

**Town of Warrensburg
Revised Zoning Ordinance**

Chapter 211

DRAFT

March 13, 2012

Draft



This document was prepared for the New York State Department of State with funds provided under Title 11 of the Environmental Protection Fund Act.

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ARTICLE I – INTRODUCTORY PROVISIONS

Title

This chapter shall be known as the "Town of Warrensburg Zoning Code" and is hereinafter referred to as (this "Code.")

Enactment & Authority

Enactment of this local law by the Town is pursuant to Article 16 of the Town Law of the State of New York, and Article 27 of the Executive Law of the State of New York and pursuant to Municipal Home Rule Law and the Constitution of State of New York, and the Town Board hereby declares its legislative intent to supersede any provision of any local law rule regulation or provision of the Town Law inconsistent with this Code. The Town Law provisions intended to be superseded include those portions of Article 16 Section 262-Districts as it relates to the difference in the uses permitted in the northern Business/Industrial District and the Southern Business/Industrial District. The Courts are hereby directed to take notice of this legislative intent and apply it in the event the Town has failed to specify any provision of law that may require supersession.

Purpose & Objectives of the Chapter

The purpose of this chapter is to broadly protect the public health, safety, and welfare of the residents of the Town of Warrensburg and to protect their property through the land use regulations under the authority of the New York State Town Law and in accordance with the Town of Warrensburg Comprehensive Plan. It is the further purpose and objective of this chapter to support the conservation, protection, development and use of the unique scenic, aesthetic, wildlife, recreational, open space, historic, ecological and natural resources of the community. It is also the purpose and objective of this chapter to preserve the beauty and character of the Adirondack Park setting to the benefit the Town of Warrensburg, its residents, visitors, and business community.

Applicability

Except as hereinafter provided: No area of land shall be disturbed and no building or part thereof shall hereafter be used, occupied, erected, moved, or altered unless in conformity with this Code. All development, new use or change in use shall require a Land Use and Development Permit unless otherwise expressly provided herein.

Authority of other agencies

Compliance with the Articles of this chapter do not preclude requirements that may exist by other agencies. These and other agencies may have overlapping jurisdiction: the Adirondack Park Agency; New York State Department of Environmental Conservation; New York State Health Department; the Town of Warrensburg Planning Board; the Town of Warrensburg Departments of Water and/or Highways; and/or New York State and/or Warren County Highway Departments. Nothing in this chapter shall be deemed to supersede their jurisdiction, provided that they may not override a decision under this chapter not to permit a given land use or development.

Authority of the Adirondack Park Agency

Nothing in this code shall be deemed to supersede, alter or impair the jurisdiction of the Adirondack Park Agency, pursuant to the Adirondack Park Agency Act, to review and approve, approve subject to conditions, or disapprove those developments and subdivisions of land defined by the Adirondack Park Agency Act as Class A and Class B regional projects, or otherwise supersede, alter or impair the statutory function, duties and responsibilities of that Agency with regard to matters involving the Town. The authority of the Adirondack Park Agency cannot, in the context of its Class A and B regional project review, override a decision by the Town to deny a permit for a given land use or development.

ARTICLE II– ESTABLISHMENT OF DISTRICTS & MAP

Purpose

It is the objective of this Code to define various districts in such manner as to recognize the existing character and quality of land use and natural features throughout the Town in accord with the Town of Warrensburg Comprehensive Plan.

Districts Classification

For the purpose of this Code, the Town of Warrensburg, is hereby divided into the following designated districts:

Residential / Recreation District (RR) – The purpose of this district is to encourage low density residential neighborhoods that protect the open spaces and natural character of the Town while accommodating recreational uses.

Residential Mixed Use (RMU) – The purpose of this district is to function as a transition zone between Residential / Recreation, the Hamlet Mixed Use and Core Commercial districts. These areas are walkable and are primarily residential, but may also include a limited mix of office and commercial.

Hamlet Mixed Use (HMU) – The purpose of this district is to provide a traditional, pedestrian-oriented mix of residential, office and smaller scale commercial uses, generally in converted homes or other structures compatible with adjacent neighborhoods.

Core Commercial (CC) – The purpose of this district is to provide nodes of intensive commercial uses and a mix of other uses appropriate for a Main Street setting that maximizes the economic development potential by encouraging infill, reuse and expansion.

Business / Industrial (BI) – The purpose of this district is to encourage industrial and business uses.

Mobile Home Overlay District (MHO) – The purpose of this district is to delineate special areas within which mobile homes and mobile home uses exist on the effective date of this chapter.

Outside Hamlet District (OH) – The purpose of this district is to maintain the rural, open character outside the more intensively developed hamlet area, while still allowing for a variety of uses.

Boundary Descriptions

- A. The boundaries for each zoning district are the boundaries indicated on the **map entitled "Town of Warrensburg Zoning Map"** which is hereby incorporated and declared to be part of this chapter, and hereinafter referred to as the "Town Zoning Map."

- B. Interpretation of district boundaries. Where uncertainty exists as to the boundaries of districts as shown on the Zoning Map, the following rules shall apply:
 - (1) Boundaries indicated as approximately following the center lines of streets or highways shall be construed to follow such center lines.
 - (2) Boundaries indicated as approximately following lot lines shall be construed to follow such lot lines.
 - (3) Boundaries indicated as following shorelines of ponds and lakes shall be construed to follow such shorelines and, in the event of change in the shoreline, shall be construed as moving with the actual shoreline.
 - (4) Boundaries indicated as following center lines of streams shall be construed to follow such center lines and, in the event of change in the center line, shall be construed as moving with the actual center line.
 - (5) Where district boundaries are not indicated as approximately following the items above, or are not designated on the Zoning Map, the boundary line shall be determined by the use of the scale designated on the Town Zoning Map.
 - (6) Whenever any street, alley or other public way is abandoned in the manner authorized by law, the district adjoining each side of such street, alley or public way shall be automatically extended to the center of the former right-of-way and all of the area included in the abandoned right-of-way shall henceforth be subject to all regulations on the extended districts.

- C. In the event that none of the above rules is applicable, or in the event that further clarification or definition is considered necessary or appropriate, the location of a district boundary shall be determined by the Zoning Board of Appeals.

- D. Parcels located in more than one zoning district

Article II – Establishment of Districts

Where an applicant owns a parcel of land located in more than one zoning district, the total number of principal buildings allowable on such parcel pursuant the Dimensional Table herein, may be distributed amongst such districts, provided that:

- (1) No lot is created which is smaller in area than the smallest lot permitted in any zone where the land exists pursuant to Dimensional Table of this Code.
- (2) The total number of principal buildings permitted for the entire parcel as determined by the Dimensional Table of this Code is not exceeded;
- (3) All the dimensional requirements in the zone where the land exists as determined by the Dimensional Table are met.
- (4) Uses prohibited in a district pursuant to the Use Table of this Code are not located therein;
- (5) Building rights are not transferred across boundaries of land use areas as shown on the Official Adirondack Park Land Use and Development Plan Map adopted pursuant to section 805 of the Adirondack Park Agency Act and incorporated into this Code pursuant to Adirondack Park Land Use and Development Plan Map; and
- (6) Deed restrictions, scenic or conservation easements or similar devices, approved by the Town Attorney, shall be provided to implement density requirements and principal building limitations.

E. Parcels Divided by Right-of-Way. A parcel which is divided by a public right-of-way shall be considered one parcel with the same tax map identification number.

F. Adirondack Park Land Use and Development Plan Map.

Where applicable, the boundaries within the Town of the land use areas established by the Official Adirondack Park Land Use and Development Plan Map, as may be from time to time amended, pursuant to Subdivision 2 of Section 805 of the Adirondack Park Agency Act, are indicated by the separate map entitled "Adirondack Park Land Use and Development **Plan Map.**" Any change of the boundaries within the Town of a land use area by an amendment of the Official Adirondack Park Land Use and Development Plan

Article II – Establishment of Districts

Map pursuant to Subdivision 2 of Section 805 of the Adirondack Park Agency Act shall take effect for the purposes of this Code concurrently with that amendment without further action.

The amendment provisions of this Code do not apply to the Official Adirondack Park Land Use and Development Plan Map, which is amended only pursuant to the provisions of the Adirondack Park Agency Act. Copies of the Official Adirondack Park Land Use and Development Plan Map, which may from time to time be published and distributed, are accurate only as of the date of their printing and shall bear words to that effect.

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ARTICLE III - Use Regulations

A. Permitted Uses

- (1) All uses listed in the use table below shall be permitted in each zoning district as a permissible use for that district, provided that all other requirements of this Code are met.
- (2) All area and size limitations which are included as part of their definitions are not subject to modification by area variances. Uses that do not meet the stated size or area limits shall be considered a different use.
- (3) **All permitted uses are indicated with a "P". All uses requiring Site Plan Review are indicated in an "S". Those uses with "Accessory" as part of its name shall only be permitted as an accessory use and not as a principal use.**
- (4) All mobile homes and mobile home parks existing in the Mobile Home Overlay District (MHO) at the time of adoption of this chapter are permitted. Such uses shall be subject to the underlying district zoning and dimensional requirements.
- (5) Any use may require Class A regional project review depending on location and size of project as determined by APA thresholds.

B. Mobile Home Overlay (MHO)

- (1) Mobile homes and mobile home parks are permitted in the Mobile Home Overlay District (MHO). Mobile homes shall be subject to the dimensional requirements of the underlying district.
- (2) All other buildings, structures and uses are subject to the use and dimensional requirements of the underlying district.

C. Waterfront Uses

- (1) All Waterfront Related Uses and Intensive Waterfront Related Uses are permitted and shall be subject to site plan review.
- (2) Waterfront Related Uses are permitted within 250 feet of the mean high water mark of the Hudson and Schroon Rivers.
- (3) Intensive Waterfront Related Uses are permitted within 250 feet of the mean high water mark of the Hudson and Schroon Rivers if an area within the project, of an adequate size as determined by the Planning Board, provides permanent and unrestricted access to the general

public.

D. Permitted Uses in the Business / Industrial (BI) District

- (1) Within the BI district, uses permitted in the Core Commercial (CC) **district as indicated herein are permitted within 250' feet of the centerline of NYS Route 9.** All BI dimensional requirements shall apply.

E. Permitted Uses in the Outside Hamlet (OH) District

- (1) Within the OH district, uses are regulated by APA.
- (2) Site plan review is required for all uses over 4,000 square feet, except single family homes.
- (3) All uses are permitted provided a Land Use and Development Permit has been issued from the Zoning Administrator.

F. Prohibited Uses

- (1) Any use not listed in the following table is deemed prohibited unless such principal use is expressly permitted elsewhere by this Code or a use variance is granted in accordance with the provisions of this Code.

G. Permitted Accessory Uses

All uses permitted as principal uses in each zoning district shall be permitted as accessory uses, provided the combination of uses shall meet all of the other provisions of this Chapter.

Town of Warrensburg - Use Regulations

Key:
 P = Permitted Uses
 S = Uses subject to site plan review
 A = Permitted accessory uses
 Grey cells = Uses not permitted

Gen. Regs	Uses	District					
		Residential/ Recreation (RR)	Residential Mixed Use (RMU)	Hamlet Mixed Use (HMU)	Core Commercial (CC)	Business / Industrial (BI) ¹	
	Accessory Use, Customary	A	A	A	A	A	
X	Agriculture, Small Scale	S				S	
	Amusement Centers				P	P	
	Artist Studio and Craft Shops		S	S	P	P	
	Apartment Buildings				S		
	Automobile Sales					S	
	Automobile Service					S	
	Bar / Tavern				P	S	
	Bed-and-breakfast	S	S	S	S		
	Campground	S					
	Car Wash					S	
X	Cemeteries	S	S	S	S	S	
	Community service organizations	S	S	S	S	S	
	Contracting Business					S	
	Daycare Center			S			
X	Dwelling, Accessory	P	P	P	P	S	
	Dwelling, Single Family	P	P	P	P		
	Dwelling, Two Family	S	P	P	P		
	Dwelling, Multi-family		S	P	P		
	Educational Institutions	S	S	S	S	S	
X	Farm Stand	P	P	P	P	P	
	Funeral Home			S			

Article III – Use Regulations

Gen. Regs	Uses	District					
		Residential/ Recreation (RR)	Residential Mixed Use (RMU)	Hamlet Mixed Use (HMU)	Core Commercial (CC)	Business / Industrial (BI) ¹	
X	Game preserves	S					
	Gas Station					S	
	Greenhouses, nurseries, lawn and garden shops, Commercial					S	
	Health Related Facilities			S		S	
	Heavy machinery and transportation equipment sales, service, repair, or storage					S	
X	Home occupations, Level I	P	P	P	P		
X	Home occupations, Level II	S	S	S	S		
	Hotel and Motel					S	
	Inn				S	S	
X	Light Manufacturing / Industry					S	
	Lumber yard					S	
X	Mineral Mining and Extraction	S					
	Office		S	S	P	P	
	Parking facilities, Commercial			S	S	S	
	Public Facilities	S	S	S	S	S	
	Recreation / Resort Facilities I	S	S	S	S	S	
	Recreation / Resort Facilities II					S	
	Religious Institutions	S	S	S	S	S	
X	Restaurant			S	P	S	
	Retail, Accessory					S	
	Retail and Service			S	S		
	Retail and Service, Neighborhood		S	S	P		
	Senior Housing			S	S	S	
	Signs, Accessory	A	A	A	A	A	

Article III – Use Regulations

Gen. Regs	Uses	District						
		Residential/ Recreation (RR)	Residential Mixed Use (RMU)	Hamlet Mixed Use (HMU)	Core Commercial (CC)	Business / Industrial (BI) ¹		
	Storage Facility, Commercial					S		
	Telecommunications Facilities	S	S	S	S	S		
	Theaters			S	S	S		
	Transfer Station					S		
X	Veterinary Clinic / Kennel					S		
	Warehousing and Distribution					S		
	Wholesale businesses					S		

¹ Within 250' of the centerline of NYS Route 9 in the Business/Industrial District all Core Commercial District Uses shall be permitted as indicated in the Use Table. All Business/Industrial District Dimensions shall apply.

Key:
P = Permitted Uses
S = Uses subject to site plan review
A = Permitted accessory uses
Grey cells = Uses not permitted

ARTICLE IV - DIMENSIONAL REQUIREMENTS

Density and Lot Calculation

Dimensional Table. Regulations governing lot area are specified in this Dimensional Table and in the additional regulations of this article, and are supplemented by the regulations of other sections of this Code.

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Town of Warrensburg Dimensional Table

District	Density: Number of Principal Buildings per Acre (See Def.)	Minimum Lot Size		Minimum Yard Setbacks (ft.)			Minimum % of lot to be permeable	Maximum Building Height (ft.)
		Lot Area (sq. ft.)	Lot Width (ft.)	Front	Rear	Side		
Residential/Recreation (RR)	2	20,000	100	20	15	10	40%	40
Residential Mixed Use (RMU)	4	10,000	100	20	15	15	35%	40
Hamlet Mixed Use (HMU)	4	10,000	100	10	10	10	15%	40
Core Commercial (CC)	5	8,000	80	0	10	0	10%	40
Business Industrial (BI)	2	20,000	125	25	25	10	15%	40
Outside Hamlet (OH)	2	20,000	125	35	15	10	35%	40

ARTICLE V – GENERAL REGULATIONS

Fences, Walls, and Retaining Walls

- A. Installation of fences and construction of all walls shall require a Land Use and Development Permit. In cases where Site Plan Review is otherwise required, the Planning Board may modify the following standards. Other applicants who wish to modify these standards who are not subject to site plan review must receive a variance from the Zoning Board of Appeals.
- B. Fences shall be permitted without a principle use and may be located in front, side and rear yard setback areas. Fences shall be allowed on any property line provided they comply with all other regulations set forth herein.
- C. The height of fences and all walls for all uses other than industrial uses shall not exceed six (6) feet in side yards, and six (6) feet in rear yards. The height of fences and all walls shall not exceed four (4) feet in front yards, and shall not obstruct vehicle sight lines or interfere in any way with the view corridor from public roadways.
- D. The height of fences and walls installed within 10 feet of the mean high water mark shall be measured from the mean high water mark.
- E. The finished side of the fence shall face neighboring properties or the street.
- F. Fences and all walls shall not encroach on any public right-of-way. Fences shall be set back a minimum of 2 feet from any sidewalk.
- G. The owner of the fence or wall must maintain both sides of the fence or wall in good condition.
- H. Fences and retaining walls along streams, rivers and water bodies may have to meet other regulatory review requirements.

Height exceptions

The height limitations of this chapter, as shown on the dimensional table, shall not apply to the following structures: cliffside, cantilever-type and A-frame homes; church spires, belfries, cupolas and domes not used for human occupancy; chimneys, ventilators, skylights, water tanks, bulkheads and other necessary mechanical appurtenances usually carried above the roof level; ornamental cornices extending above such height limit not more than five feet; and/or radio or television receiving antennae or a public utility transmission tower or cable. No such

uses in their aggregate coverage shall occupy more than 20% of the roof area on which located.

Lighting Standards

A. Purpose

It is the intent of these regulations to minimize glare, prevent or reduce light pollution, and provide the minimum light levels necessary for safe use of property.

B. Applicability

These regulations shall apply to all outdoor light fixtures.

C. Light levels

- (1) The minimum light level necessary to promote safe use of property shall be used. The trespass of light across property lines is prohibited except where it can be demonstrated that it is necessary for safety or security purposes.
- (2) Light levels at the boundaries of commercial lots that abut or adjoin lots with residential uses shall not exceed 0.1 foot-candles.
- (3) Light trespass between commercial lots is permitted in situations in which visibility between lots is necessary to promote safety, such as shared parking areas.
- (4) The light levels at commercial lot lines shall not exceed those found elsewhere on the lot.

D. Light Poles

- (1) On commercial lots, public spaces and sidewalks shall feature pedestrian-scaled lighting. Poles shall be no higher than 14’.
- (2) Parking lot light poles shall be no higher than 20’ or the height of the primary structure, whichever is less.

Lot Regulations

The provisions of this chapter shall be subject to such exceptions, additions or modifications, as herein provided by the following supplementary regulations:

- A. Subdivision of a lot. Any person undertaking a subdivision shall comply with Chapter 178, Subdivision of Land, and any lot, parcel or site resulting from a subdivision shall comply with the requirements contained in this chapter. Where a lot is formed hereafter from the part of a lot already occupied by a building, such separations shall be effected in such a manner as not to impair conformity with any of the requirements of this chapter with respect to the existing building, all yards and other required spaces in connection therewith, and no permit shall be issued for the erection of a building on the new lot thus created unless it complies with all the provisions of this chapter.

- B. Existing undersized lots. Any lot held in single and separate ownership prior to the adoption of this chapter and whose area and/or depth and/or width are less than the specified minimum lot requirements of this chapter for that district may be considered as a legal nonconforming lot, and no variance shall be required, provided that:
 - (1) Such lot has an area of at least 7,500 square feet and a minimum width of at least 50 feet at the required setback line; and
 - (2) Such lot or lots comply with all other requirements for that district.

- C. Access to lots. A lot to be used for building purposes shall have direct frontage on a street or legal deeded right-of-way, pursuant to Town Law §280-a.

- D. Lots under water or subject to flooding. Lots under water or subject to flooding are subject to the Floodplain Ordinance of the Town of Warrensburg and shall comply with the building requirements therein set forth.

Number of Principal Buildings

- A. Multiple principal buildings are permitted within the BI, CC or HMU districts with site plan review.

- B. Multiple principal uses are permitted within a principal building.

Off-Street Parking and Loading

- A. Parking spaces shall be located in the side or rear yard on the same lot as the principal use unless otherwise permitted by the Planning Board through site plan review or the Zoning Board of Appeals area variance review.
- B. Parking spaces shall not be located in any required front yard setback.
- C. Screening
 - (1) Off-street parking areas for all non-residential uses and apartment buildings located within 50 feet of single family, two family or multi family building dwellings shall be shielded by landscaping, wall, fencing or other suitable material which shall serve to screen noise and uncontrolled entrance.
 - (2) Parking lots shall be screened from all street or rights-of-way in such a manner as to facilitate adequate site distance at points of egress.
- D. Parking lot landscaping requirements.
 - (1) Buffer planting shall be installed between the parking lot and adjacent properties.
 - (2) Buffer planting shall be installed between the parking lot and the street.
 - (3) If existing trees and vegetation are left on the site, these may be used in lieu of new plantings.
- E. Parking lots with space for more than 40 (Forty) cars shall be designed in accordance with the following:
 - (1) One tree planted on the perimeter of the parking lot for every 10 cars or fraction thereof.
 - (2) One tree planted in the interior of a parking lot (on traffic islands) for every 10 cars or fraction thereof.

Article V – General Regulations

- (3) Internal traffic islands including one for every 20 cars or part thereof to reduce the impact of the parking area and provide safety for vehicles moving within the area.

F. New plantings shall comply with the following sizes:

- (1) Major tree 3-1/2" caliper
- (2) Flowering tree 2-1/2" caliper
- (3) Evergreen tree 4-6' height
- (4) Shrub 2-3' height or spread

G. Parking space size.

- (1) Perpendicular parking (90°)
- (2) Each parking space shall be a minimum of nine feet by eighteen feet (9' x 18').
- (3) The minimum aisle width shall be twenty-four feet (24') for two-way traffic.
- (4) The minimum aisle width shall be twenty-two feet (22') for one-way traffic.
- (5) Angled parking (60°)
- (6) Each parking space shall be nine feet by twenty-two feet (9'x 22').
- (7) The minimum aisle width shall be twenty-three feet (23') for two-way traffic.
- (8) The minimum aisle width shall be eighteen feet (18') for one-way traffic.

On-site sewage disposal

- A. The installation of any on-site sewage disposal system shall conform to the Sanitary Code of the Town of Warrensburg.
- B. In the case of all lakes, ponds, rivers or streams (permanent or intermittent) or any swamp, marsh or wetland, the minimum setback of any on-site sewage drainage field or seepage pit shall be 100 feet from the mean high-

water mark irrespective of zoning district or land use classification. The body or officer having jurisdiction under this chapter (be it Town, County or State) shall have authority to require a greater setback of any on-site sewage drainage field or seepage pit than the minimum hereinabove set forth, if it or he shall determine that soils or other pertinent conditions require such greater setback to reasonably protect the water quality of the water body involved.

Site Improvements and Screening

- A. Fencing and Screen-Planting may be required according to the following:
 - (1) Any use required by this Code to be fenced or screened from view shall provide a fence and/or structural or planting screen sufficient to enclose or so as to preclude entry or effectively screen such uses from view from abutting properties and the public right-of-way as is considered appropriate.
 - (2) Plans and site design for the installation of such fencing or screening as are required by this Code shall be reviewed and approved by the Planning Board prior to authorization of a Permit.
 - (3) Any fencing or screening installed in accordance with this Code shall be maintained in good order. Failure to maintain required fencing and screening shall be considered a violation of this Code.

Storage sheds

- A. The following shall apply to storage sheds in all districts:
 - (1) All front yard setbacks shall apply.
 - (2) For storage sheds 250 square feet or less, a 5-foot side yard and rear yard setback from the property line shall be applied. If the size is greater than 250 square feet, all setback requirements of the zoning district shall apply.
 - (3) The height shall not exceed 14 feet.
 - (4) The roof pitch shall be no less than 3/12.
 - (5) There shall be a maximum of 2 sheds per parcel.
 - (6) Plumbing within a storage shed is prohibited.
 - (7) The exterior siding shall be uniform in appearance and must reflect a residential character. Materials may include but not be limited to clapboards, simulated clapboards, such as conventional vinyl or metal siding, wood shingles, shakes or similar material.
 - (8) The shed cannot be used for automobile storage.

Swimming Pools

A. Swimming pools may be erected in all districts provided they conform to all state laws and regulations and the following provisions:

- (1) Pools may be installed only as accessory to a residence for the private use of the owners or occupants of such residence and their families and guests, or as an accessory use to a primary lodging use.
- (2) Subject to approval

No work shall be commenced on the construction or installation of any swimming pool, including any excavation or removal of sand, gravel, topsoil or other materials, until and unless the plans and specifications have been approved and a Certificate of Compliance has been issued by the Zoning Administrator.

- (3) Pools and pool equipment shall be installed in compliance with the setbacks of this Code.
- (4) Pools shall be completely surrounded by a substantial fence constructed of natural or artificial materials. Such fence shall be in conformity with all New York State and Local rules and regulations.
- (5) Provisions for drainage from the pool will be adequate.
- (6) A swimming pool to be constructed or installed as an accessory use to a hotel and motel, amusement centers or as part of any recreation/resort facility shall be permitted after application to, and issuance of a Permit therefore by the Zoning Administrator. Such swimming pool shall be so located as not to cause a hazard to public safety or nuisance to adjoining uses and shall be designed and located in accord with acceptable engineering standards and any applicable County or State requirements.

Temporary Structures

A building, mobile home, trailer or other structure, accessory to a construction project for office, storage or related construction use may be permitted upon issuance of a Permit by the Zoning Administrator, such installation to be temporary and continued only for the duration of the construction project to which it is accessory. Such facility shall not be designed or used for living accommodations except for the non-permanent accommodation of a clerk-of-the-works or night watchman, and shall be promptly removed upon completion of the construction

project or part thereof to which it is accessory, such date to be determined by the Zoning Administrator. Upon notice from the Zoning Administrator, the Permit shall expire and the rights and privileges there-under shall be vacated. Failure to remove such installation in a prompt manner after notice by the Zoning Administrator shall be considered a violation of this Code.

Visibility at intersections

On a corner lot in any district, no fence, wall, hedge, sign or other structure or planting more than three feet in height shall be erected, placed or maintained within the triangular area formed by the intersecting street lines (or their projections) where corner points are 30 feet distant from the point of intersection, measured along said street lines or projections. The height of three feet shall be measured above the curb level, if any, or above the existing road level. In no event, however, shall a hazard to traffic be erected or maintained.

Yards

- A. Terraces, decks and patios. A paved terrace or wooden patio or deck may be included as a part of a yard in determination of yard size, provided however, that such terrace is unroofed and without walls or parapets. Such terrace, however, may have a guard railing not over three feet in height and shall not project into any yard to a point any closer than five feet from any lot line. In some cases these structures may be subject to further restrictions concerning shoreline setbacks.
- B. Porches. An attached covered porch shall be considered a part of a building in determining the size of the yard or amount of lot coverage.
- C. Gazebos. Gazebos shall be considered in the amount of lot coverage.
- D. Projecting architectural features (horizontal). The space in any required yard shall be open and unobstructed, except for the ordinary projection of the windowsills, belt courses, chimneys, eaves and other architectural features; provided however, that such features shall not project more than three feet into any required yard.
- E. Yard for corner lots. On a corner lot, each side which abuts a street shall be deemed a front yard, and the required yard along each street shall be the required front yard. The owner shall decide (when applying for a building permit) which of the remaining yards shall be the required side yard and the required rear yard.

- F. Yard for double frontage lots. For any through lot fronting on parallel or abutting streets, both frontages shall comply with the front yard requirements of the district in which it is located.
- G. Fire escapes. Open fire escapes may extend into any required yard not more than six feet; provided, however, that such fire escape shall not be closer than four feet at any point to a lot line.

SUPPLEMENTAL USE REGULATIONS

Agriculture

- A. The purpose of this section is to protect the health, safety and general welfare of the citizens of the Town, as well as to provide for the safety and health of horses and livestock other than household pets.
- B. In any zone in the Town wherein the keeping of livestock is allowed, the following regulations shall be complied with:
 - (1) A lot or parcel of at least one (1) acre shall be required for the keeping of horses, ponies or other livestock.
 - (2) Within the pasture or field there must be provided a barn or similar three-sided lean-to with a roof to provide shelter for the horses, ponies or other livestock. Such structure shall be sized to accommodate the type and number of proposed animals.
- C. Location
 - (1) All barns, stables and/or similar three-sided lean-tos with roofs for the purpose of sheltering horses, ponies or similar livestock shall be located a minimum of 100 ft from the road centerline or shoreline, or any neighboring dwelling.
 - (2) Pasture or field fencing may be placed at any point up to the property line. **Said fencing shall be a minimum of fifty feet (50') from a neighboring dwelling.**

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- D. All pasture or field fences shall be constructed of such material and in such a manner as to prevent and preclude an escape of livestock.
- E. All fences, barns, three-sided lean-tos or similar structures must be maintained in a state of repair.
- F. Stables and similar enclosures must be built and maintained to avoid the creation of offensive odors, fly breeding or other nuisances.
- G. No storage of manure, odor or dust producing substance or any use producing odor or dust shall be permitted within 100 feet of any property line.

Cemetery

- A. In any zone in the Town wherein a cemetery is allowed, the following regulations shall be complied with:
 - (1) A lot or parcel of at least ten (10) acres shall be required for the purpose of a cemetery.

Dwelling Units, Accessory

It is recognized that the need for an accessory dwelling unit may occur. To ensure the public safety, health and welfare of the community the following shall apply to accessory dwelling units:

- A. Accessory dwelling units shall be no larger than the principal dwelling.
- B. The owner(s) of the lot upon which the accessory dwelling unit is located shall reside within the principle or accessory dwelling unit.
- C. A homeowner of a lawful single-family use shall be permitted one accessory dwelling unit where permitted according to the Use Table.
- D. Any individual septic system must meet New York State Health Department requirements.
- E. One off-street parking space required per accessory dwelling unit.
- F. An accessory dwelling unit shall constitute a principal building and shall be consistent with the Dimensional Table of this Code.

Farm stand

- A. There shall be no sales of fuel and related products, tobacco products, alcoholic beverages, lottery tickets, vehicles or related products.
- B. Food franchises are prohibited in any roadside stand or farm market operation.
- C. To ensure public safety, roadside stands will be required to have adequate off-street parking with an all weather surface and adequate ingress and egress with an area for turn-around. Parking spaces are exclusive of driveways and turnarounds.
- D. Seasonal signs are allowed, but cannot be placed anywhere it would create a traffic hazard. All other town signage regulations may apply.
- E. No outdoor lighting shall produce glare beyond the boundary of the property. No rotating or flashing lights on advertising signage may be permitted.

Game Preserves

- A. In any zone in the Town wherein a game preserve is allowed, the following regulations shall be complied with:
 - (1) A lot or parcel of at least fifty (50) acres shall be required for the purpose of a game preserve.
 - (2) A vegetative or architectural screening shall be provided to screen the parking from the public Right-of-Way and/or neighboring residential uses.
 - (3) All animal wastes shall be disposed of in a sanitary and environmentally safe manner, consistent in all respects with all state and federal requirements.
 - (4) Game preserves shall not be less than 200 ft from centerline of any roadway, 100 ft from any side or rear lot line. A 200 ft setback shall be required from any existing occupied structure on an adjoining parcel.

Home Occupation

- A. Home occupations are permitted as shown on the Use Table, in existing and new homes, in outbuildings and in garages, subject to the following criteria and standards.
 - (1) All home occupations shall:
 - a. Obtain a Land Development Permit from the Zoning Administrator
 - b. Be conducted by a resident of the lot;

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- c. Be compatible with the other uses allowed in the district;
- d. Maintain the character of the neighborhood;
- e. Ensure the peace, privacy, quiet, and dignity of the area; and
- f. Avoid excessive noise, traffic, nuisance, fire hazard, and other adverse effects of business uses.
- g. Home occupations shall be conducted in a manner which does not give the outward appearance of a business.
- h. Home occupations shall be conducted within the home or accessory structure. Such use shall not alter the external appearance from a residential character.
- i. Home occupations shall not generate automobile or truck traffic that would exceed the volume of traffic that would otherwise be generated by typical residential use.

(2) Home Occupation Level One

- a. Home occupations shall have no external storage of materials, equipment, containers, finished products or associated vehicles outside the home, outbuilding or garage other than that which is normally associated with residential use.
- b. Home occupations shall be incidental and secondary to the use of a dwelling unit for residential purposes. The space occupied by the home occupation itself does not necessarily have to be in the habitable area.
- c. Home occupations shall be limited to one (1) per lot and shall not have any non-resident employees.
- d. Home occupations shall not be required to provide any additional off-street parking.
- e. Home occupations that require the storage of heavy equipment or tractor trailer parking shall be considered Level Two home occupations.

(3) Home Occupation Level Two

- a. Home occupations shall be limited to two (2) per lot.
- b. Home occupations shall be incidental and secondary to the use of a dwelling unit for residential purposes. The space occupied by the home occupation itself does not necessarily have to be in the habitable area.
- c. Each home occupation shall have only one sign which shall not exceed two (2) square feet.

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- d. Home occupations shall allow no more than two (2) non-resident assistants, interns, or employees at any one time per home occupation.
- e. Home occupations shall provide off-street parking for any and all anticipated increase in vehicles at the dwelling.

Light Manufacturing / Industry

- A. Materials stored outside shall be screened and buffered so as to not be visible from the public right-of-way.
- B. No activities that will become noxious or offensive due to the emission of noise, smoke, dust, odors, gas or light shall be conducted without Site Plan Review approval by the Planning Board.

Mineral Mining and Extraction

The excavation and sale of sand, gravel, clay, shale, topsoil or other natural mineral deposits shall be subject to the following conditions:

- A. Any proposed excavation adversely affecting natural drainage or structural safety of adjoining buildings, land or natural beauty or adversely affecting the primary purpose of the zoning district in which it is located shall be prohibited.
- B. The top of any excavated area shall not be closer than 40 feet to a property line, nor within 300 feet of any public street or highway.
- C. Land having an area of more than 5,000 square feet from which topsoil has been removed or covered over by fill shall be seeded to provide an effective cover crop within the first growing season following the start of said operation.
- D. A mineral, mining and extraction application shall be accompanied by a plan for the rehabilitation of land involved, as well as a performance bond if required by Planning Board, executed by a surety company authorized by this state, guaranteeing the compliance hereof and to be released only upon rehabilitation compliance certification by the Zoning Administrator.
- E. Excavation
 - (1) Slopes caused by the excavation shall not exceed 30%.

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- (2) Depth of excavation shall approach no closer than five feet to the average high point of the groundwater table measured annually.
- (3) Stockpiled material shall not exceed 35 feet in height.
- (4) The entry into the excavated area shall be curved so as to prevent a direct view from the public right-of-way.

F. Buffer Zones

- (1) A one hundred-foot no cut buffer zone shall surround the excavation within the limits of the property.
- (2) A one hundred-foot no cut buffer zone shall separate the excavation from any streambed.

Mobile Homes

Mobile homes shall be subject to the following requirements:

- A. New and/or replacement mobile homes shall be subject to the following requirements:
 - (1) Each mobile home shall be located on:
 - a. A permanent, continuous masonry foundation; or
 - b. Concrete blocks or masonry/pressure-treated wooden piers, provided that there shall be a continuous skirting of metal, wood or comparable durable material installed so as to obscure the wheels from view from the highway or the street and from any adjoining property.
 - c. Provisions shall be made for the embedding of tie-down bolts sufficient to prevent movement or dislodgment of the mobile home.
 - d. Each mobile home shall meet all of the requirements of the New York State Uniform Fire Prevention and Building Code and the Codes, Rules and Regulations of the State of New York as amended.
 - e. Upon receipt of a permit for a mobile home installation, the applicant shall have 90 days from the time the mobile home is placed on the lot in which to complete the installation according to this section.

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- B. These conditions shall not apply to the occupied mobile home located on a lot prior to the enactment of this chapter. However, if such mobile home is relocated, or if a replacement mobile home is proposed to be located on the site, the provisions of this chapter shall be met.
- C. Option to upgrade.
- (1) In addition to the requirements listed in Subsection A above, the following standards shall be met:
- a. Tongue and wheels shall either be removed from the mobile home or used as an integral part of the upgrade.
 - b. Exterior siding must be residential in appearance, including, but not limited to, clapboards, simulated clapboards, such as conventional vinyl or metal siding, wood shingles, shakes or similar material, but excluding smooth, ribbed or corrugated metal or plastic panels.
 - c. Roof.
 - d. Pitch. The roof must be pitched so there is a minimum three-inch and maximum six-inch vertical rise for each 12 inches of horizontal run.
 - e. Projection. The roof overhang must be a minimum of 12 inches measured from the vertical side of the mobile home.
- (2) Upon issuance of Land Use and Development Permit, the proposed project shall be completed within 180 days. Failure to do so shall subject the applicant to penalties as stated in the Administration and Enforcement article of this chapter.

Mobile Home Parks

Each mobile home park shall meet all of the requirements of the Codes, Rules and Regulations of the State of New York, Title 10, Chapter 1, State Sanitary Code, Part 17, Mobile Home Parks, as amended.

Restaurant

- A. Ground-mounted utilities and dumpsters shall be screened with solid fencing and/or landscaping consistent with the architectural style of the structure. The use of enclosed structures for trash storage that complements the project architecture is encouraged.
- B. Dumpsters shall **not be located within 20' of any property lines.**

Veterinary Hospital and Kennel

- A. For all outdoor kennel uses, vegetative or architectural screening shall be provided to screen the parking from the public Right-of-Way and/or neighboring residential uses.
- B. All animal and medical wastes shall be disposed of in a sanitary and environmentally safe manner, consistent in all respects with all state and federal requirements.
- C. All veterinary hospitals and kennels shall not be less than 200 ft from centerline of any roadway, 100 ft from any side or rear lot line. A 200 ft setback shall be required from any existing occupied structure on an adjoining parcel.

Waterfront Related Use, Intensive

- A. The minimum lot width along the shoreline shall be 150 feet.
- B. The minimum setback of all principal and accessory buildings or structures in excess of one hundred (100) square feet, other than docks, boat houses or swimming floats hereinafter regulated, shall be a minimum of 50 feet from the mean high-water mark.
- C. Cutting Restrictions on Shoreline Lots
 - (1) Within 35 feet of the mean high water mark, no vegetation may be removed, except that up to a maximum of 30% of the trees in excess of six inches in diameter at 4 1/2 feet above ground elevation existing at any time may be cut over any ten-year period.
 - (2) The above cutting standards shall not be deemed to prevent the removal of diseased vegetation or of rotten or damaged trees or other vegetation that presents safety or health hazards.
 - (3) There shall be neither removal of vegetation nor any grading within 10 feet from the top of the slope of any stream bed or drainageway.

ARTICLE VI – SIGN REGULATIONS

A. Applicability

The location, placement, painting, alteration, extension, installation or other erection of any sign other than an exempt sign as hereinafter defined shall require a Land Use and Development Permit in accord with the standards and requirements as set forth hereunder. A permit is not required for maintenance, repair or repainting of a legal, existing sign so long as the size, configuration, location and message content are not altered.

B. General Provisions

(1) Construction

(a) All signs shall be constructed of durable materials, maintained in good condition and not allowed to become dilapidated or in a state of disrepair.

(b) The back or reverse side of a single-face sign visible from any public right-of-way shall be finished.

(2) Location

(a) Signs, other than an official traffic sign and those attached to building facades, shall not be erected within the public right-of-way nor project more than four (4) feet beyond property lines when attached to a facade.

(b) No sign shall be located within ten (10) feet of any side or rear lot line, except where such sign is attached to and does not project more than eighteen (18) inches from the face of the building.

(c) No sign shall be so located, erected or attached in a manner that obstructs either partially or wholly, the vehicular sight area which shall be maintained free from visual obstructions for a distance of twenty-five (25) feet in both directions from a street corner and a distance of ten (10) feet in both directions from a curb cut along a public right-of-way, so as to provide safe sight distance for both vehicles and pedestrians.

(d) No sign shall be placed upon or be supported by any tree, rock or other natural object other than the ground; except for a "no trespass" or "posted" sign.

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- (e) Fences, outbuildings and appurtenant structures shall not be considered in the tabulation of lineal feet of the principal building and such structures shall not be made part of any sign.

C. Temporary Signs Not Requiring a Land Use and Development Permit

- (1) Temporary commercial signs for special events may be displayed for no more than 14 days before such event and must be removed within 24 hours after such event.
- (2) Temporary commercial signs including, "Grand Opening," "End of Season," "Closeout," and "Going Out of Business" or signs with similar messages, provided that they are no more than fifteen 15 square feet with no single dimension greater than five feet, shall be permitted for no more than 14 consecutive days within any thirty (30) day time period.
- (3) Temporary Commercial Directional Signs
 - (a) Shall be removed within 24 hours after the event or purpose for which they were displayed has been terminated.
 - (b) Such signs shall not attach to trees, utility poles or the like, or be placed in a position that will obstruct or impair vision or traffic or in any manner create a hazard or disturbance to the health and welfare of the general public.
 - (c) Each business storefront is allowed only three (3) such signs at a time.
- (4) Temporary municipal signs indicating a public event.

D. Temporary Signs Requiring a Land Use and Development Permit

All other temporary signs require a Land Use and Development Permit and must comply with the following regulations:

- (1) Each Land Use and Development Permit shall not exceed 30 days.
- (2) The sign shall be no more than 24 square feet with no single dimension greater than six feet.
- (3) Such signs shall not project more than 15 inches from the face

of the building wall nor extend beyond the outer edge of the wall to which it is attached.

- (4) Such signs shall not be attached to trees, utility poles or the like, or be placed in a position that will obstruct or impair vision or traffic or in any manner create a hazard or disturbance to the health and welfare of the general public.
- (5) Placement of temporary signs shall not hinder pedestrian traffic.
- (6) Each business property site is allowed only one such sign at a time. Each such sign shall be located on the property designated in the permit application.

E. Signs Not Requiring Land Use and Development Permit

The following signs do not require a Land Use and Development Permit from the Town:

- (1) Any sign required by New York State Law.
- (2) Interior signs. No sign, or combination of signs, erected or maintained in the window of a building and visible from any public or private street or highway, shall occupy more than 35% of the window area.
- (3) Directional Signs
 - (a) Directional signs of a public or quasi-public nature identifying or locating a town, hospital, public building, parking lot, church, college, service or civic club, educational, cultural or public recreational building.
 - (b) In any district, a directional sign designating the location of an institution of public or quasi-public nature or the location of a community or a community facility , or similar signs may be erected, provided that such directional or informational sign(s) shall not exceed six (6) square feet in area and shall not extend over any property line or over any public road or public or private right of way.
- (4) Commercial Incidental Signs

A commercial incidental sign such as a single name plate indicating professional services, the accessory use of a dwelling for a home occupation or permitted use such as a restaurant in a

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club, institution or other non-residential building, may be erected without a Land Use and Development Permit, provided that such sign shall not exceed two (2) square feet.

- (5) Real Estate Signs
 - (a) Not more than one (1) sign twelve (12) square feet in area located on the individual lot and/or building and/or buildings being offered for sale or lease thereof.
 - (b) Real estate signs advertising property for sale shall be removed within thirty (30) days of the sale of the property.
- (6) Signs advertising yard or garage sales, etc. may be displayed on the individual lot and/or building only on the days of such sale and may not be displayed for more than three (3) consecutive days.
- (7) "Warning," "Private Drive," "Posted" or "No Trespassing" signs, not to exceed two square feet.
- (8) Historical tablets, memorial plaques or emblems installed by governmental agencies or religious or legally recognized not-for-profit.
- (9) During construction, repair or renovation, a single non-illuminated project sign denoting the developer, architect, engineer, subcontractors or contractor on the premises or a sign advertising the sale or development of a tract of land is permitted. The size of the sign shall not exceed 32 square feet. Such sign shall be 25 feet from the edge of pavement or improved travel surface of the roadway. Such sign shall be removed promptly upon completion of the work.
- (10) Signs designating credit cards accepted may be displayed, but such signs shall not occupy more than two square feet of the building façade.
- (11) Portable signs. One portable sign (sandwich board), one or two sided; not exceeding ten square feet per side in area may be displayed, per store front. Such signs must be placed so as not to interfere with pedestrian or vehicular traffic and must be removed during non-business hours.

F. Signs Requiring a Land Use and Development Permit

The following signs require a Land Use and Development Permit subject to the limitations provided below.

(1) Wall signs

Total wall signage shall not exceed one and one-half (1.5) square feet per linear foot of building frontage, ten percent (10%) of the total area of the building façade, or twenty-five (25) square feet, whichever is less.

(2) Projecting Signs

(a) Size

The maximum size of any projecting sign shall be no more than five square feet.

(b) Lighting

Projecting signs may be externally illuminated and may not be internally illuminated.

(c) Attachment

Signs shall be perpendicular to and attached to the building face of the premises which they advertise.

(d) Projection

Signs shall have a minimum projection of six inches and a maximum projection of three feet, six inches from the building face.

(e) Clearance

Signs shall have a minimum clearance of eight feet and a maximum clearance of 10 feet from the ground. All measurements of clearance are from the ground to the bottom of the sign.

(f) Encroachment

No sign shall be permitted to overhang the vehicular travel way of any highway, street or other vehicular public right-of-way.

(3) Awning and Canopy Signs

Awning lettering may contain names, numbers, and graphics limited to the business name or building name upon which the awning is located.

(4) Free-Standing Signs

(a) Free-standing signs shall not be permitted in a front or side yard where the building in that yard is set back less than ten (10) feet from the property line.

(b) Free-standing signs larger than eight (8) square feet are subject to the side and rear setback yard provisions in the dimensional table of this code.

(c) No free-standing sign shall be erected or maintained where any part of the sign is closer than five feet to any existing building.

(d) No free-standing sign shall have a display area exceeding 32 square feet with a maximum dimension of 10 linear feet on any one side, height or width.

(e) No free-standing sign or its support shall exceed a height of 16 feet.

(5) Illuminated Signs

(a) Any illuminated sign or lighting device shall employ only lights of constant intensity and no sign shall be illuminated by or contain flashing, intermittent or moving light or lights. The provisions of this section shall not be applied so as to prohibit a sign changing to show time and/or temperature.

(b) All exterior lighting shall be downward facing with the light source shielded.

(c) In no event shall an illuminated sign or lighting device be placed or directed as to illuminate a public street, highway, sidewalk or adjacent premises as to cause glare or reflection or light trespass that may constitute a traffic hazard or nuisance.

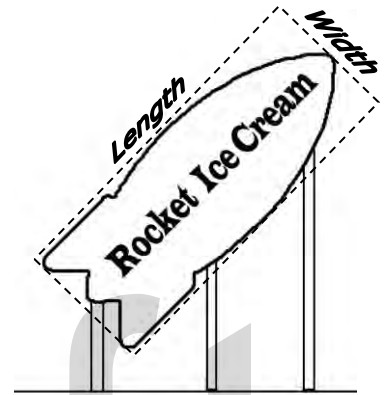
- (d) No lights or string of lights will be used for the purpose of advertising, displaying or otherwise attracting attention to the premises when not part of a sign or approved street or outdoor lighting. This shall not be interpreted to include season or holiday decorations temporarily displayed.
- (6) Off-Premise Signs
 - (a) Such use must be in conjunction with a business whose access does not abut a state or county highway.
 - (b) Any such business will be limited to one off-premise sign, no larger than 16 square feet in area.
 - (c) Off-premise signs are only permitted in the HMU district.
 - (d) An off-premises sign shall not be located closer than 75 feet from any other business sign on the same side of the highway.
 - (e) No more than one off-premises sign may be located on any individual lot.
 - (f) A home occupation would not be allowed any off-premises sign other than those which are permitted by N.Y.S. D.O.T.
- G. Placement and Number of Permitted Signs
 - (1) Businesses may be granted a Land Use and Development Permit for two signs, one free-standing double-faced sign and one sign attached to a building, or two signs attached to a building (wall or projecting).
 - (2) Businesses where the principal building is located with frontage on more than one street or public highway will be permitted one wall sign or one projecting sign facing each street and one freestanding sign.
 - (3) In addition to the above, a Land Use and Development Permit may be granted for an externally illuminated identification sign on a navigable waterway, provided that such sign does not exceed 15 square feet in area and the sign shall state only the name of the business, the phone number and/or property

address.

- (4) If site plan review is required, during such review of any proposed sign or signs for a building, group of buildings or lot under single ownership or management containing more than one separate and distinct business, the Planning Board may consider an application that would provide for an alternate arrangement than that provided for above with respect to the number and size, provided that the total number and size of such signing shall not exceed the combination to which each single business would be otherwise entitled.

H. Measurement of Sign Display Area

In measuring the square foot area of signs permitted under this Code, the entire face of the sign and, in the case of any open sign made up of individual boards, letters, figures or designs shall be measured as one sign. Signs that have a structure that is integral to the message shall be measured as part of the display area. However, if the multiple faces of any sign are separated in any manner other than by being mounted on common posts, they shall be considered as separate signs. Only one (1) side of double faced signs shall be measured when determining the area.



I. Sign Removal

- (1) Any new sign, or temporary sign which does not comply with the regulations established for the issuance of a Land Use and Development Permit pursuant to this Code or which Land Use and Development Permit is revoked or which is deemed to be an abandoned sign; or which is not maintained in good and complete condition with lettering and graphics clean, legible, in true alignment and finishes in good repair, is prohibited and shall be brought into compliance.
- (2) The business, property and/or sign owner of any non-complying sign shall be in violation until such sign(s) is removed or repaired.
- (3) In the case of an unsafe sign which, in the opinion of the Zoning Administrator, is an immediate peril to persons or property, the Zoning Administrator may order and arrange for the removal of such sign **at the owner's expense**, without notice to the owner

thereof.

J. Amortization of Non-Conforming Signs

Non-conforming signs existing either by variance previously granted or by conformance with the regulations existing when the original permit was granted, shall be removed or brought into compliance with the provisions herein no later than five (5) years after the adoption of this Code.

Draft

ARTICLE VII – Telecommunications Facilities

A. Siting

Where technically feasible, new telecommunications facilities should be sited on existing telecommunications towers or utility distribution lines or properties of the Town of Warrensburg designated for such use in order to preserve the aesthetic and scenic value of the Town.

B. Additional Site Plan Requirements

Applicants for a site plan to place, construct or modify telecommunications facilities within the Town of Warrensburg shall submit the following additional information to the Planning Board for its referral to a professional engineer or consultant for review and recommendation:

- (1) Visual Environmental Assessment Form (Visual EAF), landscaping plan and visual assessment report, including appropriate modeling and photography assessing the visibility from key viewpoints identified in the Visual EAF, existing tree lines and proposed elevations.
- (2) Preliminary report prepared by a licensed professional engineer describing:
 - (a) Feasibility of co-location on existing structures and telecommunications towers.
 - (b) Applicant's full map and grid coverage in the Town of Warrensburg and adjoining towns.
 - (c) Surrounding topography and relation to line of sight transmission.
 - (d) Available road access, electric power and land-based telephone lines and/or microwave link capability.
 - (e) Required improvements or construction activities, including those within the public right-of-way or lands owned or controlled by the Town of Warrensburg.
 - (f) Identity of location, ownership and usage of currently existing telecommunications facilities within the Town of Warrensburg and adjoining towns.
 - (g) Plans for construction of telecommunications accessory equipment building or structure and landscaping plan.
 - (h) Proposed mitigation measures for visual impacts.
 - (i) Proposed safety measures.
 - (j) Compatibility with existing telecommunications networks, and public safety.
 - (k) Emergency networks, such as fire, ambulance, police and 911.
- (3) In the case of an application for a telecommunications tower, additional information shall be provided describing the

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telecommunications tower height and design, foundation, including a cross section of the structure; the telecommunications tower's compliance with applicable structural standards; the telecommunications tower's capacity, including the number and type of telecommunications antennas it can accommodate and the basis of calculation of capacity.

- (4) Demonstration of need for proposed telecommunications facility showing the impracticality of upgrading or expanding an existing site within the Town of Warrensburg and adjoining towns.
- (5) Demonstration that the proposed site is the most appropriate available site, based on technological feasibility, for the location of the telecommunications facility.
- (6) Inventory of existing telecommunications facilities within the Town of Warrensburg and adjoining towns outlining opportunities for shared use as an alternative to the proposed use. The applicant must demonstrate that the proposed telecommunications tower or telecommunications antenna cannot be accommodated on an existing approved telecommunications tower or facility within the Town of Warrensburg and adjoining towns.
- (7) Proof of certified mail announcements to all other telecommunications providers in the area declaring the applicant's sharing capabilities and/or siting needs.
- (8) A map showing the location of the premises for which the permit is sought and a sketch plan showing all features of the facility necessary for providing road access, electrical service, land-based telephone line connection and/or microwave link capability within the property boundaries of the proposed location.
- (9) In the case of an application for a telecommunications antenna or tower to be located on lands owned by a party other than the applicant or the Town, a copy of the lease agreement with the property owner shall be provided to the Planning Board.
- (10) Such other information as may be required by the Planning Board or its engineer.

C. General Requirements.

- (1) Separation distance
Telecommunications towers shall be separated from all residential dwellings and building sites by a distance of 500 feet or 1 1/2 times the height of the tower, whichever is greater.
- (2) All telecommunications accessory structures shall comply with zoning setback regulations in the affected zone. In any event, a telecommunications tower shall be set back a distance at least equal to

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its height. Additional setbacks may be required by the Planning Board in order to provide for the public safety.

- (3) Minimal visual impacts
All telecommunications towers and telecommunications antennas shall be sited and surrounded by wooded areas so as to have the least possible practical visual effect on the environment.
- (4) Lighting
Telecommunications towers shall not be artificially lighted unless otherwise required by the Federal Aviation Administration or other federal, state or local authority.
- (5) Material and paint
Telecommunications towers and telecommunications antennas shall be of a galvanized finish, or painted gray above the surrounding tree line and gray or green below the tree line; the mountings of telecommunications antennas shall be non-reflective and of the appropriate color to blend with their background.
- (6) Screening
 - (a) Vegetative screening
The following vegetative screening shall be provided: one row of native evergreen shrubs or trees capable of forming a continuous hedge at least eight feet in height within two years of planting shall be provided to effectively screen the telecommunications tower base and accessory facilities. Additional screening may be required by the Planning Board to screen portions of the telecommunications tower from nearby residential property of important views.
 - (b) Architectural screening
Creative design measures, to camouflage facilities by integrating them with existing buildings and among other existing uses, are preferred.
- (7) Height
The size of telecommunications sites shall be limited to the minimum required to provide the proposed area telecommunications services.
- (8) Access road
Existing roadways shall be used for access to the site whenever possible.

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- (9) Telecommunications accessory structures
Telecommunications support facilities such as vaults and equipment rooms, utilities and other support structures shall be screened, placed underground, depressed, earth bermed or sited below the ridgeline to the greatest extent feasible, particularly in areas of high visibility.
- (10) Telecommunications antennas
Due to their high visibility, dish and parabolic telecommunications antennas shall not be used when overland connections are possible. If dish and parabolic antennas are required, they should be located at as low an elevation as possible without compromising the function of the device, preferably on the sides of buildings or ground mounted on slopes below the ridgeline wherever possible, rather than elevated on telecommunications towers. Microwave and satellite dishes shall be of mesh construction wherever possible.
- (11) Utility service
Electrical and land-based telephone utilities extended to service telecommunications sites shall be underground.
- (12) Security provisions
Each site shall have a security program, including physical features such as fencing, anti-climbing devices or elevating ladders on the telecommunications towers.
- (13) Safe zone
Telecommunications towers shall be designed so that in the event of failure they will fall within the setback area of the site and/or away from adjacent property.
- (14) Noise
Noise producing equipment and towers shall be sited, constructed and/or insulated to minimize noise impacts on adjacent properties.
- (15) Annual inspection and report
Telecommunications towers over 100 feet in height, including towers existing on the effective date hereof, shall be inspected annually by a licensed professional engineer, or at any other time upon a determination by the Zoning Administrator that the telecommunications tower may have sustained structural damage, and a copy of the inspection report shall be submitted to the Zoning Administrator.
- (16) Removal
If the use of the tower for the authorized cellular telephone, voice, data or other forms telecommunications is discontinued for more than one year, its successors and assigns, shall remove the tower from the site within the following year. If the use of the herein authorized antennas for cellular telephone, voice, data or other forms of wireless communications is discontinued for more than six months, their successors and assigns, shall remove the antenna array from the tower within the following six months. Once the time frames for

Article VII – Telecommunications Facilities

removal have expired according to this condition, placement of a new tower on the project site or replacement of the antennas on the tower for cellular telephone, voice, data or other forms of wireless communications shall be subject to review and approval by the Agency in the form of a new or amended permit. The landowners, their successors and assigns shall allow timely removal of the tower or antenna array pursuant to this condition.

(17) Bond

Applicants shall post a bond or other suitable undertaking as a condition of the use permit in order to guarantee removal of abandoned structures.

(18) Post-installation field report

A post-installation field report identifying the facility's coverage area, the telecommunications tower's maximum capacity, committed capacity and unused capacity, if any, and co-located users of the telecommunications tower shall be submitted to the Town.

D. Proof of Insurance

The applicant and the owner of the property where the telecommunications tower and/or antenna are to be located shall provide the Town Clerk with proof of insurance in a sufficient dollar amount to cover potential personal and property damage associated with construction and operation thereof.

ARTICLE VIII- Nonconforming Uses, Structures and Lots

Nonconforming Uses

A. Continuation

- (1) Any nonconforming use which existed lawfully at the date of enactment of this local law may be continued, subject to the following provisions.
- (2) Gas stations, automobile sales and automobile service uses located in the Core Commercial District and the Hamlet Mixed Use District which existed lawfully at the date of enactment of this local law shall be deemed conforming and not subject to discontinuance.

B. Expansion

A nonconforming use which existed lawfully prior to adoption of this Code may be expanded within any portion of an existing structure in which it is located. A nonconforming use shall not be expanded beyond the area of the existing structure in which the use is located. Any deviation requires a use variance and, if required by the terms of the variance granted, Site Plan Review and approval by the Planning Board.

C. Changes

A nonconforming use shall not be changed to any other nonconforming use; nor shall a nonconforming use be modified unless such modification results in a conforming use.

D. Discontinuance

- (1) If a nonconforming use is discontinued for a period of 12 consecutive months, such nonconforming use shall expire and be deemed abandoned unless discontinuance is in compliance with Section E; and any subsequent use on the same lot shall conform to the use regulations of the district in which it is located.
- (2) The burden of proving continuance of use shall be on the property owner by clear and convincing evidence.
- (3) Single family dwellings shall be deemed conforming and shall not be subject to the discontinuance provision stated above and shall not expire.

E. Restoration

- (1) If any building or structure in which a nonconforming use is conducted

Article VIII – Non-Conforming Uses, Structures & Lots

is hereafter removed voluntarily, or destroyed by fire, wind, explosion, structural failure or other natural cause, up to the extent of 75% of its fair market value at the time of such damage, or voluntary removal, as determined by an independent appraisal, the structure may be reconstructed or restored and the nonconforming use continued.

- (2) Such restoration or reconstruction must not enlarge the structure beyond the original dimensions unless granted a use variance from the Zoning Board of Appeals and, if required by the terms of the variance granted, Site Plan Review and approval by the Planning Board.
- (3) A valid building permit must be obtained within one year of the removal or destruction of the original structure and construction shall be complete within one year of the issuance of a valid building permit. A one year extension within which to complete the project and obtain a Certificate of Completion may be granted by the Zoning Board of Appeals.

F. Removal.

If any building in which any nonconforming use is conducted is hereafter removed, the subsequent use of the land on which such building was located and the subsequent use of any building erected thereon shall conform to the regulations of the district.

Nonconforming Buildings and Structures

A. Continuation.

- (1) Any nonconforming building or structure which existed lawfully at the time of adoption of this local law may be maintained.
- (2) Any building or structure, for which a valid building permit was lawfully issued prior to the adoption of this Code, may be completed and used in accordance with the plans and specifications provided that the building or structure shall be completed and a Land Use Land Use and Development Permit issued within one (1) year with a one (1) year extension granted by the Zoning Administrator.

B. Modification and replacement.

- (1) Modification.
 - (a) A nonconforming building or structure shall be maintained in such condition as will not constitute a danger to the health, safety, or general welfare of the public.
 - (b) A nonconforming building or structure shall not be added to, enlarged, reconfigured or altered in any manner which increases

Article VIII – Non-Conforming Uses, Structures & Lots

its nonconformity.

(2) Replacement.

A nonconforming building or structure may be replaced on its identical footprint, within 24 months after its removal, so long as it is not added to, enlarged, reconfigured or altered in any manner or in a way which increases its nonconformity. After 24 months, such nonconforming structure may not be rebuilt on the same footprint but must conform to the regulations of the district in which it is located.

Nonconforming Lots

- A. A permitted use or structure may be constructed or located on any nonconforming lot provided that all other dimensional requirements for that use or structure in that district are met.
- B. In instances where an existing lot of record is nonconforming relative to lot size, an area variance to waive the lot size requirement is not required in order for a building permit to be secured. However, any new construction on a nonconforming lot must comply with all other applicable dimensional requirements.
- C. Buildings and structures located on nonconforming lots may be moved, expanded, enlarged or replaced as long as such change complies with all of the other dimensional requirements of the district in which it is located.

Documentation of Non-Conforming Status

- (1) Purpose. The Town of Warrensburg acknowledges that amending land use regulations may cause certain uses, structures, and/or lots to become non-conforming. The following process provides a means by which a landowner or business owner may document the non-conforming status, of a use, structure, or lot.
- (2) Procedure.
 - a. Application for documentation of non-conforming status shall be made to the Zoning Administrator and shall include:
 - 1. Submission of a written application on a form provided by the Zoning Administrator;
 - 2. Payment of the application fee; this fee shall be waived if the applicant submits the application within the eighteen months of the adoption of this Chapter;
 - 3. Proof that the use, structure, or lot was established prior to the effective date of this chapter. The applicant may submit to the Zoning Administrator pictures, financial

Article VIII – Non-Conforming Uses, Structures & Lots

evidence, sworn statements or any other documentary evidence.

4. The Zoning Administrator shall refer the application to the Zoning Board of Appeals with a recommendation stating whether or not the non-conformity was legally established prior to the adoption of this chapter.
 - b. The Zoning Board of Appeals shall make a determination as to the prior legal non-conforming status of the use, structure, or lot. The Zoning Board of Appeals shall make its determination, whether the use, structure, and/or lot is entitled to prior non-conforming status based upon all of the information provided, which may include, documentary evidence submitted, site inspections, interviews with the applicant or any other persons, or any other information that can reasonably be considered relevant.
 1. The Zoning Board of Appeals may hold a public hearing to gather addition information and evidence relevant to the prior non-conforming status of the uses, structures, and/or lot. If a public hearing is held it shall be held within 45 days of the first meeting, of the Zoning Board of Appeals, following the referral from the Zoning Administrator.
 2. The determination of the Zoning Board of Appeals shall be made within 45 days of the referral from the Zoning Administrator or within 45 days of the close of the public hearing if a hearing is held; unless said time periods are extended by mutual agreement between the applicant and the Zoning Board of Appeals.
 3. A copy of the determination of non-conforming status shall be mailed to the applicant and recoded with the Zoning Board of Appeals clerk and filed in the office of the Zoning Administrator.
 - c. A positive determination of non-conforming status by the Zoning Board of Appeals shall create a conclusive presumption of legal non-conforming status.
- (3) Veracity. The filing or submittal of false information, or information that is patently misleading, with the Zoning Administrator or the Zoning Board of Appeals, as it pertains to any material matter before the Zoning Board of Appeals shall be a violation of this Chapter.

ARTICLE IX – SITE PLAN REVIEW

A. Purpose of article.

The purpose of this article is to allow the proper integration of uses into the community. Due to the special characteristics of a use or of the area in which a use is to be located, these uses require special consideration so that they may be properly located and planned with respect to:

- (1) The objectives of the Town of Warrensburg Land Use Code and substantial conformance with the Comprehensive Plan.
- (2) Their effect on surrounding properties.
- (3) The ability of the Town to accommodate the growth resulting from the proposed use without undue adverse effect on the Town and its citizens and taxpayers, and the protection of the environment, health, safety and welfare of the Town and its citizens.

B. Applicability.

Uses requiring site plan approval.

- (1) New use as designated in the Use Table.
- (2) Change in use when new use is designated in the Use Table.
- (3) Single family dwellings shall not be subject to Site Plan Review.
- (4) Multiple principal buildings within the same lot.
- (5) All projects exceeding Type I thresholds of Part 617 of the New York State Environmental Quality Review Act (SEQRA) shall be subject to Site Plan Review.
- (6) Exterior alterations or additions to existing structures which would increase the square footage of the existing structure by more than 25% or have a cost value of more than \$20,000 or would increase the nonconformity of the structure.

C. Site Plan Review Procedure.

- (1) Application shall be made to the Planning Board using forms supplied.
- (2) Prior to formal submission of a detailed site plan, applicants may schedule an optional Sketch Plan conference.

- (3) The purpose of the sketch plan conference is to allow the Planning Board to review the basic site design concept, provide the applicant with constructive suggestions, and generally, to determine the information to be required for the site plan. In order to accomplish these objectives, the applicant shall provide 10 copies of the following:
 - a. A brief narrative and preliminary concept showing the locations and dimensions of principal and accessory structures, parking areas, and other planned features and any anticipated changes in the existing topography and natural features.
 - b. A sketch or map of the area which clearly shows the location of the site with respect to nearby streets, rights-of-way, properties, easements and other pertinent features within 200 feet.
 - c. A topographic or contour map of adequate scale and detail to show site topography.
- (4) If the Planning Board determines that the information submitted for the sketch plan is sufficient, it may, at its discretion, conduct site plan review at the sketch plan meeting without requiring additional information or scheduling a separate site plan meeting.
- (5) If additional information is requested by the Planning Board after the sketch plan conference, a complete application shall be submitted to the Zoning Administrator.

D. Application Content.

- (1) The Planning Board or the Zoning Administrator may request that the applicant provide the same information requested at the Sketch Plan conference and may further request any of the items listed the site plan checklist below. The Planning Board and Zoning Administrator are not limited to this list and may request any additional information it deems necessary or appropriate. In determining the amount of information it will require, the Planning Board will consider the type of use, its location, and the size and potential impact of the project.
- (2) Prior to a scheduled Planning Board meeting date at which a site plan is to be considered, 10 copies of the application for site plan approval shall be submitted to the Zoning Administrator.
- (3) The proposed site plan shall show the information requested by the Planning Board.
- (4) Site plan checklist:
 - a. Existing conditions.
 - i. Legal data.

- [1] Name and address of applicant and authorization of owner, if different from applicant.
- [2] Name and address of owner(s) of record, if different from applicant.
- [3] Name and address of person or firm preparing the plan and map.
- [4] Ownership intentions, such as purchase options.
- [5] Current zoning classification of property, including exact zoning boundary if in more than one district.
- [6] Property boundary line plotted to scale. Distances, angles and area should be shown.
- [7] North arrow, scale and date.
- [8] Locations, widths, elevations and names of existing and proposed adjacent streets.
- [9] Property lines and names of owners of adjoining parcels.
- [10] Location, width and purpose of all existing and proposed easements, setbacks, reservations and areas dedicated to public use within and adjoining the property.
- [11] Description of all existing deed restrictions or covenants applying to the property.
- [12] The identification of any state or county permits required for execution of the project.
- [13] Other requirements which the Planning Board might deem necessary, including but not limited to a licensed survey.

ii. Natural features.

- [1] Geological features, such as depth to bedrock and the location of rock outcrops.
- [2] Topographic features, including a map showing existing slope at two-foot contour intervals.
- [3] Vegetative cover, including existing wooded areas, significant isolated trees and similar features.
- [4] Soil characteristics, such as load bearing capacity and drainage capacity.
- [5] Hydrologic features should include drainage and runoff patterns, flood hazard areas, wetlands and depth to groundwater.

iii. Existing development and infrastructure.

- [1] Location and dimensions of major buildings and structures and their use.
- [2] Location and width of roads and paths, including site access.

- [3] Location, size and flow direction of sewers, water supply lines and culverts. Major electric, fuel and utility lines and appurtenances should also be shown.
- [4] Location of other existing development and uses, including parking and loading areas, fences, trees and landscaping.

b. New conditions.

i. Proposed development.

- [1] Grading and drainage plan showing proposed topography at appropriate contour intervals. This information shall be combined with the map of existing topography.
- [2] Location, proposed height and use of buildings and other structures, such as retaining walls, fences, outdoor storage tanks, air-conditioning units and waste disposal units.
- [3] Location, proposed use, design and construction materials of improvements not requiring structures, such as parking, loading and outdoor storage areas.
- [4] Location and arrangement of site access and egress, including all paths for pedestrian and vehicular travel within the site. Information should include profiles and cross sections of roadways and sidewalks showing grades, widths and location and size of utility lines.
- [5] Location and size of water and sewer lines and appurtenances. Any means of water supply or sewage disposal other than extensions of existing systems should be described, including location, design and construction materials.
- [6] Location, design and construction materials of all energy distribution facilities, including electric, gas and solar energy.
- [7] Removal and storage of snow.
- [8] Location, size and design and construction materials of all outdoor signs.
- [9] General landscaping plan and planting schedule, including areas of natural vegetation to remain, the treatment of buffer areas and the location and type of trees to be planted.
- [10] Estimated project construction schedule with possible phasing plan for large projects.
- [11] Additional specifications for materials.

- [12] Performance bond, amount, completion schedule, public improvements covered, inspection and bond approval if required.
- ii. Any other requirements which the Planning Board might deem necessary, including but not limited to a licensed survey.
- iii. Environmental Review. Applications for site plan review and approval shall be accompanied by a short-form or a long-form Environmental Assessment Form (EAF) or a draft Environmental Impact Statement (EIS), as required by SEQRA.

NOTE: All plans shall be at a scale of one inch equals 40 feet or larger scale showing the proposed development and their immediate environs. When development is proposed for larger lots, those areas left undeveloped may be shown on a site location map at an appropriate scale and level of detail.

E. Planning Board Action.

- (1) Following receipt of an application for site plan review, the Zoning Administrator shall notify the Planning Board and the Planning Board shall determine its completeness at its next scheduled meeting.
- (2) Notices. Applications that meet the criteria of General Municipal Law (GML) Section 239-m shall be sent to the Warren County Planning Board prior to the Planning Board decision. Applications that meet the criteria of 239-nn shall be noticed to neighboring municipalities.
- (3) The Planning Board shall comply with the State Environmental Quality Review Act.
- (4) Optional Public Hearings. Within 62 days following the determination of a complete application by the Planning Board, the Planning Board may hold a public hearing if a public hearing is deemed necessary. In determining whether a public hearing is necessary, the Planning Board shall be guided by the expected level of public interest in the project and the possibility of an eventual disapproval. Applicants may request a public hearing. When an applicant requests a public hearing, no site plan review project may be disapproved without such a hearing.
- (5) Public Hearing Notice. The Planning Board shall notice the public hearing by publication in the official newspaper at least ten days prior to the date of the public hearing.
- (6) Planning Board Decision. The Planning Board shall render a decision within 62 days of receipt of a complete application or within 62 days of the close of a public hearing, if required. Said decision shall be in the form of an approval, approval with conditions, or disapproval based on

the criteria of this Code. The decision shall be recorded in a Notice of Decision and shall incorporate the specific description and expiration date for any conditions imposed by the Planning Board.

- (7) The Planning Board, in conjunction with its approval of any site plan review project, may impose such requirements and conditions as are allowable within the proper exercise of the police power. The Planning Board may impose reasonable conditions to ensure that the project will be adequately supported by services and improvements made necessary by the project, and to ensure that the project will be completed in accordance with the requirements and conditions authorized under this Code. In addition, the Planning Board may require that the Zoning Administrator incorporate any such requirements and conditions in any permit issued with regard to such site plan review project.
- (8) Filing of decision. The decision of the Planning Board shall be filed within five (5) days of a decision in the office of the Town Clerk and a copy thereof mailed to the applicant. The decision shall contain such findings of fact and conditions as are required by this Code.

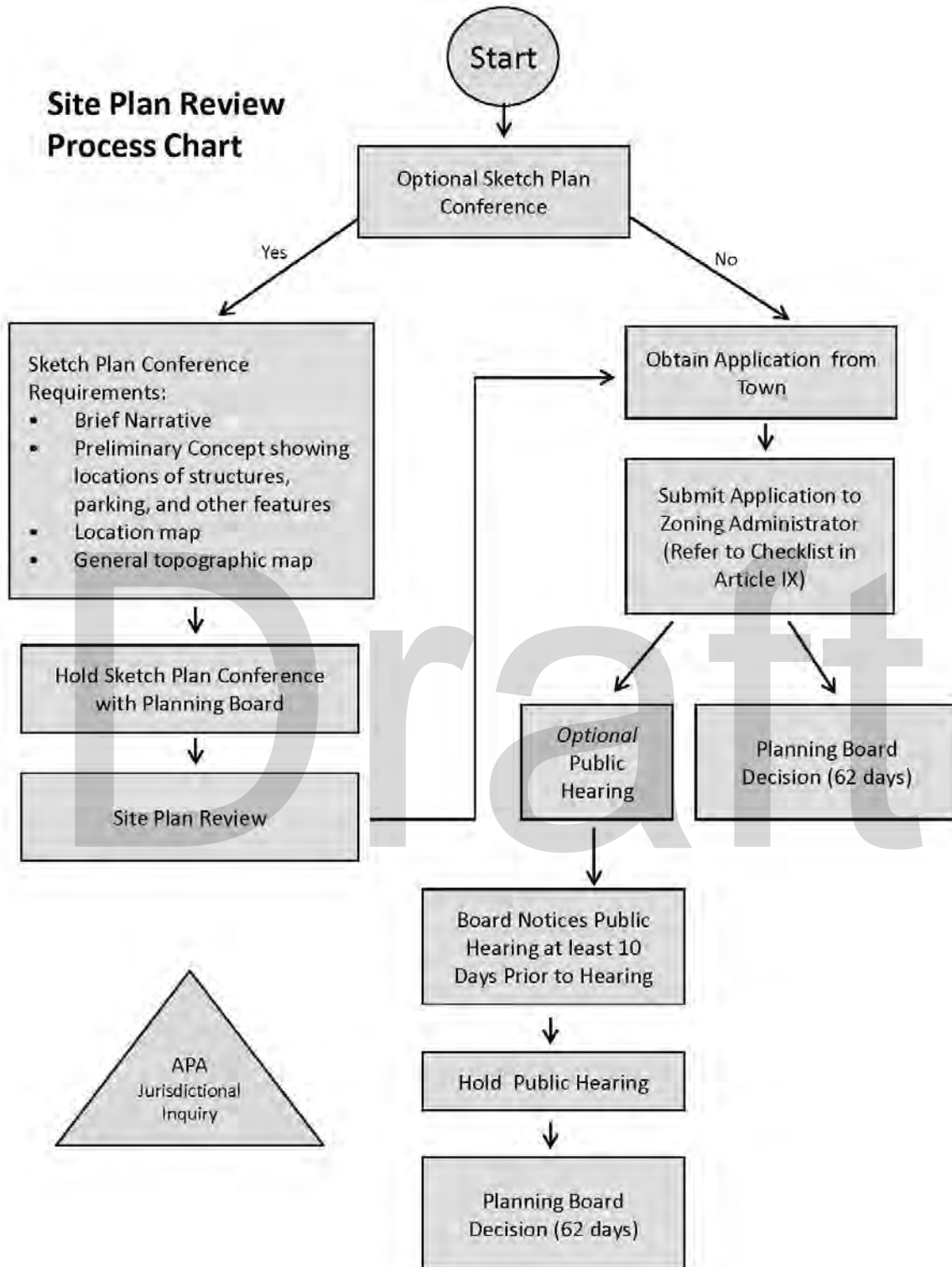
F. Criteria for Site Plan Review.

- (1) The Planning Board shall not approve an application unless it first determines that such site plan review application meets the following site plan review objectives and guidelines.
 - a. The application complies with all other requirements of this Code and all codes of the Town of Warrensburg, including the dimensional regulations of the zoning district in which it is proposed to be located;
 - b. The project would be in harmony with the general purpose and intent of this Code and the Comprehensive Plan, specifically taking into account the location, character, and size of the proposed project and the description and purpose of the district in which such project is proposed, the nature and intensity of the activities to be involved in or conducted in connection with the proposed project, and the nature and rate of any increase on the burden of supporting public services and facilities which will follow the approval of the proposed project;
 - c. The establishment, maintenance or operation of the proposed project would not create public hazards from traffic, traffic congestion, or the parking of automobiles or be otherwise detrimental to the health, safety or general welfare of persons residing or working in the neighborhood of such proposed use,

- or be detrimental or injurious to the property and improvements in the neighborhood or the general welfare of the town;
 - d. The project would not have an undue adverse impact upon the natural, scenic, aesthetic, ecological, wildlife, historic, recreational or open space to provide supporting facilities and services made necessary by the project - taking into account the commercial, industrial, economic, educational, residential, recreational or other benefits that might be derived from the project. In making this determination, the Planning Board shall consider those factors pertinent to the project contained in the development considerations set forth hereof, and in so doing, the Planning Board shall make a net overall evaluation of the project in relation to the development objectives and general guidelines set forth in this Code; and
 - e. The Planning Board shall take into consideration the public health, safety and general welfare, the comfort and convenience of the public in general and residents of the immediate neighborhood.
- (2) In considering the approval of the site plan, the Planning Board shall find that the proposed development meets all the following standards and requirements.
- a. Relationship to adjacent and nearby land uses both public and private.
 - b. Location, arrangement, size, design and general site compatibility of buildings, lighting and signs.
 - c. Visual compatibility with surroundings and aesthetics.
 - d. Adequacy and arrangement of vehicular traffic access and circulation, including intersections, road widths, pavement surfaces, dividers and traffic controls. Whenever possible access management techniques should be applied to improve the movement of traffic (motorized and non-motorized) and reduce vehicle conflicts.
 - e. Location, arrangement, appearance and sufficiency of off-street parking and loading.
 - f. Adequacy and arrangement of pedestrian traffic access and circulation, walkway structures, control of intersections with vehicular traffic, and overall pedestrian convenience.
 - g. Adequacy of stormwater and drainage facilities.
 - h. Adequacy of water supply and sewage disposal facilities including the relationship to existing and proposed water supply, sewage disposal.
 - i. Adequacy, type and arrangement of trees, shrubs and other landscaping constituting a visual and/or noise buffer between the applicant's and adjoining lands, including the maximum retention of existing vegetation.

- j. Adequacy of fire lanes and other emergency zones and the provision of fire hydrants.
- k. Relationship to the community's ability to provide adequate recreation, education, fire protection and similar facilities and services to its residents and visitors.
- l. Special attention to the adequacy and impact of structures, roadways and landscaping in areas with susceptibility to ponding, flooding and/or erosion. Effect on air and water quality standards applicable primarily to industrial site development plans.
- m. Effect on energy consumption and conservation.

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Article X - Variance and Appeals

Variations and Appeals

A. Area variance

The Zoning Board of Appeals has the power to grant variances from the area or dimensional requirements of this Code. In making its determination, the Zoning Board of Appeals shall take into consideration the benefit to the applicant if the variance is granted as weighed against the detriment to the health, safety or welfare of the neighborhood or community of such grant.

B. Use variances

The Zoning Board of Appeals has the power to grant use variances, authorizing a use of the land which otherwise would not be allowed or would be prohibited by the terms of this Code. No such use variance shall be granted by the Zoning Board of Appeals without a showing by the applicant that applicable zoning regulations and restrictions have caused unnecessary hardship.

C. Appeals

Applicants, or any officer, department, board or bureau of the Town have the right to appeal any order, requirement, decision, interpretation or determination of officials charged with the enforcement of this Code to the Zoning Board of Appeals. The Zoning Board of Appeals may reverse or affirm, wholly or partly, or modify the order, requirement, decision, interpretation or determination being appealed and shall make such order, requirement, decision, interpretation or determination as, in its opinion, ought to have been made in the matter by the administrative official charged with the enforcement of this Code, and to that end shall assume all the powers of the administrative official from whose order, requirement, decision or determination the appeal is taken.

Application

A. Applications shall be in writing and must be filed with the Zoning Board of Appeals within sixty (60) days after the order, requirement, decision, interpretation, or determination being appealed. Such application shall refer to the specific provisions of this Code involved and shall specify the grounds for the variance requested, the interpretation claimed, or the reversal of an order, requirement, decision, or determination of an administrative official and the relief sought.

B. The applicant shall supply the Zoning Board of Appeals with:

Article X – Variances & Appeals

- (1) A completed application, on forms provided by the Town.
- (2) A legal description of the property.
- (3) A map showing the property and all adjacent and adjoining properties.
- (4) **A "To Scale" drawing of the proposed action.**
- (5) Other drawings or information considered necessary by the Zoning Board of Appeals to make an informed decision.

Hearing on Appeal

- A. The Zoning Board of Appeals shall fix a reasonable time within sixty-two (62) days of receipt of an appeal for the hearing of an appeal or other matter referred to it and give public notice of such hearing by publication in the official newspaper in the Town and at Town Hall at least five (5) and no more than thirty (30) days prior to the date thereof.
- B. Such notice of hearing shall also be mailed directly by the Zoning Board of Appeals to all land owners of all parcels located directly adjacent to and across a street or public right-of-way from the subject property at least ten (10) days prior to the hearing date.
- C. At least seven days before the date of the hearing required by law on an appeal to the Board of Appeals, the Secretary of said Board may transmit to the Planning Board a copy of said application or appeal, together with a copy of the notice of the aforesaid hearing, and request that the Planning Board submit to the Board of Appeals its opinion on said application or appeal. The Planning Board shall submit a report of such advisory opinion prior to the date of said hearing. Upon failure to submit such report, the Planning Board shall be deemed to have approved the application or appeal.
- D. The Zoning Board of Appeals shall decide upon the appeal within sixty-two (62) days after said hearing. The time within which the Zoning Board of Appeals must render its decision may be extended by mutual consent of the applicant and the Zoning Board of Appeals.
- E. The Zoning Board of Appeals may reverse or affirm, wholly or in part, or may modify any order, requirement, decision, interpretation, or determination made by officials charged with the enforcement of this Code. The concurring vote of a majority of the members of the Zoning Board of Appeals shall be necessary to reverse any order, requirement, decision or determination of any such administrative official, or to grant a use variance or area variance.
- F. Imposition of conditions
The Zoning Board of Appeals shall have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed appeal. Such conditions shall be consistent

with the spirit and intent of this Code and shall be imposed for the purpose of minimizing any adverse impact such appeal may have on the neighborhood or community.

G. Rehearing

A motion for the Zoning Board of Appeals to hold a rehearing to review any order, decision or determination of the Zoning Board of Appeals not previously reheard may be made by any member of the Zoning Board of Appeals. A unanimous vote of all members of the Zoning Board of Appeals then present is required for such rehearing to occur. Such rehearing is subject to the same notice provisions as an original hearing. Upon such rehearing the Zoning Board of Appeals may reverse, modify or annul its original order, decision or determination upon the unanimous vote of all members then present, provided the Zoning Board of Appeals finds that the rights of persons acting in good faith in reliance upon the reheard order, decision or determination will not be prejudiced thereby.

H. Stay upon Appeal

An appeal shall stay all proceedings in furtherance of the action appealed from, unless the administrative official charged with the enforcement of this Code, from whom the appeal is taken, certifies to the Zoning Board of Appeals, after the notice of appeal is filed, that by reason of facts stated in the certificate, a stay would, in his or her opinion, cause imminent peril to life or property, in which case proceedings shall not be stayed other than by a restraining order which may be granted by the Zoning Board of Appeals or by a court with jurisdiction on application, with notice to the administrative official from whom the appeal is taken, and for due cause shown.

I. Expiration of Appeal Decision

Unless otherwise specified by the Zoning Board of Appeals and without any further hearing by the Zoning Board of Appeals, a decision on any appeal, including the granting of area and use variances, shall automatically lapse and expire if the applicant fails to exercise the variance or fails to obtain any necessary building permits within one (1) year of the date on which the decision is filed. Prior to such expiration, an applicant may seek a one-year extension of the variance from the Zoning Board of Appeals, who shall grant such extension if, in consultation with the Zoning Administrator, there have been no material changes in the circumstances surrounding the application.

Area Variance Criteria and Standards

- A. The Zoning Board of Appeals shall have the power, upon an appeal from a decision or determination of an administrative official charged with the enforcement of this Code, to grant area variances from the area or dimensional requirements of this Code.
- B. In making its determination, the Zoning Board of Appeals shall take into consideration the benefit to the applicant if the variance is granted, as weighed against any detriment to the health, safety and welfare of the neighborhood or community by such grant. In making such determination, the Board shall also consider the following tests.
 - (1) Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance;
 - (2) Whether the benefit sought by the applicant can be achieved by some method feasible for the applicant to pursue, other than an area variance;
 - (3) Whether the requested area variance is substantial;
 - (4) Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and
 - (5) Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Zoning Board of Appeals, but shall not necessarily preclude the granting of the area variance.
- C. The Zoning Board of Appeals, in the granting of area variances, shall grant the minimum variance that it shall deem necessary and adequate and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

Use Variances Criteria and Standards

- A. The Zoning Board of Appeals, on appeal from the decision or determination of the administrative officer charged with the enforcement of this Code, shall have the power to grant use variances, authorizing a use of the land which otherwise would not be allowed or would be prohibited by the terms of this Code.
- B. No such use variance shall be granted by the Zoning Board of Appeals without a showing by the applicant that applicable zoning regulations and restrictions have caused unnecessary hardship. In order to prove such unnecessary hardship the applicant shall demonstrate to the board of appeals that for each and every permitted use under the zoning regulations for the particular district where the property is

located:

- (1) Under applicable zoning regulations, the applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence;
 - (2) The alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood;
 - (3) The requested use variance, if granted, will not alter the essential character of the neighborhood; and
 - (4) The alleged hardship has not been self-created.
- C. The Zoning Board of Appeals, in the granting of use variances, shall grant the minimum variance that it shall deem necessary and adequate to address the unnecessary hardship proved by the applicant and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

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ARTICLE XI - Administration and Enforcement

General provisions

- A. Notice of public hearing.
- (1) Each notice of hearing upon an application for site plan review, the review of a variance application upon an appeal to the Zoning Board of Appeals, or any other public hearing required by this Code, NYS Town Law or SEQRA shall be published once in the official newspaper of the Town and at Town Hall at least five (5) and no more than thirty (30) days prior to the date of the hearing.
 - (2) Such notice of hearing shall also be mailed by the Town to all land owners of all parcels located directly adjacent to and across a street or public right-of-way at least ten (10) days prior to the hearing date.
 - (3) The cost of the public hearing notice shall be included in the fee for the applicable review or permit. If subsequent, separate hearings are required by the reviewing board or requested by the applicant, the cost of additional notices and mailings shall be paid by the applicant prior to such notices being sent. This shall not include hearings held open or continued by the reviewing Board.
- B. Referral to County Planning
- (1) Any variance application, site plan review or zoning change application within the following thresholds shall be referred to the Warren County Planning for their review and comment:
 - a. Within 500 feet of the Town boundary.
 - b. Within 500 feet of an existing or proposed county or state park or recreation area.
 - c. Within 500 feet of a right-of-way of any existing or proposed parkway, thruway, expressway, road or highway.
 - d. Within 500 feet of any existing or proposed county or state stream or drainage channel or easement.
 - e. Within 500 feet of any existing public building or institution.
 - f. Within 500 feet of the existing or proposed boundary of any

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county or state owned land on which a public building or institution is situated.

- g. Within 500 feet of the boundary of a farm operation located in an agricultural district as defined by article 25-AA of the agriculture and markets law.
- (2) Within 30 days after receipt of a full statement of such referred matter, the Warren County Planning Board shall report its recommendations to the referring Town body. If the county fails to report within 30 days, the Town body may act without such report. If the county disapproves the proposal, or recommends modification thereof, the Town body having jurisdiction shall not act contrary to such disapproval or recommendation, except by a vote of a majority plus one of all the members thereof, and after the adoption of a resolution fully setting forth the reasons for such contrary action.

- (3) Within 7 days after final action by the Town body, a report of said final action shall be filed with the Warren County Planning Board.

C. Referral to neighboring municipalities.

- (1) Town of Warrensburg shall give notice to an adjacent municipality when a hearing is held by such body relating to:
 - a. the granting of a use variance on property that is within five hundred feet of an adjacent municipality;
 - b. site plan review and approval on property that is within five hundred feet of an adjacent municipality; or
 - c. a subdivision review and approval on property that is within five hundred feet of an adjacent municipality.
- (2) Such notice shall be given by mail or electronic transmission to the clerk of the adjacent municipality at least ten days prior to any such hearing.
- (3) Such adjacent municipality may appear and be heard.

D. Records to be retained

The original or a certified copy of all decisions, approvals, rulings and findings of the Zoning Board of Appeals or Planning Board under this Code, shall be promptly furnished by the Zoning Administrator to the

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Town Clerk within five (5) days of the decision and retained as a permanent Town public record.

E. Assistance to Boards

Planning Board and Zoning Board of Appeals shall have the authority to call upon any department, agency or employee of the Town for such assistance as shall be deemed necessary and as shall be authorized by the Town Board. Such department, agency or employee may be reimbursed for any expenses incurred as a result of such assistance. The Planning Board and Zoning Board of Appeals shall have the power and authority to employ experts, clerks and a secretary and to pay for their services, and to provide for such other expenses as may be necessary and proper, not exceeding the appropriation that may be made therefore by the Town Board.

F. Consultant Review Fees

The Planning Board and Zoning Board of Appeals may require an applicant for any review, permit or approval to deposit in escrow an amount established by the Planning Board or Zoning Board of Appeals to pay for the fees and/or costs of any engineer, consultant or attorney designated by the Planning Board to review such application, permit or approval. Any escrow agreement shall be approved by the Town Attorney. The fees and/or costs charged by such engineer, consultant, or attorney in connection with such review will be charged against the sum deposited in escrow. Any amount remaining shall be returned to the applicant within thirty (30) days of final action on the application.

G. SEQRA Compliance

The Planning Board and Zoning Board of Appeals shall comply with the provisions of the State Environmental Quality Review Act under Article Eight of the Environmental Conservation Law and its implementing regulations as codified in Title Six, Part Six Hundred Seventeen of the New York Codes, Rules and Regulations.

Zoning Administrator

A. Zoning Administrator

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The Zoning Administrator shall have the power and duty to administer and enforce the provisions of this Code. The Zoning Administrator shall be appointed by, and may be removed at the pleasure of, the Town Board. An appeal from an action, omission, decision or rule by the Zoning Administrator regarding a requirement of this Code may be made only to the Zoning Board of Appeals. The Town Board may appoint Deputy Zoning Administrators to exercise any or all of the duties of the Zoning Administrator.

B. Zoning Administrator Duties

The Zoning Administrator shall have the authority to perform the following tasks:

- (1) Administer, interpret, and apply the provisions of the Zoning Code.
- (2) Conduct pre-application meetings with the applicant, using checklists and/or instructional materials maintained by the Zoning Administrator.
- (3) Accept and review all Land Use and Development Permit and Certificate of Compliance applications.
 - a. Determine completeness of the applications and compliance with the provisions of this Code.
 - b. Distributes applications to involved entities: Fire, Police, APA (where applicable), Town Attorney, and Town Engineer.
 - c. Consult/coordinate with experts on technical review and field inspections conducted as part of the application process.
 - d. Ensure compliance with SEQR.
- (4) Have the authority to make inspections of buildings or lots necessary to carry out the application of this Code.
- (5) Provide notes and supplementary information to all Boards as requested, answer questions regarding the proposed project application to the Planning Board and Zoning Board of Appeals.
- (6) Certify Code Compliance letters. Conduct field inspections for issuance of the Certificate of Compliance, to determine whether the conditions of approval are met. Coordinate with Warren County Building Inspector for inspections.

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- (7) Receive complaints of zoning violations from residents using affidavit if possible. Investigate alleged violations of this Code. Keep an inventory of said violations including dated photographs and/or other evidence in the appropriate file.
- (8) Notify landowners of zoning violations. Assist landowner to attain compliance with appropriate alternative procedure, appeals, or any other administrative remedies necessary.
- (9) Coordinate the enforcement of this Code with the enforcement of other related land use statutes and codes by active cooperation with other appropriate agencies. Testify, as necessary, at public and judicial hearings.
- (10) Ensure **compliance with other ordinances per Town Board’s** direction (i.e., construction activities without a permit or violations of another code (stormwater, septic, local health code, junkyards, noise, etc.))
- (11) Refer all infractions outside of the purview of the Town to the appropriate agency: Warren County, DEC, APA, etc.
- (12) Engage in periodic review of approved projects to determine whether the conditions of approval are being carried out.
- (13) Consult with Town Attorney in cases where enforcement of this Code conducted as part of the normal operation of the position is likely to create controversy or create a precedent for the future.
- (14) Issue the appropriate Land Use and Development Permit when all provisions of this Code are met. Maintain files of applications, interpretations, and violations. Master copies of these files are to be retained in office of Zoning Administrator at all times.
- (15) Review permit applications for compliance with this Code.
- (16) Develop recommendations regarding zoning amendments, fee structures, and application forms; and may propose solutions to any problem encountered in administering this Code.
- (17) Create a written punchlist of approval conditions for applicant. Facilitate Certificate of Compliance with Warren County Building Dept.
- (18) The Zoning Administrator shall also maintain records, open to the public, including the zoning map, text, and office records.

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These records shall be kept up-to-date by recording all amendments and retaining all official documents. The Zoning Administrator shall also be responsible for the maintenance of files for all actions, applications, interpretations, permits, resolutions, complaints and violations and meeting minutes for the Planning Board and Zoning Board of Appeals. Master copies of these files are to be retained in Town Hall at all times.

- (19) The Zoning Administrator shall not issue a Certificate of Compliance for the construction of any building or use of any property unless such building or use conforms to all laws and ordinances of the Town.
- (20) The Zoning Administrator shall submit to the Town Board a written report summarizing for the month all Land Use and Development Permits issued as well as complaints of violations and any action taken as a result of such complaints.

Planning Board

A. General Provisions

- (1) The Planning Board shall have all the powers and perform all the duties prescribed by state statute and by this Code. The Planning Board shall have original jurisdiction for all matters pertaining to this Code pursuant to state statute.
- (2) The Planning Board shall consist of five members for consecutive five year terms. The members and the Chairperson of such Planning Board shall be appointed by the Town Board. In the absence of a Chairperson the Planning Board may designate a member to serve as Chairperson.
- (3) The Town Board may provide for the compensation of Planning Board members. The Town Board may require Planning Board members to complete training and continuing education courses in accordance with any local requirements for the training of such members.
- (4) Eligibility

No person who is a member of the Town Board or the Zoning Board of Appeals shall be eligible for membership on the Planning Board.

- (5) Chairperson duties

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All meetings of the Planning Board shall be held at the call of the Chairperson and at such other times as such Planning Board may determine. Such Chairperson, or in his or her absence, the Acting Chairperson, may administer oaths and compel the attendance of witnesses.

(6) Service on other Planning Boards

No person shall be disqualified from serving as a member of the Town Planning Board by reason of serving as a member of the town or County Planning Agency.

(7) Vacancy in office

If a vacancy shall occur otherwise than by expiration of term, the Town Board shall appoint the new member for the unexpired term.

(8) Removal of members

The Town Board shall have the power to remove, after public hearing, any member of the Planning Board for cause. Any Planning Board member may be removed for non-compliance with minimum requirements relating to meeting attendance and training.

(9) Rules and regulations

The Planning Board may recommend to the Town Board regulations relating to any subject matter over which the Planning Board has jurisdiction under this Code or any other statute, or under any Code of the Town. Adoption of any such recommendations by the Town Board shall be by Local Law.

(10) Report on referred matters

The Town Board may seek input from the Planning Board where their input would help the Board make a more informed decision. The Town Board may by resolution provide for the referral of any matter or class of matters to the Planning Board before final action is taken thereon by the Town Board or other office or officer of the Town having final authority. The Town

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Board may further stipulate that final action shall not be taken until the Planning Board has submitted its report, or after the Planning Board has exceeded the time period set by the Town Board for the Planning Board to submit its report.

(11) Training and attendance requirements

- a. Each member of the Planning Board shall complete, at a minimum, four hours of training each year designed to enable such members to more effectively carry out their duties. Any member that has received training in excess of four hours in any one year may carry up to two credit hours over into succeeding years in order to meet these requirements. Such training shall be approved by the Town Board.
- b. To be eligible for reappointment to such board, such member shall have completed the training.
- c. No decision of the Planning Board shall be voided or declared invalid because of a failure to comply with these training requirements.
- d. Training requirements may be waived or modified by resolution of the Town Board when, in the judgment of the Town Board, it is in the best interest of the Town to do so.

(12) Alternate Members. The Planning Board shall be authorized to have up to two (2) alternate members to serve in event of illness, unavailability or conflict of interest in the place and stead of any regular Planning Board member. An alternate Planning Board member shall act in such manner and for such term as provided by Town Law.

Zoning Board of Appeals

A. General provisions.

(1) Zoning Board of Appeals

The Zoning Board of Appeals shall have all the powers and perform all the duties prescribed by state statute and by this

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Code. The Zoning Board of Appeals shall have appellate jurisdiction for all matters pertaining to this Code.

(2) Appointment of members

The Town Board shall appoint a Board of Appeals consisting of five members for consecutive five year terms and shall designate the chairperson thereof. In the absence of a chairperson, the board of appeals may designate a member to serve as acting chairperson. The Town Board may provide for compensation to be paid to experts, clerks and a secretary and provide for such other expenses as may be necessary and proper, not exceeding the appropriation made by the Town Board for such purpose.

(3) Eligibility

No person who is a member of the Town Board or the Planning Board shall be eligible for membership on such Board of Appeals.

(4) Training and attendance requirements

- a. Each member of the Board of Appeals shall complete, at a minimum, four hours of training each year designed to enable such members to more effectively carry out their duties. Any member that has received training in excess of four hours in any one year may carry up to two credit hours over into succeeding years in order to meet these requirements. Such training shall be approved by the Town Board.
- b. To be eligible for reappointment to such board, such member shall have completed the training.
- c. No decision of a Zoning Board of Appeals shall be voided or declared invalid because of a failure to comply with these training requirements.
- d. Training requirements may be waived or modified by resolution of the Town Board when, in the judgment of the Town Board, it is in the best interest of the Town to do so.

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(5) Vacancy in office

If a vacancy shall occur otherwise than by expiration of term, the Town Board shall appoint the new member for the unexpired term.

(6) Removal of members

The Town Board shall have the power to remove, after public hearing, any member of the Zoning Board of Appeals for cause. Any Zoning Board of Appeals member may be removed for non-compliance with minimum requirements relating to meeting attendance and training.

(7) Chairperson duties

All meetings of the Board of Appeals shall be held at the call of the chairperson and at such other times as such board may determine. Such chairperson, or in his or her absence, the acting chairperson, may administer oaths and compel the attendance of witnesses.

(8) Alternate Members. The Zoning Board of Appeals shall be authorized to have up to two (2) alternate members to serve in event of illness, unavailability or conflict of interest in the place and stead of any regular Zoning Board of Appeals member. An alternate Zoning Board of Appeals member shall act in such manner and for such term as provided by Town Law.

Fines; Penalties for Offenses

- A. It shall be unlawful for any person to construct, alter, repair, move, remove, demolish, equip, use, occupy or maintain any building, structure or premises, or portion thereof, in violation of any provision of the Town of Warrensburg Zoning Regulations, or to construct, alter or use and occupy any building, structure or premises in a manner not permitted by or inconsistent with a permit, approval or variance issued pursuant to the aforementioned, or fail to comply with a notice, directive or order of the Zoning Administrator or agents thereof.
- B. Any person who owns, controls or manages any building, structure or premises, and who shall fail to comply with a written directive, including a stop-work order of the Zoning Administrator or an agent thereof with the time fixed for compliance, and any owner, builder, architect, contractor, subcontractor, construction superintendent or

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their agents, or any other person assisting in the construction or use of any building or structure, or in the land disturbance on or use of any premises who knowingly violates any of the applicable provisions of the Town of Warrensburg Zoning Regulations, or any lawful order, notice, directive, permit, certificate, approval or variance issued hereunder shall be punishable as follows:

(1) Criminal sanctions

Criminal sanctions are as follows:

- a. First offense: fine not exceeding \$350 or six months' imprisonment or both.
- b. Second offense: fine of not less than \$350 or more than \$700, or up to six months' imprisonment, or both.
- c. Third offense or subsequent offense (if committed within five years of first offense): fine of not less than \$700 or more than \$1,000, or up to six months' imprisonment or both.

[1] Every such person shall be deemed guilty of a separate offense for each week such violations, disobedience, omission, neglect or refusal shall continue. Where the person committing such violation is a partnership, association or corporation, the principal executive officer, partner, agent or manager may be considered to be the "person" for the purposes of this article.

[2] The Zoning Administrator or agent may commence criminal proceedings in the justice court by issuing an appearance ticket to any alleged violator and/or by filing any information and supporting deposition pursuant to the New York Criminal Procedure Law. Alternatively, the Zoning Administrator or agent, or the Town Board may request the District Attorney to prosecute the violation or to appoint an Attorney as a special district attorney for that purpose.

- (2) Civil penalties
 - a. As an alternative to criminal sanctions, the Town may institute proceedings for civil penalties in the amounts stated herein for each such violation:
 - [1] First violation: civil penalty not exceeding \$350.
 - [2] Second violation (if committed within five years of first offense): civil penalty of not less than \$350 or more than \$700.
 - [3] Third violation or subsequent offense (if committed within five years of first offense): civil penalty not less than \$700 or more than \$1,000.
 - b. Such fines or penalties may be compromised or released by the Town Board as a part of any disposition.

Alternative or Additional Remedy

In the case of any violation or threatened violation of any provisions hereof, or the terms and conditions imposed by any permit, approval, variance or order issued pursuant to the provisions hereof, in addition to other penalties and remedies herein provided, the Town may institute any appropriate action or proceedings against the owner of the premises and/or any other responsible person to prevent such unlawful erection, structural alteration, reconstruction, occupancy, moving and/or use, to restrain, correct or abate such violation, to prevent or restrain the occupancy of such building, structure or land, to compel compliance with the provisions hereof and any permit, approval, variance, order or directive issued pursuant to it, and to prevent, restrain, correct or abate any illegal act, conduct, business or use in or about such premises. The alternative or additional remedy specified herein may be taken in addition to a proceeding for criminal sanctions or civil penalties. The Town Board may negotiate appropriate remediation and restoration measures by entering into an enforceable settlement agreement or consent order with any violator and/or owner, which may include payment by the violator and/or owner of a monetary penalty which may include exemplary or punitive damages, plus recovery of actual costs incurred by the Town in connection with the enforcement proceeding, including actual attorneys' fees, disbursements and, in appropriate cases, reimbursements for the actual costs to be incurred in rectifying any circumstance or condition necessary to restore the premises into compliance, all and any of which may, if not voluntarily paid by the violator and/or owner, constitute the basis of a

lien charge attachable to the premises as a special assessment or charge assessable and collectable on the tax bill associated with the subject premises.

Stop-Work Order

- A. The Town Board for the Town of Warrensburg hereby grants the Zoning Administrator plenary administrative responsibility to immediately suspend any continuing violations by posting a stop-work order on the premises wherein the violation has occurred.

- B. Whenever the Zoning Administrator has reasonable grounds to believe that work on any building, structure or development of any premises is being undertaken or continued in violation of the provisions of the applicable building laws or the provisions hereof, or other ordinances, rules or regulations, or not in conformity with the provisions of an application, plans or specifications on the basis of which a permit was issued, or not in conformity with the terms or conditions of a permit, approval or variance, or in an unsafe and dangerous manner, he/she shall notify the owner of the property, or the owner's agent, to suspend all work, and such persons shall forthwith stop such work and suspend all building and development activities until the stop order has been rescinded or superseded by a court order. Such order and notice shall be in writing, shall state the conditions under which the work or development may be resumed, and may be served upon a person to whom it is directed, either by delivering it personally to him, or by posting the same upon a conspicuous portion of the building or premises where the work or development is being performed and sending a copy of the same to him by certified mail at the address set forth in the application for permission for the construction of such building or development of such premises.

- C. Obtaining relief or release from any stop-work order may be obtained in the proper circumstances as follows:
 - (1) If all provisions hereof, together with all other reasonable conditions specified by the Zoning Administrator or agent, are satisfied, and thereafter by resolution of the Zoning Board of Appeals , an authorization of release or lifting of a stop-work order may occur.

 - (2) Except in matters pertaining to violations of requirements imposed by site plan review, if a variance is granted by the Zoning Board of Appeals granting permission to maintain violations specified on a stop-work order and to continue such circumstances as thereafter allowable, the administrative determination of the Zoning Administrator or agent shall

conform or terminate the stop-work order in accordance with the requirements mandated by the Zoning Board of Appeals.

Suspension of Administrative Review

Processing and review of any application pursuant to the provisions hereof may be suspended and the application deemed incomplete with written notice to the applicant if a stop-work order has been issued by the Zoning Administrator or agent, other written notice of an alleged violation has been delivered to the property owner or applicant, or a criminal or civil criminal action commenced against the property owner, applicant or other responsible person for alleged violations of law related to the activity for which the permit is sought or for alleged violation of the provisions hereof related to the site. Such suspension of application processing may remain in effect pending final resolution of any enforcement action by an order of court or by a negotiated settlement of the pending violations between the responsible parties and the Town Board. In any appropriate case, the Zoning Administrator may suspend review of an application.

Misrepresentation

Any permit, variance or approval granted under the provisions hereof which is based upon or is granted in reliance upon any material misrepresentation, or failure to make a material fact or circumstance known, by or on behalf of an applicant, shall be void. This section shall not be construed to diminish the penalties and remedies available to the Town under any enforcement provisions hereof.

ARTICLE XII - Definitions

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

ACCESSORY USE, CUSTOMARY — A use customarily incidental and subordinate to the principal use or building and one which does not change the character of the permitted principal use or principal building and is located on the same lot and within the same zoning district with such permitted principal use or principal building.

AGRICULTURAL USE – The production, keeping or maintenance, for sale or lease, of plants and animals, including but not limited to: forages and sod crops; grains and seed crops; dairy animals and dairy products, poultry and poultry products; livestock, including beef cattle, sheep, swine, horses, ponies, mules, or goats, or any mutations or hybrids thereof, including the breeding and grazing of any or all of such animals ; bees and apiary products; fur animals; trees, forest products and forestry uses; fruits of all kinds, including grapes, nuts, berries and vegetables. The term includes the sale of products grown or raised directly on such land.

AGRICULTURAL USE, INDUSTRIAL – Any milk processing plant, feed storage supply facility, farm machinery or equipment sales and service facility; storage and processing facility for fruits, vegetables and other agricultural products or similar use directly and customarily related to the supply and service of an agricultural use.

AGRICULTURAL USE, SMALL SCALE– The production, keeping or maintenance, of plants and animals where the sale, if any, of agricultural products is limited to those products produced on the lot and such sales are only permitted from a single temporary roadside stand or display.

ALTERATION — As applied to a building or structure, a change or rearrangement in the structural parts or existing facilities of such building or structure or any enlargement thereof, whether by extension on any side or by any increase in height, or the moving of such building or structure from the one location to another.

AMUSEMENT CENTERS – A building or structure used primarily for the

operation of commercial or nonprofit recreation, including, but not limited to, health and exercise clubs, skating rinks, bowling alleys, indoor sports clubs, indoor swimming pools, golf domes, pool or billiards, foosball, table tennis, shuffleboard, pinball machines, and/or video or other games. May also include any accessory uses, such as snack bars, pro shops, and locker rooms, which are designed and intended primarily for the use of patrons of the principal recreational use.

ARTIST STUDIO AND CRAFT SHOPS – A workshop or workroom for the creation of fine art and crafts such as painting, sculpturing, photography, or other handmade pieces of art. The space may include a teaching area for small groups of ten or less.

APARTMENT — A single-family unit in a multiple unit dwelling.

APARTMENT BUILDING — A dwelling containing six or more units in one dwelling.

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

AREA, LAND — The total area within the property lines, excluding the external streets.

AREA, SIGN — The area within the shortest lines that can be drawn around the outside perimeter of a sign, including all decorations and lights, but excluding the supports if they are not used for advertising purposes. One face of the sign shall be counted in computing the area. Any neon tube, string of lights or similar device shall be deemed to have minimum dimensions of one foot.

AUTHORIZED OFFICIAL (Zoning Administrator) — The person designated by the Warrensburg Town Board to administer and maintain the provisions of this chapter.

AUTOMOBILE SALES – Any building and land area or other premises, or portion thereof, used for the display, sale, rental or lease of new or used motor vehicles including *Automobile Service*.

AUTOMOBILE SERVICE — Any building and land area or other premises, or portion thereof, used or intended to be used for the repair and/or servicing of

motor vehicles including the sale and/or installation of lubricants, tires, batteries and similar accessories.

BAR / TAVERN — A place in which the principal income is derived from the sale or serving of alcoholic beverages for consumption on the premises, with or without live entertainment.

BED & BREAKFAST – A dwelling having a resident host in a single-family home with common dining and leisure rooms and separate guest lodging rooms for overnight accommodation, the rates for which include breakfast and lodging only. The Bed and Breakfast establishment shall have not more than twelve (12) guest rooms.

BUFFER AREA — An area bordering the zoning district boundary between two different and potentially conflicting use districts and designated by the Planning Board as an area reserved for plantings, fencing or other similar screening devices for the purpose of creating a transition area wherein adjoining uses do not detract from one another. Such a buffer area shall be in addition to the required side or rear yards of the adjoining nonresidential district.

BUILDING — Any structure which is permanently affixed to the land, has one or more floors and a roof and is intended for the shelter, housing or enclosure of persons, animals or chattel.

BUILDING, ACCESSORY — A building subordinate to the main building on a lot and used for purposes customarily incidental to those of the main building.

BUILDING GROUP — A group of two or more principal buildings and any buildings accessory thereto occupying a lot in ownership and having any yard in common.

BUILDING LINE — The line, established by statute, local law or ordinance, beyond which a building shall not extend, as specifically provided by law.

BUILDING, PRINCIPAL — A building within which the main or principal use of the lot is conducted.

BULK REGULATIONS — Standards that control the height, density, intensity and location of structures.

BULK STORAGE — The storage of chemicals, petroleum products and other materials in containers of 100 gallons or more.

CAMPGROUND — Any area designated for transient occupancy by camping in tents, camp trailers, *travel trailers*, motor homes or similar facility designated for temporary shelter.

CARPORT — A roofed structure providing space for parking or storage of motor vehicles and enclosed on not more than three sides.

CAR WASH — A building, or portion thereof, containing facilities for washing automobiles, using production-line methods or other mechanical devices; or providing space, water equipment, or soap for the complete or partial hand washing of automobiles, whether by operator or by customer. A car wash does not include facilities for washing commercial vehicles.

CEMETERY — Property used for the interring of the dead.

COMMON FACILITIES — Complementary structures and/or improvements located on a common open space appropriate for the benefit and enjoyment of the space by the public or members of the controlling association or condominium.

COMMUNITY CENTER — A building used for recreational, social, educational and cultural activities, usually owned and operated by a public or nonprofit group or agency.

COMMUNITY FACILITY — A building or structure owned and operated by a governmental agency, private individual or individuals or not-for-profit organization to provide a public or semipublic service, such as libraries, museums, theaters, governmental buildings, firehouses, churches, etc.

COMMUNITY SERVICE ORGANIZATION — An organization catering exclusively to members and their guests or premises and buildings conducted primarily for gain, provided that there are not conducted any vending stands, merchandising or commercial activities, except as required for the membership and purposes of such club.

CONTRACTING BUSINESS – An office and/or shop which contains a contractor’s business office, and which may also include enclosed structures used for the indoor repair, maintenance, or storage of a contractor’s vehicles, equipment, or materials.

CONVENIENCE STORE – Any building or structure or portion thereof, having under 2,500 square feet in gross floor area, used for the retail sale of a variety of goods, which may include dairy products, baked goods, fresh or prepared meats, beverages, fresh or prepared foods such as sandwiches and coffee, and fresh fruits and vegetables, in a form ready for either on-site or off-site consumption, and which may also include the sale of minor amounts of canned foods, dry goods, and household, health, and stationery supplies, and which may also include limited seating for on-site consumption without wait service.

DAY-CARE CENTER -- A site, building, or place designed and/or operated to provide day care and/or instruction for twelve (12) or more persons and operated on a regular basis for a fee.

DEVELOPMENT — Any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, paving, excavation or drilling operations.

DISTURBED AREA – An area of land subjected to erosion due to the removal of vegetative cover and/or earthmoving activities, including filling. Tree removal without stump removal, shall not create a disturbed area unless it results in a change in the natural cover or topography, by baring soil and rocks that may cause or contribute to sedimentation.

DRAINAGE — The gravitational movement of water or other liquids by surface runoff or subsurface flow.

DWELLING — A building designed or used principally as the living quarters for one or more families. "Dwelling" shall not include rooming house or other accommodations used for more or less transient occupancy (see "residence").

DWELLING, MULTIFAMILY — A dwelling containing three or more dwelling units and occupied or intended for occupancy by three or more families living independently of each other.

DWELLING, SINGLE-FAMILY — A building containing one dwelling unit only.

DWELLING, TWO-FAMILY — A structure on a single lot containing two dwelling units, each of which is totally separated from the other by an unpierced wall extending from ground to roof or an unpierced ceiling and floor extending from exterior wall to exterior wall, except for a common

stairwell exterior to both dwelling units.

DWELLING UNIT — One or more rooms designed, occupied or intended for occupancy as separate living quarters, with provision for living, cooking, sanitary and sleeping facilities provided for the exclusive use of one family or household.

DWELLING UNIT, ACCESSORY — A second dwelling unit, 800 square feet or less, either in or added to a single-family dwelling, or in a separate accessory structure on the same lot as the principal dwelling, for use as a complete, independent living facility with provision within the accessory dwelling unit for cooking, eating, sanitation, and sleeping. Such a dwelling shall be clearly accessory and incidental to the principal dwelling.

EDUCATIONAL INSTITUTIONS — Any building or part thereof which is designed, constructed and used for education or instruction in any branch of knowledge (which includes public or private, elementary, secondary, vocational or higher education).

EROSION — The wearing away of the land surface by the action of wind, water, gravity or other natural forces.

EXCAVATION — Any activity which removes gravel, sand, soil or other natural deposits.

FAMILY — A household constituting a single housekeeping unit occupied by one or more persons. [Amended 7-10-1996 by L.L. No. 1-1996]

FARM STAND — A booth, stall or motorized vehicle from which produce and farm products are sold to the general public.

FILLING — Any activity which deposits natural or artificial material so as to substantially modify the surface or subsurface conditions or topography of land, lakes, ponds or watercourses.

FINISHED GRADE — The elevation at which the finished surface of the surrounding lot intersects the walls or supports of a building or other structure. If the line of intersection is not reasonably horizontal, the finished grade, in computing height of building and other structures or for other purposes, shall be the average elevation of all finished grade elevations around the periphery of the building.

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FUNERAL HOME — A building used, for the preparation of the deceased for burial and the display of the deceased and ceremonies connected therewith before burial or cremation.

GAME PRESERVE – A land area used for the protection of wildlife, usually because of its unique natural character, which provides habitat, food or shelter for wildlife through the natural environment.

GARAGE, PRIVATE — An enclosed space for the storage of motor vehicles. Space for only one vehicle may be rented therein to a nonresident of the premises.

GASOLINE STATION — Any area of land, including structures thereon, that is used or designed to be used for the sale of gasoline, including a Convenience Store, provided that the store is an integral part of the gasoline station.

GREENHOUSE — A building whose roof and sides are made largely of glass or other transparent or translucent material and in which the temperature and humidity can be regulated for the cultivation of delicate or out-of-season plants for subsequent sale..

GOVERNMENT OFFICE OR AGENCY — Any department, commission, independent agency or instrumentality of the United States, New York State or Warren County.

GRADING — The alteration of the soil surface so as to change the existing land form.

HEALTH RELATED FACILITY — A facility used for the diagnosis, treatment or other care of human ailments. This may also include a nursing home.

HEAVY MACHINERY AND TRANSPORTATION EQUIPMENT - The sales, service, repair or storage of heavy machinery or transportation equipment.

HEIGHT, BUILDING — The vertical distance measured from the highest elevation of the proposed finished grade of the building to the highest point of the roof for flat roofs; to the deck line of mansard roofs; and to the mean height between the eaves and ridge for gable, hip and gambrel roofs.

HEIGHT, FENCE/WALL — The vertical distance measured from the average existing grade, preconstruction, to the highest point of such fence or wall.

HISTORIC COMMITTEE — An advisory committee appointed by the Town

Article XII– Definitions

Board whose function is to counsel the Planning Board in judgment decisions for those historical sites and structures identified by the Planning Board as requiring site plan review. This Committee will be composed of one representative of the Warrensburg Historical Society, one member of the Warrensburg Planning Board and one additional person with an expressed interest in matters of historical significance.

HISTORIC SITES AND STRUCTURES — Those historical sites and structures identified by the Historic Committee which require historic sites and structures review before any alteration, modification or demolition occurs.

HOME OCCUPATIONS I — Any use conducted entirely within a dwelling or its accessory buildings, which use is clearly incidental to the use of the dwelling as a place of residence. Examples include music teachers and physicians, but are not limited to the above.

HOME OCCUPATIONS II - Any use, is clearly incidental to the use of the dwelling as a place of residence, which is conducted primarily within a dwelling or its accessory buildings but which may require the storage of machinery and equipment on the residential grounds, or where office activities are conducted within the house or outbuilding, but the services offered are conducted primarily off premises. Examples include plumbing shops, electrical repairs shops and repair services, but are not limited to the above.

HOTEL/MOTEL – A commercial facility providing transient lodging containing six or more units and where the customary uses such as restaurant facilities, meeting rooms, recreation facilities playgrounds, game rooms, snack bars, and leisure rooms are provided for use by the lodger and the general public, including resorts, tourist cabins. (Excluding travel trailers, travel vehicles or motor homes.)

HOUSEHOLD PETS - Any animal customarily kept by humans for companionship, accustomed to living in human habitation and is dependent on people for food and shelter.

HOUSE TRAILER — See "mobile home."

INN – A commercial facility, resembling traditional residential character with common access providing transient lodging and meals which is characterized by common dining facilities and leisure rooms available for use by lodgers and limited general public with no more than 6 guest rooms.

JUNKYARD — Any place of storage or deposit, whether in connection with another business or not, where two or more unregistered, old or secondhand motor vehicles no longer intended or in condition for legal use on the public highways are held, whether for the purpose of resale of used parts therefrom, for the purpose of reclaiming for use some or all of the materials therein, whether metal, glass, fabric or otherwise, for the purpose of disposing of the same or for any other purpose; such term shall include any place of storage or deposit for any such purposes of used parts or waste materials from motor vehicles which, taken together, equal in bulk two or more such vehicles; provided, however, that the term "junkyard" shall not be construed to mean an establishment having the facilities for processing iron, steel or nonferrous scrap for sale for remelting purposes only. It shall also include operations performed and carried on, wholly or in part, outside of a fully enclosed building or structure, for the acquisition, purchase, storage, conversion, dismantling, processing or resale of all types of used machinery appliances, equipment, metal, rags, paper, fabrics, rubber and any of their combinations.

LANDFILL — A lot or land used for the disposal by abandonment, burial, burning or any other means and for whatever purpose or garbage, sewage, trash, refuse, junk, discarded machinery, vehicles or parts thereof or waste material of any kind. [Amended 7-10-1996 by L.L. No. 1-1996]

LIGHT MANUFACTURING / INDUSTRIAL — Any manufacturing, production or assembly of goods or materials directly associated with an industrial use. Any process whereby the nature, size or shape of articles or raw materials are changed or where articles are assembled or packaged in quantity is also included. This term does not include mineral mining and/or extraction.

LIVESTOCK - Beef cattle, sheep, swine, horses, ponies, mules, or goats, or any mutations or hybrids thereof.

LOADING SPACE, OFF-STREET — One loading space for merchandise or freight shall constitute an area not less than 12 feet in width and 50 feet in length, with a vertical clearance of 15 feet or more.

LOT — A parcel of land occupied or capable of being occupied by a structure or structures, including such open spaces as are required by this chapter.

LOT, CORNER — A parcel of land at the junction of and fronting on two or

more intersecting streets.

LOT COVERAGE — That lot area or percentage of lot area covered by buildings or structures, including accessory buildings and structures.

LOT, DEPTH OF — The mean distance from the street line of a lot to its rear line.

LOT LINE — Any line dividing one lot from another.

LOT WIDTH — The distance between the side lot line measured along the front building line as determined by the front yard requirement prescribed by this Code.

LINE, STREET OR ROAD — The dividing line between the street right-of-way line and the lot.

LOT, THROUGH — A lot which faces on two streets at opposite ends of the lot and which is not a corner lot.

LUMBERYARD — An area used for the storage, distribution, and sale of finished or rough-cut lumber and lumber products.

MAJOR PUBLIC UTILITY USE — Any electric power transmission or distribution line and associated equipment of a rating of more than 15 kilovolts which is one mile or more in length; any telephone interchange or trunk cable or feeder cable which is one mile or more in length; any telephone distribution facility containing 25 or more pairs of wire and designed to service a new residential subdivision; any television, cable television, radio, telephone or other communication transmission tower; any pipe or conduit or other appurtenance used for the transmission of gas, oil or other fuel which is one mile or more in length; any electric substation, generating facility or maintenance building and any water or sewage pipes or conduits designed to service 50 or more principal buildings.

MARINA — Any waterfront facility which provides docking, mooring, storage or more than four boats for rental or sale or for the commercial launching of boats. The term may include facilities with or without supply and repair service.

MINERAL MINING AND EXTRACTION — The act of removing more than seven hundred and fifty (750) cubic yards of any natural resources in any one-year period from the land, including but not limited to, the removal of earth, rock, gravel, sand

and underground materials, excluding timber and water; the preparation and processing of those same natural resources, including any activities or processes or parts thereof for the extraction or removal from their original location and the preparation, washing, cleaning, crushing, stockpiling or other processing of minerals at the mine location so as to make them suitable for commercial, industrial, or construction use; for the purpose of sale. MINERAL MINING AND EXTRACTION excludes any other manufacturing processes, or other related commercial activities same property location. MINERAL MINING AND EXTRACTION shall not include site preparation activities with which have planning board approval, or excavations in aid of agricultural activities consistent with NYS agricultural and markets law, as amended.

MOBILE HOME — A structure, transportable in one or more sections, which, in the traveling mode, is eight body feet or more in width or 40 body feet or more in length, or, when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning and electrical systems contained therein.

MOBILE HOME PARK — A parcel of land under a single deed ownership which is designed and improved for the placement of five or more mobile home units thereon.

MODULAR HOME — Any building comprised of two or more components, capable of being transported to their building site and permanently jointed into one integral unit which is indistinguishable in appearance from a conventionally built home, including, but not limited to, a sloped roof and permanent foundation.

NONCONFORMING STRUCTURE — Any structure which is in existence within a given zoning district on the effective date of this chapter, or as a result of subsequent amendment thereto, but which is not in conformance with the dimensional regulations for that zoning district.

NONCONFORMING USE — Any use of a building, other structure or tract of land which does not conform to the use regulations for the district in which such use is located, either at the effective date of this chapter or as a result of subsequent amendment thereto.

NURSERY — Land or greenhouses used to raise flowers, shrubs and plants for

sale.

NURSING HOME — An extended or intermediate care facility licensed or approved to provide full-time convalescent or chronic care to individuals who, by reason of age, chronic illness or infirmity, are unable to care for themselves.

OFFICE – A room or group of rooms used for conducting the affairs of a business, profession, service, industry or government.

OPEN SPACE — An unoccupied area open to the sky.

OPEN SPACE RECREATION USE — Any recreation use particularly oriented to and utilizing the outdoor character of an area and with all buildings and/or recreational structures being subject to site plan review.

OWNER — Includes a lessee or occupant in control of property.

PARKING AREA — Any place, lot, parcel or yard used in whole or in part for storing or parking four or more motor vehicles under the provisions of this chapter.

PARKING FACILITIES, COMMERCIAL – A structure or portion thereof composed of one or more levels or floors used exclusively for the parking or storage of motor vehicles.

PARKING LOT — An off-street, ground-level area, usually surfaced and improved, for the temporary storage of motor vehicles.

PARKING SPACE — For the purpose of these regulations, one parking space shall constitute an area of 180 square feet of such shape and vertical clearance so as to accommodate one automobile having an overall length of 18 feet.

PREMISES — A lot together with the buildings and uses thereon and other uses incidental to the predominant uses.

PUBLIC FACILITY - Any facility, including but not limited to buildings, property, recreation areas, community centers, community gardens, cultural facilities and other public service structures which are leased or otherwise operated or funded by a governmental body, public entity, non-profit organization or community organization.

PUBLIC TRANSIT SYSTEM — Any vehicle or transportation system, owned or regulated by a government agency and used for the mass transport of the general public.

PUBLIC UTILITY USE — Any public utility use, equipment or structure which is not a *major public utility use*. This does not include any use that is subject to jurisdiction of the Public Service Commission pursuant to Article VII or VIII of the Public Service Law.

RECREATION / RESORT FACILITIES I – Traditionally passive outdoor leisure activities including but not limited to hiking, picnicking, walking, jogging, biking, fishing or similar activities.

RECREATION / RESORT FACILITIES II – Land and/or hotel/motel establishment designed to be used by members of the public, for a fee, that contains outdoor amusement facilities or recreational uses such as miniature golf courses, water parks, *ski centers*, summer camps, go-kart race tracks or similar uses.

RELIGIOUS INSTITUTIONS – A building, together with its accessory buildings and use, where persons regularly assemble for religious purposes and related social events and which building, together with its accessory buildings and uses, is maintained and controlled by a religious body organized to sustain religious ceremonies and purposes.

RESTAURANT — An establishment where food and drink is prepared, served and consumed primarily within the principal building.

RETAIL AND SERVICE — Establishments engaged in selling goods, services or merchandise to the general public for personal and household consumption.

RETAIL AND SERVICE, NEIGHBORHOOD - A building less than 1,500 gross square feet used for the retail sale of a variety of goods and services. Such goods may include, but not be limited to, general retail items such as newspapers and magazines, dairy products, baked goods, beverages, fresh or prepared foods such as sandwiches and coffee, fresh fruits and vegetables, and minor amounts of canned foods, dry goods and which may also include limited seating for on-site consumption without wait service; hair salons, etc.

RIGHT-OF-WAY — A thoroughfare, however designated, permanently established for passage of persons or vehicles.

SANITARY LANDFILL — A site for the disposal of solid waste, as defined by New York State Conservation Law, and as regulated by that law.

SEDIMENT — Solid material, both mineral and organic, that is in suspension, is being transported, has been deposited or has been removed from its site or origin.

SENIOR HOUSING – A multi-family structure the occupancy of which is limited to persons 55 years of age or older. Senior housing may include detached dwelling units as part of a wholly owned and managed senior project. The minimum number of units shall be 20 and the maximum number of units shall be 50.

SETBACK— The line that is the required minimum distance from the street right-of-way line or any other lot line that establishes the areas where buildings are prohibited.

SHED — Any enclosed building not intended for habitation.

SHORELINE — The line at which land adjoins the waters of lakes, ponds, rivers and streams within the Town at high water, as determined by the mean high-water mark.

SHORELINE BUILDING SETBACK — The shortest distance, measured horizontally, between any point of a building and the shoreline of any lake, pond, river or stream within the Town.

SHORELINE LOT WIDTH — The distance, measured along the shoreline, between the boundary lines of a lot as they intersect the shoreline of any lake, pond, river or stream.

SIGN — An identification, description, illustration or device, which is visible from any public place or is located on private property and exposed to the public and which directs attention to a product, service, place, activity, person, institution, business or solicitation, including any permanently installed or situated merchandise, or any logo, painting, banner, pennant, placard or temporary sign designed to advertise, identify or convey information, with the exception of window displays and national flags. **"Sign" shall also include all sign structures. "Sign" shall not include any display of official court or public office notices, nor any official traffic control devices, nor shall it include the flag, emblem or insignia of a nation, state, county,**

municipality, school or religious group.

SIGN, ABANDONED — A sign which for a period of 90 consecutive days has not correctly directed or exhorted any person or advertised a bona fide business, lessor, owner, product or activity conducted or product available on the premises where such sign is displayed.

SIGN, ANIMATED — Any sign on which the structure or illumination is not maintained stationary or constant in intensity and color when such sign is in use. For the purpose of this chapter, any revolving sign other than barber poles shall be considered an animated sign.

SIGN, BUILDING— A sign fastened to or painted on the wall of a building or structure in such a manner that the wall becomes the supporting structure for or forms the background surface of the sign and which does not project more than 18 inches from such building or structure.

SIGN, CONTRACTOR/ARTISAN — A temporary sign erected on the premises on which construction is taking place, during the period of such construction, indicating the names of the architects, engineers, landscape architects, contractors and similar persons or firms having a role or interest with respect to the structure or project.

SIGN, DIRECTIONAL— Any sign commonly associated with and limited to information and directions necessary and convenient for persons coming on the property, including signs marking entrances, parking areas, one-way drives, restrooms, pickup and delivery areas and the like.

SIGN, DOUBLE-FACED— Any two-faced sign utilizing both faces or surfaces for display purposes.

SIGN, FREESTANDING — A sign that is attached to, erected on or supported by some structure such as a pole, mast, frame or other structure that is not itself an integral part of or attached to a building or other structure having a principal function other than the support of the sign.

SIGN, GOVERNMENT— A sign erected and maintained pursuant to and in discharge of any governmental function or required by any law or ordinance or governmental regulation.

SIGN, ILLUMINATED— Any sign which emanates light either by means of exposed tubing or lamps on its surface or by means of illumination transmitted through the sign surface or which reflects lights from a source intentionally directed upon it.

SIGN, OFF-PREMISES (BILLBOARD) — Any sign advertising or calling attention to any business or activity not located on the same continuous parcel of real estate as the sign, or any sign advertising or calling attention to any commodity or service not sold or offered upon the same continuous parcel of real estate as the sign.

SIGN, POLITICAL - A temporary sign announcing or supporting political candidates or issues connected with any national, state or local election.

SIGN, PORTABLE — Any device on wheels or stand that is designed to be easily moved, the purpose of which is to display a sign.

SIGN, REAL ESTATE SALE/RENTAL - A sign pertaining to the sale or lease of the premises or a portion of the premises on which the sign is located.

SIGN, ROOF — Any sign erected upon, against or directly above a roof or on top of or about the parapet of a building.

SIGN, TEMPORARY — Any sign permitted pursuant to the provisions of this chapter other than a permanent sign

SITE PREPARATION — The activities of stripping, excavating, filling or grading for a future use which affect more than 10 cubic yards of material or 10,000 square feet of ground surface.

SKI CENTER — Any trail or slope for alpine and/or Nordic skiing, including lifts, terminals, base lodges, warming huts, sheds, garages and maintenance facilities, parking lots and other buildings and structures directly and customarily related thereto.

SOIL — All mineral or decayed organic material, of whatever origin, which overlies bedrock.

SOLAR ENERGY SYSTEM — A system whose primary energy source is the sun and designed to provide heating, cooling, hot water or electricity. This shall be considered a structure for setback purposes.

STORAGE FACILITY, COMMERCIAL – A building or group of buildings consisting of individual, self-contained units leased to individuals, organizations or businesses for self-services storage of personal property.

STOREFRONT – Display windows of a building housing a commercial use visible from a street, sidewalk, or other pedestrian way accessible to the

public.

STREET — An existing public way or private way which affords principal means of access to abutting properties and is suitably improved; or a proposed way shown on a plat approved by the Town Planning Board and/or recorded in the office of the County Clerk.

STREET OR ROAD GRADE — The degree of inclination of a slope, road, or other surface, graded to level or smooth to a desired or horizontal gradient (for the purposes of this definition, "gradient" shall mean a rate of inclination; slope).

STREET WIDTH — The width of the right-of-way or the distance between property lines or opposite sides of the street.

STRIPPING — Any activity which removes or significantly disturbs the vegetation to the extent that the soil is exposed.

STRUCTURE – Any object constructed, installed or placed on the land to facilitate land use and development or subdivision of land, such as buildings, sheds, single family dwellings, mobile homes, signs, tanks, fences and poles, and any fixtures, additions and alterations thereto. Construction must be more than six inches above grade and in excess of 100 square feet to be considered a structure. Landscaping features shall not constitute structures.

SUBDIVISION — A division of land into two or more lots, parcels or sites, whether adjoining or not, for the purpose of sale, lease, license or any form of separate ownership or occupancy by any person or by any other person or any group of persons acting in concert as part of a common scheme or plan. Provided, however, that this shall not apply to conveyance of small amounts of land to correct a boundary of a lot, so long as such conveyance does not create additional lots. The term includes any map, plot or other plans, whether or not previously filed. It also includes any grading, road construction, installation of utilities or other improvements or any other land use or development preparatory or incidental to such activity. It does not include the lease of land for hunting or fishing and other open space recreational uses. The term includes resubdivision and, as appropriate in the regulations, shall refer to the process of subdividing land into the land subdivided.

TELECOMMUNICATIONS FACILITY – Any structure, and associated accessory

apparatuses, which is specifically designed for receiving and/or transmitting signals (for the purpose of communications).

THEATER - A building or part of a building, devoted to showing motion pictures, or for dramatic musical or live performances and which may include dinner theaters.

TOPSOIL — The natural surface layer of soil, found at varying depths and usually containing organic matter.

TOURIST ATTRACTION — Any man-made or natural place of interest open to the general public for which an admittance fee is usually charged.

TOWNHOUSE — A one-family dwelling in a row of at least three such units in which each unit has its own front and rear access to the outside, no unit is located over another unit and each unit is separated from any other unit by one or more common fire-resistant wall(s).

TRANSFER STATION – A facility at which solid waste collected from any source is temporarily stored or stockpiled for subsequent transport to a permanent disposal site.

TRAVEL TRAILER — A vehicular, portable structure designed as a temporary dwelling for travel, recreational and/or vacation use.

USE — This term is employed in referring to:

- A. The purpose for which any building, other structure or land may be arranged, designed, intended, maintained or occupied;
- B. Any occupation, business activity or operation conducted (or intended to be conducted) in a building or other structure or on land.

VARIANCE, AREA — The authorization by the Board of Appeals for the use of land in a manner which is not allowed by the dimensional or topographical requirements of this chapter.

VARIANCE, USE — The authorization by the Board of Appeals for the use of land in a manner or for a purpose which is otherwise not allowed or is prohibited by this chapter.

VETERINARY CLINIC/KENNEL – A building used for the treatment, housing, kenneling or boarding of small domestic animals such as dogs, cats, rabbits and birds or fowl by a veterinarian.

WATERCOURSE — Any natural or artificial lake, stream, river, creek, ditch, channel, conduit, culvert, drainage way, gully, ravine or wash in which water flows in a definite direction or course, either continuously or intermittently, and which has a definite channel, bed and banks.

WATERFRONT RELATED USE – A recreational use or other use facilitating public access to the shoreline as a primary characteristic of the use that provides for recreational use or aesthetic enjoyment of the shoreline. Primary waterfront related uses may include but not be limited to *Recreation Resort I, restaurants, bar/tavern*, and scientific/ecological reserves.

WATERFRONT RELATED USE, INTENSIVE – Any area or structure that accommodates *waterfront related uses, bed and breakfasts, museums, retail and service, hotel/motel, and marina*.

WAREHOUSING AND DISTRIBUTION – An area and building where cargo is stored and where trucks load and unload cargo on a regular basis.

WHOLESALE BUSINESS — Establishments or places of business primarily engaged in selling merchandise to retailers, industries, commercial institutions or professional business users or to other wholesalers, or acting as agents or brokers and buying merchandise for or selling merchandise to such individuals or companies.

YARD — An open unoccupied space on the same lot with a building or structure.

YARD, FRONT — A yard extending across the full width of the lot and lying between the rear lot line of the lot and the nearest point of the principal building.

YARD, SIDE — A yard situated between the building and the side line of a lot, extending from the back of front yard (or from the front lot line, if there is no required front yard) to the front of the rear yard.

ARTICLE XIII - Repealer, Severability & Effective Date

Repealer

Chapter 211 of Town of Warrensburg Code entitled "Town of Warrensburg Zoning Ordinance" adopted as of September 14, 1988, together with all changes and amendments thereto is hereby repealed.

Chapter 46 of Town of Warrensburg Code entitled "Planning Board" adopted July 10, 1996, together with all changes and amendments thereto is hereby repealed.

Severability

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

Effective Date

This ordinance shall take effect 10 days after publication and posting, or immediately upon personal service as provided by Section 133 of the Town Law.

Draft