlantic sea run salmon as defined by the Atlantic Sea Run Salmon Commission;the applicant shall demonstrate that there shall be no adverse impacts on the habitat and species it supports. A report prepared by a wildlife biologist certified by the Wildlife Society



with demonstrated experience with the wildlife resource being impacted shall be submitted. This report shall assess the potential impact of the subdivision on the significant habitat and adjacent areas that are important to the maintenance of the affected species and shall describe appropriate mitigation measures to ensure that the subdivision will have no adverse impacts on the habitat and the species it supports.

- D. Any existing public rights of access to the shoreline of a water body shall be maintained by means of easements or rights-of-way, or should be included in the open space with provisions made for continued public access.

#### **11.9 Conformance with Zoning Ordinance and Other Land Use Ordinances.**

All lots shall meet the minimum dimensional requirements of the zoning ordinance for zoning district in which they are located except where specifically changed by this Ordinance. The proposed subdivision shall meet all applicable performance standards or design criteria from the zoning ordinance.

In addition the minimum net residential density shall be not less than 120,000 square feet per dwelling unit.

#### **11.10 Financial and Technical Capacity.**

- A. Financial Capacity.

The applicant shall have adequate financial resources to construct the proposed improvements and meet the criteria of the statute and the standards of these regulations. When the applicant proposes to construct the buildings as well as the subdivision improvements, the applicant shall have adequate financial resources to construct the total development. In making the above determinations the Board shall consider the proposed time frame for construction and the effects of inflation.

- B. Technical Ability.

1. The applicant shall retain qualified contractors and consultants to supervise, construct and inspect the required improvements in the proposed subdivision.
2. In determining the applicant's technical ability the Board shall consider the applicant's previous experience, the experience and training of the applicant's consultants and contractors, and the existence of violations of previous approvals granted to the applicant.

#### **11.11. Impact on Water Quality or Shoreline.**

Cutting or removal of vegetation along waterbodies shall not increase water temperature, result in shoreline erosion or sedimentation of waterbodies.

#### **11.12. Impact on Ground Water Quality or Quantity.**

- A. Ground Water Quality.

1. When a hydrogeologic assessment is submitted, the assessment shall contain at least the following information:
  - a. A map showing the basic soils types.
  - b. The depth to the water table at representative points throughout the subdivision.
  - c. Drainage conditions throughout the subdivision.
  - d. Data on the existing ground water quality, either from test wells in the subdivision

or from existing wells on neighboring properties.

- e. An analysis and evaluation of the effect of the subdivision on ground water resources. In the case of residential developments, the evaluation shall, at a minimum, include a projection of post development nitrate-nitrogen concentrations at any wells within the subdivision, or at the subdivision boundaries; or at a distance of 1,000 feet from potential contamination sources, whichever is a shortest distance.
  - f. A map showing the location of any subsurface waste water disposal systems and drinking water wells within the subdivision and within 200 feet of the subdivision boundaries.
- 2. Projections of ground water quality shall be based on the assumption of drought conditions (assuming 60% of annual average precipitation).
  - 3. No subdivision shall increase any contaminant concentration in the ground water to more than one half of the Primary Drinking Water Standards. No subdivision shall increase any contaminant concentration in the ground water to more than the Secondary Drinking Water Standards.
  - 4. If ground water contains contaminants in excess of the primary standards, and the subdivision is to be served by on-site ground water supplies, the applicant shall demonstrate how water quality will be improved or treated.
  - 5. If ground water contains contaminants in excess of the secondary standards, the subdivision shall not cause the concentration of the parameters in question to exceed 150% of the ambient concentration.
  - 6. Subsurface waste water disposal systems and drinking water wells shall be constructed as shown on the map submitted with the assessment. If construction standards for drinking water wells or other measures to reduce ground water contamination and protect drinking water supplies are recommended in the assessment, those standards shall be included as a note on the final plan, and as restrictions in the deeds to the affected lots.
- B. Ground Water Quantity.
- 1. Ground water withdrawals by a proposed subdivision shall not lower the water table beyond the boundaries of the subdivision.
  - 2. A proposed subdivision shall not result in a lowering of the water table at the subdivision boundary by increasing runoff with a corresponding decrease in infiltration of precipitation.

### **11.13 Floodplain Management.**

When any part of a subdivision is located in a special flood hazard area as identified by the Federal Emergency Management Agency:

- A. All public utilities and facilities, such as sewer, gas, electrical and water systems shall be located and constructed to minimize or eliminate flood damages.
- B. Adequate drainage shall be provided so as to reduce exposure to flood hazards.
- C. The plan shall include a statement that structures in the subdivision shall be constructed with their lowest floor, including the basement, at least two feet above the 100-year flood elevation. Such a restriction shall be included in any deed, lease, purchase and sale agreement, or document transferring or expressing an intent to transfer any interest in real estate or structure, including but not limited to a time-share interest. The statement shall clearly articulate that the municipality may enforce any

violation of the construction requirement and that fact shall also be included in the deed or any other document previously described. The construction requirement shall also be clearly stated on the plan.

**11.14. Identification of Freshwater Wetlands.**

Freshwater wetlands shall be identified in accordance with the *1987 Corps of Engineers Wetland Delineation Manual*, published by the United States Army Corps of Engineers.

**11.15. Storm Water Management.**

A. Adequate provision shall be made for the management of the quantity and quality of all storm water generated within the subdivision, and any drained ground water through a management system of swales, culverts, underdrains, storm drains and best management practices equivalent to those described in the *Stormwater Management for Maine: Best Management Practices*, published by the Maine Department of Environmental Protection, 1995, in conformance with the policies of the comprehensive plan. The storm water management system shall be designed to meet the following standards:

1. Quantity.

Peak discharge rates shall be limited to the predevelopment levels for the 2-year, 10-year, and 25-year frequency, 24-hour duration storm unless storm water from the subdivision will drain directly into a major water body such as a great pond or the ocean.

2. Quality.

a. Major Subdivisions.

Storm water run-off in major subdivisions must be treated by the use of best management practices equivalent to those described in the *Stormwater Management for Maine: Best Management Practices*, published by the Maine Department of Environmental Protection, 1995, to achieve, by design, 40% reduction in total suspended solids.

b. Minor Subdivisions.

Storm water run-off in minor subdivisions must be treated by the use of best management practices equivalent to those described in the *Stormwater Management for Maine: Best Management Practices*, published by the Maine Department of Environmental Protection, 1995, to achieve, by design, 15% reduction in total suspended solids.

B. Where necessary to achieve the above standards, there shall be provided easements or drainage rights-of-way with swales, culverts, catch basins or other means of channeling surface water within the subdivision and over other properties. Wherever the storm drainage system is not within the right-of-way of a public street, perpetual easements shall be provided to the municipality allowing maintenance and improvement of the system.

**11.16 Reservation or Dedication and Maintenance of Open Space and Common Land, Facilities and Services.**

- A. All open space common land, non-contiguous lands used to offset density requirements, facilities and property shall be owned by:
  - 1. The owners of the lots or dwelling units by means of a lot owners' association;
  - 2. An association which has as its principal purpose the conservation or preservation of land in essentially its natural condition; or
  - 3. The municipality.

In the case of non-contiguous offset, a deed conveying the offset land to one entity with the restrictions guaranteeing that the offsetting parcel shall permanently remain available only for agriculture, forestry, conservation, low impact recreation, or one house lot with no further parceling or subdividing allowed.
- B. Further subdivision of the common land or open space and its use for other than non-commercial recreation, agriculture, or conservation purposes, except for easements for underground utilities, shall be prohibited. Structures and buildings accessory to non-commercial recreational or conservation uses may be erected on the common land. When open space is to be owned by an entity other than the municipality, there shall be a conservation easement deeded to the municipality prohibiting future development.
- C. The common land except for non-contiguous lands or open space shall be shown on the final plan with appropriate notations on the plan to indicate:
  - 1. It shall not be used for future building lots; and
  - 2. Which portions of the open space, if any, may be dedicated for acceptance by the municipality.
- D. The final plan application shall include the following:
  - 1. Covenants for mandatory membership in the lot owners' association setting forth the owners' rights, interests, and privileges in the association and the common property and facilities, to be included in the deed for each lot or dwelling.
  - 2. Draft articles of incorporation of the proposed lot owners' association as a not-for-profit corporation; and
  - 3. Draft by-laws of the proposed lot owners' association specifying the responsibilities and authority of the association, the operating procedures of the association and providing for proper capitalization of the association to cover the costs of major repairs, maintenance and replacement of common facilities.
- E. In combination, the documents referenced in paragraph D above shall provide for the following.
  - 1. The homeowners' association shall have the responsibility of maintaining the common property or facilities.
  - 2. The association shall levy annual charges against all owners of lots or dwelling units to defray the expenses connected with the maintenance, repair and replacement of common property and facilities and tax assessments.
  - 3. The association shall have the power to place a lien on the property of members who fail to

pay dues or assessments.

4. In the event of a malfunctioning waste water disposal unit including septic tanks, cesspools, cisterns, dry wells, drainage beds, drains, sewer lines and pipes and the like, the association or subdivider upon complaint or on their own information, shall have the power order a remedy upon the owner or occupant of the malfunctioning unit. In the event a nuisance is not abated within ten (10) days, The association shall have the power to make necessary repairs and to charge the owner for actual and direct expenses. The association shall have the power to place a lien on the property of members who fail to repair malfunctioning waste water disposal systems or to pay for their repair. In the event that a remedy is not abated by the owner or the association the Town may initiate enforcement and repair measures in accordance with M.R.S.A. §3428.
5. The developer or subdivider shall maintain control of the common property, and be responsible for its maintenance until development sufficient to support the association has taken place. Such determination shall be made by the Board upon request of the lot owners' association or the developer.

#### **11.17 Phosphorus Impacts on Great Ponds.**

##### **A. Simplified Phosphorus Review for Minor Subdivisions.**

This review may be used for a

1. Proposed subdivision of three or four lots with less than 200 feet of new or upgraded street with a cumulative driveway length not to exceed 450 feet for a three lot subdivision or 600 feet for a four lot subdivision;
2. Proposed subdivision of three or four lots with no new or upgraded street with a cumulative driveway length not to exceed 950 feet for three lot subdivisions or 1,100 feet for four lot subdivisions; or
3. Proposed subdivision consisting of multi-family dwellings that have less than 20,000 square feet of disturbed area including building parking, driveway, lawn, subsurface waste water disposal systems, and infiltration areas, and new or upgraded streets not exceeding 200 linear feet.

A proposed subdivision which creates lots which could be further divided such that five or more lots may result shall be subject to the standard review procedures unless there are deed restrictions prohibiting future divisions of the lots.

##### **B. Standard Phosphorus Review for Major Subdivisions.**

This section shall apply to proposed subdivisions which do not qualify for the simplified review. Phosphorus export from a proposed development shall be calculated according to the procedures in *Phosphorus Control in Lake Watersheds: A Technical Guide for Evaluating New Development*, published by the Maine Department of Environmental Protection, revised September, 1992. When a proposed subdivision creates lots which are more than twice the required minimum lot size and there are no deed restrictions proposed to prohibit future divisions, the applicant shall either calculate phosphorus loading based on the maximum feasible number of lots, and shall design controls adequate to limit the resulting phosphorus loading, or shall reserve a portion of the permitted phosphorus export for future divisions.

##### **C. Maintenance and Use Restrictions for Phosphorus Control Measures.**

Provisions for monitoring, inspections, and maintenance of phosphorus control measures shall be included in the application.



1. Vegetative Buffer Strips.

Individual lot owners shall be required to maintain buffer areas on their individual lots in accordance with the following standards, to be specified in recorded deed restrictions and as notes on the plan. Where a vegetative buffer strip is to be owned in common by property owners in the subdivision, documentation establishing the lot owners' association shall include the following standards.

a. Wooded Buffers.

Maintenance provisions for wooded buffers shall provide for either of the following two options.

i. No Disturbance.

Maintenance and use provisions for wooded buffer strips which are located on hydrologic soil group D soils and within 250 feet of the great pond or a tributary, or which are located on slopes over 20% shall include the following.

- [1] Buffers shall be inspected annually for evidence of erosion or concentrated flows through or around the buffer. All eroded areas must be seeded and mulched. A shallow stone trench must be installed as a level spreader to distribute flows evenly in any area showing concentrated flows.
- [2] All existing undergrowth (vegetation less than four feet high), forest floor duff layer, and leaf litter must remain undisturbed and intact, except that one winding walking path, no wider than six feet, is allowed through the buffer. This path shall not be a straight line to the great pond or tributary and shall remain stabilized.
- [3] Pruning of live tree branches that do not exceed twelve feet above the ground level is permitted provided that at least the top two-thirds of the tree canopy is maintained.
- [4] No cutting is allowed of trees except for normal maintenance of dead, wind blown, or damaged trees.
- [5] Buffers shall not be used for all-terrain vehicle or vehicular traffic.

ii. Limited Disturbance.

Maintenance and use provisions for other buffer strips may include the following:

- [1] There shall be no cleared openings. An evenly distributed stand of trees and other vegetation shall be maintained.
- [2] Activity within the buffer shall be conducted to minimize disturbance of existing forest floor, leaf litter and vegetation less than four feet in height. Where the existing ground cover is disturbed and results in exposed mineral soil, that area shall be immediately stabilized to avoid soil erosion.

- [3] Removal of vegetation less than four feet in height is limited to that necessary to create a winding foot path no wider than six feet. This path shall not be a straight line to the great pond or a tributary. The path must remain stabilized.
- [4] Pruning of live tree branches that do not exceed 12 feet in height above the ground level is permitted provided that at least the top two-thirds of the tree canopy is maintained.
- [5] Where the removal of storm-damaged, diseased, unsafe, or dead trees results in a cleared opening, those openings shall be replanted with native trees at least three feet in height unless existing new tree growth is present.
- [6] Buffers shall not be used for all terrain vehicle or vehicular traffic.

b. Non-wooded Buffers.

- i. Non-wooded buffers may be allowed to revert or to be planted to forest, in which case the standards above shall apply.
- ii. A buffer must maintain a dense, complete and vigorous cover of "non-lawn" vegetation which shall be mowed no more than once a year. Vegetation may include grass, other herbaceous species, shrubs and trees.
- iii. Activity within the buffer shall be conducted so as to prevent damage to vegetation and exposure of mineral soil. Burning of vegetation shall be prohibited.

iv. Buffers shall not be used for all-terrain vehicles or other vehicular traffic.

2. Infiltration Systems.

Individual lot owners shall be responsible for maintenance of individual infiltration systems according to the standards specified in *Phosphorus Control in Lake Watersheds: A Technical Guide for Evaluating New Development*, published by the Maine Department of Environmental Protection, revised September, 1992. Requirements for maintenance shall be included in deed restrictions and as notes upon the plan. As an alternative to maintenance by individual lot owners, the applicant may designate some other entity to be contracted to take the responsibility, and shall include the above referenced maintenance provisions in any contractual agreement. Where infiltration systems serve more than one lot, a lot owners' association shall be established and the above referenced maintenance provisions shall be referenced in the documentation establishing the association.

3. Wet Ponds.

A lot owners' association shall be established to maintain wet ponds, unless the municipality or some other public entity agrees to assume inspection and maintenance duties. Documentation establishing the association or establishing an agreement with a public entity shall include the maintenance standards specified in the manual *Phosphorus Control in Lake Watersheds: A Technical Guide for Evaluating New Development*, published by the Maine Department of Environmental Protection, revised September, 1992.

## ARTICLE 12 - DESIGN GUIDELINES

This article is intended to provide an example of design guidelines, which if followed will result in meeting the appropriate performance standards of Article 11. Compliance with these guidelines shall be considered evidence of meeting those standards. Proposed subdivisions not in compliance with the design guidelines of this article may be considered, but the applicant shall provide clear and convincing evidence that the proposed design will meet the performance standard(s) and the statutory criteria. In all instances the burden of proof shall be upon the applicant to present adequate information to indicate all performance standards and statutory criteria for approval have been or will be met.

### 12.1. Sufficient Water.

#### A. Well Construction.

1. Due to the increased chance of contamination from surface water, dug wells shall be prohibited on lots of smaller than one acre. On lots of one acre or smaller, the applicant shall prohibit dug wells by deed restrictions and a note on the plan.
2. Wells shall not be constructed within 100 feet of the traveled way of any street, if located downhill from the street, or within 50 feet of the traveled way of any street, if located uphill of the street. This restriction shall be included as a note on the plan and deed restriction to the effected lots.

#### B. Fire Protection.

##### 1. General Requirements

- a. The purpose of this subsection is to establish standards for the installation of fire protection water supply systems in subdivisions where public water supplies are not available.
- b. The subdivision plan shall provide that a minimum of two hundred fifty thousand (250,000) gallons of stored usable water (hereinafter pond), as certified by a professional engineer, is available for the purpose of supplying fire flow requirements of one thousand (1,000) gallons per minute for the duration of two (2) hours. The certifying engineer shall be acceptable to both the subdivider and the Fire Department Chief or other fire department officer designated by the chief (hereinafter Chief). The minimum 250,000 gallons of water shall be calculated from the top side of the dry hydrant suction screen and from the bottom of eighteen inches (18") of winter ice.
- c. The subdivision plan shall depict the location of the pond and the means of access to the pond, including a "turnout", if one is required. The maximum distance from the dry hydrant and/or the drafting point of the pond to any lot within the subdivision shall be no greater than fifteen hundred feet (1500') by road.
- d. The water supply system details will be included in initial plans submitted by the developer to the planning board. The subdivider shall provide a detailed plan of the water supply system, including the pond, dry hydrant, piping, overflow, access road and turnout. The planning board will accept a plan after the Fire Chief and Road Commissioner (hereinafter commissioner) have concurred in writing as to their approval of the plan. The detailed plan shall be consistent with the general plan as depicted in the final approved subdivision plan.

- e. Prior to any lot within the subdivision being sold and prior to any building permit being issued for a structure or use within the subdivision, the water supply system, including pond, dry hydrant, piping and access road and turnout shall be installed in good working order, tested, and approved by the Fire Chief.

## 2. Waivers

- a. Waivers to this section may be granted by the Planning Board in accordance with Article 14 of these regulations, with review and comment from the Fire Chief and in accordance with the following additional conditions:
  - i. A waiver granting relief from construction of a pond within the subdivision may be granted only if permanently accessible water supplies, such as large streams, rivers, quarries, fire ponds, etc., exist within the distance requirements set forth in item 12.1.B.1.c above, and meet or exceed the fire flow and water reserve requirements set forth in item 12.1.B.1.b above, or if the subdivider demonstrates that due to soil or other considerations, a pond cannot be supported. In cases where a pond cannot be supported underground storage tanks, the size and number of which shall be determined by the Fire Chief, may be considered an alternative water source to a pond.
  - ii. Waivers to the minimum gallonage requirements set forth in item 12.1.B.1.b above may be granted for subdivisions of less than five (5) lots if fire load requirements (such as wildfire interface conditions) would enable a gallonage reduction. Waivers under this section may only be granted with the consent of the Fire Chief.
  - iii. Waivers to the technical design standards contained in subsection "4. Fire Ponds" may be granted by the Fire Chief. Waivers for the requirement for a dry hydrant or to the technical design standards as contained in subsection "5.Dry Hydrants" may be granted by the Fire Chief.

## 3. Access

- a. In cases where the dry hydrant cannot be placed next to a town accepted road, an access road and turnout to the dry hydrant area shall be provided. The access road and turnout shall allow a fire department pumper to connect to the dry hydrant connection with one (1) ten foot (10') length of hard suction hose and to allow two (2) ten foot (10') lengths of hard suction hose with a strainer to be placed into pond with a depth over the strainer sufficient to draft water at a rate of one thousand (1,000) gallons per minute without whirlpooling.
- b. The access road and turnout shall be a minimum of fifty feet (50') long and eighteen feet (18') wide and capable of handling fire department apparatus in all seasons and weather conditions. The access road and turnout shall be approved by the commissioner and fire chief and meet, or exceed, town road standards as set forth in these regulations. The access road shall be posted "No Parking Fire Lane" with a sign measuring 24" x 30" with 4" letters.
- c. A deeded right of way or easement shall be given to the Town granting the Town the right, to be exercised at its sole option and discretion, to maintain and use the water supply system, including dry hydrant, piping, access road and turnout. Acceptance of this right of way or easement shall not constitute acceptance of any part of the subdivision or its road system as town property, a town road or a town facility.

- d. The Board of Selectmen are authorized to accept, on behalf of the Town, deeds as described in 12.1.B.3.c above.
- e. Fencing is optional at the discretion of the subdivider. If a fence is installed it shall have a locked gate access point and the Fire Chief shall be provided with a set of keys for the gate. The gate opening shall have a minimum size of 12" to allow for the easy and safe hookup to the dry hydrant and/or for drafting from the ground.

4. Fire Ponds

- a. Fire ponds shall be designed with a two to one (2:1) pitched banking with a minimum depth of ten feet (10').
- b. The water storage level shall be maintained at all times by one or a combination of the following: a spring, well point, pumping facility, rain and snow run off, or other method approved by the Fire Chief.
- c. An overflow system shall be installed with proper drainage materials and facilities to handle the projected overflow.
- d. The area around the pond shall be graded, seeded and mulched to prevent erosion.

5. Dry Hydrants

- a. Dry hydrants shall be installed in all ponds in accordance with the following standards:
  - i. A minimum of six inch (6") piping and fittings shall be utilized from the screen to the 90 degree elbow.
  - ii. Piping and fittings shall be a minimum schedule forty (40) rating. The steamer hose connection shall be bronze with five inch (5") National Standard Thread (NST).
  - iii. The riser piping and the ninety (90) degree elbow shall be six inch (6") schedule forty (40) steel or schedule 80 PVC.
  - iv. The piping from the suction screen to the ninety (90) degree elbow below the ground shall be schedule 40 steel or schedule 40 PVC pipe capped off at the screen end.
  - v. All PVC pipe connections shall be cleaned and cemented so as to provide air tight connections.
  - vi. The ninety (90) degree elbow below ground shall have six feet (6') of cover from the finished grade.
  - vii. The maximum amount of lift permitted shall be fifteen feet (15'), as measured from the surface of the water to the center of the suction inlet of the pumper at draft or at the dry hydrant.
  - viii. The riser piping shall be exposed above grade level twenty four inches (24") as measured from the center of the dry hydrant opening to the grade level of the fire apparatus position.



- ix. A suction screen shall be factory made or formed in the end of the steel or PVC pipe by drilling a minimum of nine hundred sixty (960) 3/8" holes along the piping leaving a four inch (4") wide strip along the top of the pipe that is not drilled. The suction screen shall be raised off the bottom of the pond twenty four inches (24"), and shall be a minimum of eight feet away from any sides of the pond.
  - x. All pipings and fittings exposed to sunlight shall be primed and painted with red paint, except the threads of the steamer connection.
  - xi. The hydrant riser pipe shall be protected with four inch (4") diameter steel bumpers made from 8' posts that are at least three feet (3') above grade. These posts are to be painted as in item "x" above. Area is to be kept clear with a sign posted "No Parking Fire Lane" as described in 12.1.B.3.b.
6. Fire hydrants connected to a public water supply system shall be located no further than 1000 feet between hydrants.

## **12.2. Traffic Conditions.**

### **A. Access Control**

- 1. Where a subdivision abuts or contains an existing or proposed arterial street, no residential lot may have vehicular access directly onto the arterial street. This requirement shall be noted on the plan and in the deed of any lot with frontage on the arterial street. An exception may be made by the Planning Board for minor subdivisions.
- 2. Where a lot has frontage on two or more streets, the access to the lot shall be provided to the lot across the frontage and to the street where there is lesser potential for traffic congestion and for hazards to traffic and pedestrians. This restriction shall appear as a note on the plan and as a deed restriction to the affected lots.
- 3. Subdivision Access Design for Subdivisions Entering onto Arterial Streets. When the access to a subdivision is a street, the street design and construction standards of Section 12.2.B below shall be met. Where there is a conflict between the standards in this section and the standards of Section 12.2.B, the stricter or more stringent shall apply.

#### **a. General.**

Access design shall be based on the estimated volume using the access classification defined below. Traffic volume estimates shall be as defined in the Trip Generation Manual, 1991 edition, published by the Institute of Transportation Engineers.

- i. Low Volume Access: An access with 50 vehicle trips per day or less.
- ii. Medium Volume Access: Any access with more than 50 vehicle trips per day but less than 200 peak hour vehicle trips per day.
- iii. High Volume Access: Peak hour volume of 200 vehicle trips or greater. No development that will generate High Volume Access shall be permitted except on Route 1 or Route 90.

#### **b. Sight Distances.**

Accesses shall be located and designed in profile and grading to provide the required sight distance measured in each direction. Sight distances shall be

measured from the drivers seat of a vehicle standing on that portion of the exit with the front of the vehicle a minimum of 10 feet behind the curbline or edge of shoulder, with the height of the eye 3 1/2 feet, to the top of an object 4 1/4 feet above the pavement. The required sight distances are listed by road width and for various posted speed limits.

A minimum sight distance of ten feet for each mile per hour of posted speed limit shall be maintained or provided.

c. Vertical Alignment.

Accesses shall be flat enough to prevent the dragging of any vehicle undercarriage. Accesses shall slope upward or downward from the gutter line on a straight slope of 3 percent or less for at least 75 feet. The maximum grade over the entire length shall not exceed 10%.

d. Low Volume Accesses.

i. Skew Angle.

Low volume accesses shall be two-way operation and shall intersect the road at an angle as nearly 90 degrees as site conditions permit, but in no case less than 75 degrees.

ii. Curb Radius.

The curb radius shall be between 10 feet and 15 feet, with a preferred radius of 15 feet.

iii. Access Width.

The width of the access shall be between 20 feet and 24 feet, with a preferred width of 20 feet.

e. Medium Volume Accesses.

i. Skew Angle.

Medium Volume Accesses shall be either one-way or two-way operation and shall intersect the road at an angle as nearly 90° as site conditions permit, but in no case less than 75°.

ii. Curb Radius.

Curb radii will vary depending if the access has one-way or two-way operation. On a two-way access the curb radii shall be between 25 feet and 40 feet, with a preferred radius of 30 feet. On one way accesses, the curb radii shall be 30 feet for right turns into and out of the site, with a 5 foot radius on the opposite curb.

iii. Width.

On a two-way access the width shall be between 24 and 26 feet, with a preferred width of 26 feet, however where truck traffic is anticipated, the width may be no more than 30 feet. On a one-way access the width shall be between 16 feet and 20, with a preferred width of 16 feet.

iv. Curb-Cut Width.

On a two-way access the curb-cut width shall be between 74 feet and 110 feet with a preferred width of 86 feet. On a one-way access the curb-cut width shall be between 46 feet and 70 feet with a preferred width of 51 feet.

f. High Volume Accesses.

i. Skew Angle.

High Volume Accesses shall intersect the road at an angle as nearly to 90° as site conditions permit, but in no case less than 75°.

ii. Curb Radius.

Without channelization islands for right-turn movements into and out of the site, the curb radii shall be between 30 feet and 50 feet. With channelization islands, the curb radii shall be between 75 feet and 100 feet.

iii. Curb Cut Width.

Without channelization, curb-cut width shall be between 106 feet and 162 feet with a preferred width of 154 feet. With channelization, the curb-cut width shall be between 196 feet and 262 feet with a preferred width of 254 feet.

iv. Entering and exiting accesses shall be separated by a raised median which shall be between 6 feet and 10 feet in width. Medians separating traffic flows shall be no less than 25 feet in length, with a preferred length of 100 feet.

v. Width.

Access widths shall be between 20 feet and 26 feet on each side of the median, with a preferred width of 24 feet. Right turn only lanes established by a channelization island shall be between 16 feet and 20 feet, with a preferred width of 20 feet.

vi. Appropriate traffic control signage shall be erected at the intersection of the access and the street and on medians and channelization islands.

g. Access Location and Spacing.

i. Minimum Corner Clearance.

Corner clearance shall be measured from the point of tangency for the corner to the point of tangency for the access. In general the maximum corner clearance should be provided as practical based on site constraints. Minimum corner clearances are listed in Table 12.2-1, based upon access volume and intersection type.

Where the minimum standard for a full access drive cannot be met, only a special case access shall be permitted. If based on the above criteria, full access to the site cannot be provided on either the major or minor streets, the site shall be restricted to partial access. Alternately, construction of a

shared access drive with an adjacent parcel is recommended.

**Table 12.2-1**  
**Minimum Standards for Corner Clearance**

Access Type	<u>Minimum Corner Clearance (feet)</u>	
	<u>Intersection Signalized</u>	<u>Intersection Unsignalized</u>
Low Volume	150	50
Medium Volume	150	50
High Volume	500	250
Special Case		
Right turn in only	50	50
Right turn out only	100	50
Right turn in or out only	100	50

h. Number of Accesses.

The maximum number of accesses on to a single street is controlled by the available site frontage. No traffic generator shall have more than two two-way accesses.

i. Construction Materials/Paving.

- i. All accesses entering a curbed street shall be curbed with materials matching the street curbing. Sloped curbing is required around all raised channelization islands or medians.
- ii. All accesses shall be paved with bituminous concrete pavement within the street right-of-way. All commercial accesses, regardless of access volume, shall be paved with bituminous concrete pavement within 30 feet of the street right-of-way.

B. Street Design and Construction Standards.

1. General Requirements.

- a. The Board shall not approve any subdivision plan unless proposed streets are designed in accordance with the specifications contained in these regulations. Approval of the final plan by the Board shall not be deemed to constitute or be evidence of acceptance by the municipality of any street or easement now or in the future.
- b. Applicants shall submit to the Board, as part of the final plan, detailed construction drawings showing a plan view, profile, and typical cross-section of the proposed streets and existing streets within 300 feet of any proposed intersections. The plan view shall be at a scale of one inch equals no more than fifty feet. The vertical scale of the profile shall be one inch equals no more than five feet. The plans shall include the following information:
  - i. Date, scale, and north point, indicating magnetic or true.
  - ii. Intersections of the proposed street with existing streets.

- iii. Roadway and right-of-way limits including edge of pavement, edge of shoulder, sidewalks, and curbs.
    - iv. Kind, size, location, material, profile and cross-section of all existing and proposed drainage structures and their location with respect to the existing natural waterways and proposed drainage ways.
    - v. Complete curve data shall be indicated for all horizontal and vertical curves.
    - vi. Turning radii at all intersections.
    - vii. Centerline gradients.
    - viii. Size, type and locations of all existing and proposed overhead and underground utilities, to include but not be limited to water, sewer, electricity, telephone, lighting, and cable television.
  - c. Where the applicant proposes improvements within existing public streets, the proposed design and construction details shall be approved in writing by the road commissioner or the Maine Department of Transportation, as appropriate.."
2. Street Design Standards (note: references to private rights of way apply only to minor subdivisions).
- a. These design guidelines shall control the roadway, shoulders, curbs, sidewalks, drainage systems, culverts, and other appurtenances associated with the street, and shall be met by all streets within a subdivision, unless the applicant can provide clear and convincing evidence that an alternate design will meet good engineering practice and will meet the performance standards of Article 11.
  - b. Reserve strips controlling access to streets shall be prohibited except where their control is definitely placed with the municipality.
  - c. Adjacent to areas zoned and designed for commercial use, or where a change of zoning to a zone which permits commercial uses is contemplated by the municipality, the street right-of-way and/or pavement width shall be increased on each side by half of the amount necessary to bring the road into conformance with the standards for commercial streets in these regulations.
  - d. Where a subdivision borders an existing narrow street (not meeting the width requirements of the standards for streets in these regulations), the plan shall indicate reserved areas for widening or realigning the road marked "Reserved for Road Realignment (Widening) Purposes." Land reserved for such purposes may not be included in computing lot area or setback requirements of the zoning ordinance.
  - e. The design standards of Table 12.2-2 shall apply according to street classification.



**Table 12.2-2  
Street Design Guidelines**

<u>Description</u>	<-----Type of Street----->				<u>Industrial/ Commercial</u>
	<u>Arterial</u>	<u>Collector</u>	<u>Minor</u>	<u>Private ROW</u>	
Min. ROW Width	80'	50'	50'	50'	60'
Minimum Traveled Way Width	44'	24'	20'	18'	30'
Minimum Width of Shoulders (each side)	5'	3'	3'	3'	9'
Sidewalk Width (where required)	8'	5'	5'	N/A	8'
Minimum Grade	.5%	.5%	.5%	N/A	.5%
Maximum Grade*	5%	6%	8%	8%	5%
Minimum Centerline Radius without superelevation	500'	280'	280'	175'	400'
with superelevation	350'	175'	175'	110'	300'
Roadway Crown**	1/4"/ft	1/4"/ft	1/4"/ft.	***	1/4"/ft.
Minimum angle of street intersections****	90°	90°	75°	75°	90°
Maximum grade within 75 ft. of intersection	3%	3%	3%	N/A	3%
Minimum curb radii at intersections	30'	25'	20'	N/A	30'*****
Minimum r/o/w radii at intersections	20'	10'	10'	10'	20'

\* Maximum grade may be increased to 8% for a length of 100 feet or less.

\*\* Roadway crown is per foot of lane width.

\*\*\* Gravel surfaces shall have a minimum crown of 3/4 inch per foot of lane width.

\*\*\*\* Street intersection angles shall be as close to 90° as feasible but no less than the listed angle.

\*\*\*\*\* Should be based on turning radii of expected commercial vehicles, but no less than 30 feet.

f. The centerline of the roadway shall be the centerline of the right-of-way.

g. Dead End Streets.

In addition to the design standards in Table 12.2-2, dead-end streets shall be constructed to provide a cul-de-sac turn-around with the following minimum requirements for radii: Property line: 60 feet; outer edge of pavement: 50 feet; inner edge of pavement: 30 feet. Where the cul-de-sac is in a wooded area prior to development, a stand of trees shall be maintained within the center of the cul-de-sac. The Board may require the reservation of a twenty foot easement in line with the street to provide continuation of pedestrian traffic or utilities to the next street. The Board may also require the reservation of a fifty foot easement in line with the street to provide continuation of the road where future subdivision is possible.

h. Grades, Intersections, and Sight Distances.

i. Grades of all streets shall conform in general to the terrain, so that cut and fill are minimized while maintaining the grade standards above.

ii. All changes in grade shall be connected by vertical curves in order to provide the following minimum stopping sight distances based on the street design speed.

Design Speed (mph)	<u>20</u>	<u>25</u>	<u>30</u>	<u>35</u>
Stopping Sight Distance (ft.)	125	150	200	250

Stopping sight distance shall be calculated with a height of eye at 3 1/2 feet and the height of object at 1/2 foot.

- iii. Where new street intersections or driveway curb-cuts are proposed, sight distances, as measured along the road onto which traffic will be turning, shall be based upon the posted speed limit and conform to the table below. Sight distances shall be measured from the driver's seat of a vehicle standing on that portion of the exit with the front of the vehicle a minimum of 10 feet behind the curbline or edge of shoulder, with the height of the eye 3 1/2 feet, to the top of an object 4 1/4 feet above the pavement.

Posted Speed Limit (mph)	<u>25</u>	<u>30</u>	<u>35</u>	<u>40</u>	<u>45</u>	<u>50</u>	<u>55</u>
Sight Distance (ft.)	250	300	350	400	450	500	550

Where necessary, corner lots shall be cleared of all growth and sight obstructions, including ground excavation, to achieve the required visibility.

- iv. Cross (four-cornered) street intersections shall be avoided insofar as possible, except as shown on the comprehensive plan or at other important traffic intersections. A minimum distance of 125 feet shall be maintained between centerlines of minor streets and 200 feet between collectors or a collector and minor street.

i. Sidewalks.

The Planning Board may require sidewalks due to safety concerns or to ensure that developments blend harmoniously with the surroundings. Where installed, sidewalks shall meet these minimum requirements.

i. Location.

Sidewalks may be located adjacent to the curb or shoulder but it is recommended to locate sidewalks a minimum of 2 1/2 feet from the curb facing or edge of shoulder if the street is not curbed.

ii. Bituminous Sidewalks.

[1] The "subbase" aggregate course shall be no less than twelve inches thick after compaction.

[2] The hot bituminous pavement surface course shall be MDOT plant Mix Grade D constructed in two lifts, each no less than one inch after compaction.

iii. Portland Cement Concrete Sidewalks.

[1] The "subbase" aggregate shall be no less than twelve inches thick after compaction.

[2] The portland cement concrete shall be reinforced with six inch square, number 10 wire mesh and shall be no less than four inches thick.

- j. Curbs shall be installed in all areas with sidewalks. Granite or concrete curbing shall be installed on a thoroughly compacted gravel base of six inches minimum thickness. Bituminous curbing shall be installed on the base course of the pavement. The specified traveled way width above shall be measured between the curbs.

3. Street Construction Standards.

- a. The minimum thickness of material after compaction shall meet the specifications in Table 12.2-3.

**Table 12.2-3**  
**Minimum Pavement Materials Thicknesses**

<u>Street Materials</u>	<u>Arterial</u>	<u>Collector</u>	<u>Minor</u>	<u>Industrial/ Commercial</u>
Aggregate Subbase Course (Max. sized stone 6")				
Without base gravel	24"	18"	18"	24"
With base gravel	20"	15"	15"	20"
Crushed Aggregate Base Course (if necessary)	4"	3"	3"	4"
Hot Bituminous Pavement				
Total Thickness	3"	3"	3"	4"
Surface Course	1 1/4"	1 1/4"	1 1/4"	1 1/4"
Base Course	1 3/4"	1 3/4"	1 3/4"	2 3/4"
Surface gravel	N/A	N/A	N/A	N/A

- b. Preparation.
  - i. Before any clearing has started on the right-of-way, the center line and side lines of the new road shall be staked or flagged at fifty foot intervals.
  - ii. Before grading is started, the entire area within the right-of-way necessary for traveled way, shoulders, sidewalks, drainage-ways, and utilities shall be cleared of all stumps, roots, brush, and other objectionable material. All shallow ledge, large boulders and tree stumps shall be removed from the cleared area.
  - iii. All organic materials or other deleterious material shall be removed to a depth of two feet below the subgrade of the roadway. Rocks and boulders shall also be removed to a depth of two feet below the subgrade of the roadway. On soils which have been identified by the municipal engineer as not suitable for roadways, either the subsoil shall be removed from the street site to a depth of two feet below the subgrade and replaced with material meeting the specifications for gravel aggregate sub-base below, or a Maine Department of Transportation approved stabilization geotextile may be used.
  - iv. Except in a ledge cut, side slopes shall be no steeper than a slope of three feet horizontal to one foot vertical, and shall be graded, loamed, limed, fertilized, and seeded according to the specifications of the erosion and sedimentation control plan. Where a cut results in exposed ledge a side slope no steeper than one foot horizontal to four feet vertical is permitted.
  - v. All underground utilities shall be installed prior to paving to avoid cuts in

the pavement. Building sewers and water service connections shall be installed to the edge of the right-of-way prior to paving.

c. Bases and Pavement.

i. Bases/Subbase.

- [1] The Aggregate subbase course shall be sand or gravel of hard durable particles free from vegetative matter, lumps or balls of clay and other deleterious substances. The gradation of the part that passes a three inch square mesh sieve shall meet the grading requirements of Table 12.2-4.

**Table 12.2-4**  
**Aggregate Subbase Grading Requirements**

<u>Sieve Designation</u>	<u>Percentage by Weight Passing</u> <u>Square Mesh Sieves</u>
1/4 inch	25-70%
No. 40	0-30%
No. 200	0-7%

Aggregate for the subbase shall contain no particles of rock exceeding six inches in any dimension.

- [2] If the Aggregate Subbase Course is found to be not fine-gradable because of larger stones, then a minimum of three inches of Aggregate Base Course shall be placed on top of the subbase course. The Aggregate Base Course shall be screened or crushed gravel of hard durable particles free from vegetative matter, lumps or balls of clay and other deleterious substances. The gradation of the part that passes a three inch square mesh sieve shall meet the grading requirements of Table 12.2-5.

Aggregate for the base shall contain no particles of rock exceeding two inches in any dimension.

**Table 12.2-5**  
**Base Course Grading Requirements**

<u>Sieve Designation</u>	<u>Percentage by Weight Passing</u> <u>Square Mesh Sieves</u>
1/2 inch	45-70%
1/4 inch	30-55%
No. 40	0-20%
No. 200	0-5%

ii. Pavement Joints.

Where pavement joins an existing pavement, the existing pavement shall be cut along a smooth line and form a neat, even, vertical joint.

iii. Pavements.

- [1] Minimum standards for the base layer of pavement shall be the

Maine Department of Transportation specifications for plant mix grade B with an aggregate size no more than 1 inch maximum and a liquid asphalt content between 4.8% and 6.0% by weight depending on aggregate characteristics. The pavement may be placed between April 15 and November 15, provided the air temperature in the shade at the paving location is 35°F or higher and the surface to be paved is not frozen or unreasonably wet.

- [2] Minimum standards for the surface layer of pavement shall be the Maine Department of Transportation specifications for plant mix grade C or D with an aggregate size no more than 3/4 inch maximum and a liquid asphalt content between 5.8% and 7.0% by weight depending on aggregate characteristics. The pavement may be placed between April 15 and October 15, provided the air temperature in the shade at the paving location is 50°F or higher.

- iv. Surface Gravel for Minor Subdivisions, Private Rights - of -Way (servicing more than one (1) lot.

Private Rights-of-Way need not be paved and may have a gravel surface. Surface gravel shall be placed on top of the aggregate subbase, shall have no stones larger than two inches in size and meet the grading requirements of Table 12.2-6.

**Table 12.2-6  
Surface Gravel Grading Requirements for Minor Subdivisions and  
Private Right-of-Way**

<u>Sieve Designation</u>	<u>Percentage by Weight Passing Square Mesh Sieves</u>
2 inch	95-100%
1/2 inch	30-65%
No. 200	7-12%

### **12.3 Wildlife Habitat, Rare Natural Areas or Public Access to the Shoreline.**

#### **A. Preservation of Natural Beauty and Aesthetics.**

1. Unless located in areas designated as a growth area in the comprehensive plan, a subdivision in which the land cover type at the time of application is forested shall maintain a wooded buffer strip no less than fifty feet in width along all existing public roads. The buffer may be broken only for driveways and streets.
2. Unless located in areas designated as a growth area in the comprehensive plan, building location shall be restricted from open fields, and shall be located within forested portions of the subdivision. When the subdivision contains no forest or insufficient forested portions to include all buildings, the subdivision shall be designed to minimize the appearance of building when viewed from existing public streets.
3. When a proposed subdivision contains a ridge line identified in the comprehensive plan as a visual resource to be protected, the plan shall restrict tree removal and prohibit building placement within 50 feet vertical distance of the ridge top. These restrictions shall appear as notes on the plan and as covenants in the deed.
4. When a proposed subdivision street traverses open fields, the plan shall include the planting



of trees or shrubberies to screen houses within the subdivision.

5. Houses in the village district shall be traditional styled houses in keeping with the existing character of the Warren village area.

B. Retention of Open Spaces and Natural or Historic Features.

1. Proposed subdivisions which include or are adjacent to buildings or sites on the National Register of Historic Places or which the comprehensive plan has identified as being of historical significance shall be designed in such a manner as to minimize the impacts on the historic features. When the historic features to be protected include buildings, the placement and the architectural design of new structures in the subdivision shall be similar to the historic structures. The Board shall seek the advice of the Maine Historic Preservation Commission in reviewing such plans.

C. Protection of Significant Wildlife Habitat and Important Habitat Areas.

The following guidelines are designed to protect the significant wildlife resources identified in the municipality. The Board recognizes that wildlife management must take into account many site specific variables. Applicants proposing to subdivide land within identified wildlife resources must consult with the Maine Department of Inland Fisheries and Wildlife or a qualified wildlife biologist and provide their written comments to the Board. The guidelines of this section shall apply to only those subdivisions which include significant wildlife habitat or resources identified in Section 11.8.C.

1. Protection of Habitat of Endangered or Threatened Species.

- a. Habitat or species appearing on the official state or federal lists of endangered or threatened species shall be placed in open space.
- b. Deed restrictions and notes on the plan shall reflect standards from the Department of Inland Fisheries and Wildlife for removal of vegetation within 250 feet of the habitat for species appearing on the list of endangered or threatened species unless the Department of Inland Fisheries and Wildlife has approved cutting of vegetation in writing.

2. Protection of Waterfowl, Shorebird, and Wading Bird Habitat, Atlantic Salmon and Alewife Spawning and Nursery Areas.

- a. There shall be no cutting of vegetation within the strip of land extending 75 feet inland from the normal high-water mark of the following habitat areas:
  - i. Shorebird nesting, feeding and staging areas and seabird nesting islands;
  - ii. High and moderate value waterfowl and wading bird habitats, including nesting and feeding areas;
  - iii. Critical spawning and nursery areas for Alewives and Atlantic sea run salmon as defined by the Atlantic Sea Run Salmon Commission, or
  - iv. Other important habitat areas identified in the comprehensive plan.
- b. This restriction shall appear as a note on the plan and as a deed restriction to the affected lots.

3. Protection of Deer Wintering Areas.

The report prepared by a wildlife biologist, selected or approved by the Board, shall include a management plan for deer wintering areas.

4. Protection of Important Shoreland Areas.
  - a. Except as in areas described in Section 12.3.C.2, within all areas subject to the state mandated 250 foot shoreland zone:
    - i. Tree removal shall be limited to no more than 40% of the volume of trees 4 inches or more in diameter measured at 4 1/2 feet above the ground level on any lot in any ten year period.
    - ii. Cleared openings for development, including but not limited to, principal and accessory structures, driveways and sewage disposal areas, shall not exceed in the aggregate, 25% of the lot area or 10,000 square feet, whichever is greater, including land previously developed.
  - b. These restrictions shall appear as notes on the plan and as deed restrictions to the affected lots.
5. If the proposed subdivision includes other important wildlife habitat as identified by the Department of Inland Fisheries and Wildlife or the comprehensive plan, the restrictions on activities in and around these areas shall be reviewed by the Department or a qualified wildlife biologist and their comments presented in writing to the Board.

#### **12.4 Storm Water Management Design Guidelines.**

- A. Design of best management practices shall be substantially equivalent to those described in the *Storm Water Management for Maine: Best Management Practices*, published by the Maine Department of Environmental Protection, 1995.
- B. Drainage easements for existing water courses or proposed drainage ways shall be provided at least 30 feet wide, conforming substantially with the lines of existing natural drainage.
- C. The minimum pipe size for any storm drainage pipe shall be 15 inches for driveway entrances and eighteen inches for cross culverts. Maximum trench width at the pipe crown shall be the outside diameter of the pipe plus two feet. Pipe shall be bedded in a fine granular material, containing no stones larger than three inches, lumps of clay, or organic matter, reaching a minimum of six inches below the bottom of the pipe extending to six inches above the top of the pipe.
- D. Catch basins shall be installed where necessary and when located within a street shall be located at the curb line.
- E. Storm Drainage Construction Standards.
  1. Materials.
    - a. Storm drainage pipes shall conform to the requirements of Maine Department of Transportation materials specifications Section 706 for non-metallic pipe and Section 707 for metallic pipe. Plastic (polyethylene) pipes shall not be installed except in closed systems such as street underdrains. Bituminous-coated steel pipes shall not be used.
    - b. Where the storm drainage pipe is to be covered by ten feet or more of fill material, pipe material with a fifty year life shall be used. These materials include concrete pipe, polymer coated galvanized corrugated steel pipe, polyvinyl-chloride (PVC)

pipe, and corrugated aluminum alloy pipe.

- c. Where storm drainage pipe may come into contact with salt water, corrugated aluminum alloy pipes shall be used.

2. Pipe Gauges.

Metallic storm drainage pipe shall meet the thickness requirements of Table 12.4-1, depending on pipe diameter:

**Table 12.4-1.  
Culvert Size and Thicknesses Material**

<u>Inside Diameter</u>	Galvanized CMP	Aluminum/Zinc Coated CMP
	Aluminum Coated CMP <u>Corrugated Aluminum Alloy</u>	<u>Polymer Coated CMP</u>
15" to 24"	14 ga.	16 ga.
30" to 36"	12 ga.	14 ga.
42" to 54"	10 ga.	12 ga.
60" to 72"	8 ga.	10 ga.

- 3. Drain inlet alignment shall be straight in both horizontal and vertical alignment unless specific approval of a curvilinear drain is obtained in writing from the Board, after consultation with the municipal engineer.
- 4. Manholes shall be provided at all changes in vertical or horizontal alignment and at all junctions. On straight runs, manholes shall be placed at a maximum of 400 foot intervals.

- F. Upon completion, each catch basin or manhole shall be cleaned of all accumulation of silt, debris or foreign matter and shall be kept clean until final acceptance.

**12.5. Impact on Water Quality or Shoreline.**

Within a strip of land extending 100 feet inland from the normal high-water line of a great pond or any tributary to a great pond, and 75 feet from any other water body or the upland edge of a wetland, a buffer strip of vegetation shall be preserved. The deeds to any lots which include any such land shall contain the following restrictions:

- A. There shall be no cleared opening greater than 250 square feet in the forest canopy as measured from the outer limits of the tree crown. However, a footpath not to exceed ten feet in width as measured between tree trunks is permitted provided that a cleared line of sight to the water through the buffer strip is not created. Adjacent to a great pond, or a tributary to a great pond, the width of the foot path shall be limited to six feet.
- B. Selective cutting of trees within the buffer strip is permitted provided that a well distributed stand of trees and other vegetation is maintained. No more than 40% of the total volume of trees four inches or more in diameter, measured at 4 1/2 feet above ground level may be removed in any ten year period.
- C. In order to protect water quality and wildlife habitat adjacent to great ponds, and tributaries to great ponds, existing vegetation under three feet in height and other ground cover shall not be removed, except to provide for a footpath or other permitted uses as described above.
- D. Pruning of tree branches, on the bottom third of the tree is permitted.

**12.6 Lots.**

All lots outside of the Village District shall conform to the Land Use Ordinance except where specifically changed by this Ordinance. Lots shall be laid out so that a 200 ft. x 200 ft. square shall fit inside the lot lines without covering or crossing any part of any lot line, right-of-way, easement (temporary or permanent), dedicated open space, driveway or walkway which may be used by any other lot, lots or people not in ownership of the lot being checked.

- A. Subdivisions shall be designed to comply with the following lot size requirements:

Village District:	40,000 square feet (20,000 when serviced by public water and sewer)
All Other:	60,000 square feet
Maximum density per dwelling unit:	120,000 square feet.

- B. Wherever possible, side lot lines shall be perpendicular to the street.
- C. The subdivision of tracts into parcels with more than twice the required minimum lot size shall be laid out in such a manner as either to provide for or preclude future division. Deed restrictions and notes on the plan shall either prohibit future divisions of the lots or specify that any future division shall constitute a revision to the plan and shall require approval from the Board, subject to the criteria of the subdivision statute, the standards of these regulations and conditions placed on the original approval.
- D. If a lot on one side of a stream, tidal water, new road or other similar barrier fails to meet the minimum requirements for lot size, it may not be combined with a lot on the other side of the stream, tidal water, or new road to meet the minimum lot size.
- E. The ratio of lot length to width shall not be more than three to one. Flag lots and other odd shaped lots in which narrow strips are joined to other parcels in order to meet minimum lot size requirements are prohibited.
- F. In areas served by a postal carrier, lots shall be numbered in such a manner as to facilitate mail delivery. Even numbers shall be assigned to lots on one side of the street, and odd numbers on the opposite side. Where the proposed subdivision contains the extension of an existing street or street approved by the Board, but not yet constructed, the lot numbers shall correspond with the existing lot numbers. The lot numbering shall be approved by the code enforcement officer, the "911" officer, the Tax Assessors' Agent and commented on by the Fire Chief.

## **12.7 Utilities.**

Utilities serving subdivisions in areas designated by the comprehensive plan as growth areas shall be installed underground where practical. Utilities serving lots with a street frontage of 125 feet or less shall be installed underground. The Board may approve overhead utilities when the applicant proposes reserved affordable housing and provides evidence that the increased costs of underground utilities will raise the costs of the housing beyond the targets for affordable housing in the comprehensive plan.

## **12.8 Monuments.**

- A. Stone or precast concrete monuments shall be set at all street intersections and points of curvature, but no further than 750 feet apart along street lines without curves or intersections.
- B. Stone or concrete monuments shall be a minimum of four inches square at the top and four feet in length, and set in the ground at final grade level. After they are set, drill hole 1/2 inch deep shall locate the point or points described above.
- C. All other subdivision boundary corners and angle points, as well as all lot boundary corners and angle

points shall be marked by suitable monumentation, as required by the Maine Board of Registration of Land Surveyors.

## **12.9 Cluster Developments.**

### **A. Purpose.**

The purpose of these provisions is to allow for flexibility in the design of housing developments to allow for the creation of open space which provides recreational opportunities or protects important natural features from the adverse impacts of development, provided that the net residential density shall be no greater than is permitted in the district in which the development is proposed. Notwithstanding provisions of the zoning ordinance relating to dimensional requirements, the Board, in reviewing and approving proposed residential subdivisions, may modify the provisions related to dimensional requirements to permit flexibility in approaches to housing and environmental design in accordance with the following guidelines. This shall not be construed as granting variances.

### **B. Application Procedure.**

The Planning Board may allow lots within subdivisions to be reduced in area and width below the minimum normally required by this ordinance in return for open space where the Board determines that the benefits of the cluster approach will decrease development costs, increase recreational opportunities or prevent the loss of natural features without increasing the net density of the development. Two sketch plans shall be submitted with one layout as a standard subdivision and the second as a cluster development indicating open space and significant natural features. Each lot in the standard subdivision shall meet the minimum lot size and lot width requirements of this ordinance, and if not serviced by public sewer have an area suitable for subsurface waste water disposal according to the Maine Subsurface Wastewater Disposal Rules. The number of buildable lots or dwelling units in the cluster development shall in no case exceed the number of lots or dwelling units in the standard subdivision.

Estimated costs of infrastructure development (roads, utilities, etc.) shall accompany the plan. The written statement shall describe the natural features which will be preserved or enhanced by the cluster approach. Natural features include, but are not limited to moderate-to-high value wildlife and waterfowl habitats, important agricultural soils, moderate-to-high yield aquifers and important natural or historic sites identified by the comprehensive plan as worthy of preservation. The statement shall also compare the impacts upon the municipality from each plan. Examples of impacts are municipal cost for roads, school bussing, solid waste removal, utility efficiencies, recreational opportunities, protection of flood water storage areas, environmental impacts on sensitive lands caused by construction activities, underground utilities, reclamation of land and provision of land for conservation use.

Within ten days of receiving the application, the Board shall invite comments on the application from the conservation commission, the recreation commission, other appropriate town agencies, and abutters. Within thirty days of receiving the application, the Board shall determine whether to allow the subdivision to be developed in accordance with the cluster standards of this section.

### **C. Basic Requirements for Cluster Developments.**

1. Cluster developments shall meet all requirements of these regulations.
2. Each building shall be an element of an overall plan for site development. Only developments having a total site plan for structures will be considered. The application shall illustrate the placement of buildings and the treatment of spaces, paths, roads, service and parking and in so doing shall take into consideration all requirements of this section and of other relevant sections of these regulations.



3. The net residential acreage shall be calculated by taking the total area of the lot and subtracting, in order, the following:
  - a. 15% of the area of the lot to account for roads and parking.
  - b. Portions of the lot which, because of existing land uses or lack of access, are isolated and unavailable for building purposes or for use in common with the remainder of the lot, as determined by the Board.
  - c. Portions of the lot shown to be in a floodway or a coastal high hazard zone as designated in the Flood Boundary and Floodway Map prepared by the Federal Insurance Administration.
  - d. Portions of the lot which are unsuitable for development in their natural state due to topographical, drainage or subsoil conditions such as, but not limited to:
    - i. Slopes greater than 20%.
    - ii. Organic soils.
    - iii. Wetland soils.
    - iv. 50% of the poorly drained soils.
    - v. Coastal sand dunes.
  - e. Portions of the lot subject to rights of way.
  - f. Portions of the lot located in the resource protection zone.
  - g. Portions of the lot covered by surface waters.
  - h. Portions of the lot utilized for storm water management facilities.
4. In order to determine the maximum number of dwelling units permitted on a tract of land, the net residential acreage shall be divided by the minimum lot size required by the zoning ordinance. No building shall be sited on slopes steeper than 25%, within 100 feet of any water body or wetland, or on soil classified as being very poorly drained. The “no-build” zone as well as the building envelope shall be shown on the drawings.
5. Unless a community sewage collection and treatment system is provided, no lot shall be smaller in area than 20,000 square feet.
6. The total area of reserved open space within the development shall equal or exceed the sum of the areas by which any building lots are reduced below the minimum lot area normally required by the zoning ordinance. No less than 30% of the reserved open space shall be usable open space.
7. Every building lot that is reduced in area below the amount normally required shall be within 1,000 feet of the common land.
8. The distance between buildings shall be no less than the minimum building setback as defined in the Land Use Ordinance.
9. No individual lot or dwelling unit shall have direct vehicular access onto a public road existing at the time of development.

10. Shore frontage shall not be reduced below the minimum normally required by the zoning ordinance.
11. Where a cluster development abuts a body of water, a usable portion of the shoreline, as well as reasonable access to it, shall be a part of the common land.

## **ARTICLE 13 - PERFORMANCE GUARANTEES**

### **13.1 Types of Guarantees.**

With submittal of the application for final plan approval, the applicant shall provide one of the following performance guarantees for an amount adequate to cover the total construction costs of all required improvements, taking into account the time-span of the construction schedule and the inflation rate for construction costs:

- A. Either a certified check payable to the municipality or a savings account or certificate of deposit naming the municipality as owner, for the establishment of an escrow account;
- B. A performance bond payable to the municipality issued by a surety company, approved by the municipal officers, or town manager;
- C. An irrevocable letter of credit from a financial institution establishing funding for the construction of the subdivision, from which the Municipality may draw if construction is inadequate, approved by the municipal officers, or town manager; or:
- D. An offer of conditional approval limiting the number of units built or lots sold until all required improvements have been constructed.

The conditions and amount of the performance guarantee shall be determined by the Board with the advice of the municipal engineer, road commissioner, municipal officers, and/or municipal attorney.

### **13.2 Contents of Guarantee.**

The performance guarantee shall contain a construction schedule, cost estimates for each major phase of construction taking into account inflation, provisions for inspections of each phase of construction, provisions for the release of part or all of the performance guarantee to the developer, and a date after which the applicant will be in default and the municipality shall have access to the funds to finish construction.

### **13.3 Escrow Account.**

A cash contribution to the establishment of an escrow account shall be made by either a certified check made out to the municipality, the direct deposit into a savings account, or the purchase of a certificate of deposit. For any account opened by the applicant, the municipality shall be named as owner or co-owner, and the consent of the municipality shall be required for a withdrawal. Any interest earned on the escrow account shall be returned to the applicant unless the municipality has found it necessary to draw on the account, in which case the interest earned shall be proportionately divided between the amount returned to the applicant and the amount withdrawn to complete the required improvements.

### **13.4 Performance Bond.**

A performance bond shall detail the conditions of the bond, the method for release of the bond or portions of the bond to the applicant, and the procedures for collection by the municipality. The bond documents shall specifically reference the subdivision for which approval is sought.

### **13.5 Letter of Credit.**

An irrevocable letter of credit from a bank or other lending institution shall indicate that funds have been set aside for the construction of the subdivision and may not be used for any other project or loan.

### **13.6 Conditional Agreement.**

The Board at its discretion may provide for the applicant to enter into a binding agreement with the municipality in lieu of the other financial performance guarantees provided that:

- A. It is certified by the Board, or its agent, that all of the required improvements have been installed in accordance with these regulations and the regulations of the appropriate utilities; or:
- B. A performance guarantee, acceptable to the municipality, is submitted in an amount necessary to cover the completion of the required improvements at an amount adjusted for inflation and prorated for the portions of the required improvements already installed.

Notice of the agreement and any conditions shall be on the final plan that is recorded at the Registry of Deeds. Release from the agreement shall follow the procedures for release of the performance guarantees contained in Section 13.8.

### **13.7 Phasing of Development.**

The Board may approve plans to develop a major subdivision in separate and distinct phases. This may be accomplished by limiting final approval to those lots abutting that section of the proposed subdivision street which is covered by a performance guarantee, provided that roads and cul-de-sacs are completed. When development is phased, road construction shall commence from an existing public way. Final approval of lots in subsequent phases shall be given only upon satisfactory completion of all requirements pertaining to previous phases.

### **13.8 Release of Guarantee.**

Prior to the release of any part of the performance guarantee, the Board shall determine to its satisfaction, in part upon the report of the code enforcement officer or other qualified individual retained by the municipality and any other agencies and departments who may be involved, that the proposed improvements meet or exceed the design and construction requirements for that portion or phase of the subdivision for which the release is requested.

### **13.9 Default.**

If upon inspection, the municipal engineer or other qualified individual retained by the municipality finds that any of the required improvements have not been constructed in accordance with the plans and specifications filed as part of the application, he or she shall so report in writing to the code enforcement officer, the municipal officers, the Board, and the applicant or builder. The municipal officers shall take any steps necessary to preserve the municipality's rights.

### **13.10 Improvements Guaranteed.**

Performance guarantees shall be tendered for all improvements required to meet the standards of these regulations and for the construction of the streets, storm water management facilities, public sewage collection or disposal facilities, public water systems, and erosion and sedimentation control measures.

## **ARTICLE 14 - WAIVERS**

### **14.1 Waivers Authorized.**

Where the Board makes written findings of fact that there are special circumstances of a particular parcel proposed to be subdivided, it may waive portions of the submission requirements, unless otherwise indicated in the regulations, provided the applicant has demonstrated that the performance standards of these regulations and the criteria of the subdivision statute have been or will be met, the public health, safety, and welfare are protected, and provided the waivers do not have the effect of nullifying the intent and purpose of the comprehensive plan, the zoning ordinance, or these regulations.

### **14.2 Findings of Fact Required.**

Where the Board makes written findings of fact that due to special circumstances of a particular lot proposed to be subdivided, the provision of certain required improvements is not requisite to provide for the public health, safety or welfare, or are inappropriate because of inadequate or lacking connecting facilities adjacent to or in proximity of the proposed subdivision, it may waive the requirement for such improvements, subject to appropriate conditions, provided the waivers do not have the effect of nullifying the intent and purpose of the comprehensive plan, the zoning ordinance, or these regulations, and further provided the performance standards of these regulations and the criteria of the subdivision statute have been or will be met by the proposed subdivision.

### **14.3 Conditions.**

Waivers may only be granted in accordance with Sections 14.1 and 14.2. When granting waivers, the Board shall set conditions so that the purposes of these regulations are met.

### **14.4 Waivers to be shown on final plan.**

When the Board grants a waiver to any of the improvements required by these regulations, the final plan, to be recorded at the Registry of Deeds, shall indicate the waivers granted and the date on which they were granted.

## **ARTICLE 15 - APPEALS**

### **15.1 Appeals to Superior Court.**

An aggrieved party may appeal any decision of the Board under these regulations to Knox County Superior Court, within thirty days of the date the Board issues a written order of its decision.

\* \* \* \* \*

Notes: When documents are referenced in this ordinance, the intent is that the most recent version of that document apply.

To every extent practical, all documents referenced in this ordinance will be available at the Warren Town Office.

When construction materials are referenced in this document, the intent is to provide a minimum standard. Alternate materials may be substituted subject to the approval of the Planning Board.