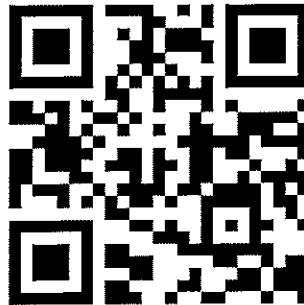


**Code
of the
Town of
Warrensburg**

COUNTY OF WARREN

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HISTORY

The following is a short history of Warrensburg, based largely on the minutes of Town Board meetings kept by the Town Clerks throughout the years. Little attempt has been made to include topics not related to town government. The 1968 version of *The History of Warren County* and the 1898 Souvenir Edition of *The Warrensburgh News* were used for some background not available in the minutes.

"I see now in memory the principal streets lined with stores, and comfortable homes surrounded by smooth lawns and stately trees; I see the wooded hills and grassy slopes through which the winding Schroon went singing to the Hudson; I see towering like a sentinel, Hackensack, from whose summit Warrensburgh and the surrounding country can best be seen. . . I see the return of the soldier who went forth to battle for the Union. . ."

from the 1898 Souvenir Edition of *The Warrensburgh News*. Written by John Ward.

Ward speaks of the Warrensburgh of his youth, in the middle of the 1800's, but his words are timeless in their basic description of Warrensburg.

Established as a town on February 12, 1813, Warrensburg's history is tied to its hills and waters, to its natural resources and its beauty. Back in 1786, William Bond, the Town's first settler, chose the shore of Echo Lake (then called Bond's Pond) as the site of his home.

Historic references cite two possible sources for the town's name. During the 1700's, a piece of land on the east side of the Hudson River, described as the Warrensburgh Tract, was patented by the State of New York and subdivided for the purpose of paying off soldiers of the Revolutionary War. The tract, and thereby the town, may have been named for General Joseph Warren, for whom the County of Warren is named. Other sources say it may have been named for prominent resident James Warren, a tavern and a store owner who had drowned in the Schroon while returning from an 1811 election.

By 1861, the population of the Town had grown considerably. While many of the 1,704 people residing in the town lived in outlying areas, a record dated January 1 states: "The village contains some 700 inhabitants and has 2 public houses, 10 stores, a Tin and Stone establishment, 2 Tailors, 4 Book and Shoe stores, 2 Saddle and Harness Makers, 2 Cabinet Shops, a Sash and Blind Factory, 3 Physicians, 2 Lawyers, 2 Churches (Methodist and Presbyterian), 2 District Schools and a flourishing Academy."

The town grew largely because of the value of the Schroon River. Industries grew along the banks because the river was a source of both power and transportation. Logs, floated down from the forests lining the Schroon, were sawn and planed into lumber at water-powered mills along its banks. The spruce was ground up for paper pulp at the Schroon River Pulp Company; the bark was used for tanning leather. Homes and boarding houses sprung up around the source of employment, many also choosing the river's edge for its natural beauty.

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In 1924, the first mention is made of a conflict that would continue to rage to this day. The economic benefits from the use of the river for recreation were at odds with the advantages from its use for industry. On July 23, the Town Board passed a resolution calling for the maintenance of a portion of the River for recreational use.

“Whereas Warrensburgh is a summer resort of considerable note. . .visited by city people drawn here by our numerous natural attractions, not the least of which is the Schroon River, winding its beautiful way through wood and meadow, and navigable with boats and launches for a distance of about 10 miles above the Osborne Bridge and affording attractive bathing and fishing facilities; with boarding houses and hotels upon its banks, whose main reason for existing is the normally beautiful River. . .The prosperity of our town is largely dependent upon the business done by such places, and thus directly traceable to this natural waterway. . .Logging and pulp companies have kept said stream jammed completely full of logs and pulpwood, rendering the otherwise beautiful stream not only unsightly, but blocking all boating, bathing and fishing therein, to the great damage of said boarding houses and hotels, and the great annoyance and damage of their guests and people of the town. . .” The resolution goes on to make reference to complaints made and appeals unheeded, “. . .we deeming it essential to the welfare of the town, its people and guests, that said river be cleared of logs and wood within the limits of the hamlet and a channel be kept open above, so that this water highway be enjoyed by all. . .” It stated the companies obstructing the river were operating beyond their legal limits and causing “an obstruction and a nuisance.” The companies were given until the end of July to open the channel.

The water power that ran the mills’ machinery was harnessed for a broader use, in 1892, when John G. Smith first set up an electric light station. At first, power was provided for lights in factories, hotels, businesses and homes. By the turn of the century, street lighting was planned. In December of 1903, the Town Board made a decision to contract with the Electric Light Works for an all night schedule.

The issue of decorative street lighting was first raised in 1920, long before Warrensburgh Beautification, Inc. tried to tie in with the 1995 road reconstruction project with plans for “vintage lights.” A newspaper clipping from The Post Star reports the need for a vote to “replace the present twenty-five candle power lights with ones of two-hundred-fifty candle power on attractive fixtures. The news article calls the change the creation of a “White Way.” The May, 1920, minutes state the lights would be installed “from the Plank Road Bridge to the Big Turn.” The lights, newly designed by General Electric, were called “G E Novalux” and were to be hung “with an adjustable ‘Bishop Crook’ bracket.” They were described as having an alabaster ripple globe and a canopy. At that time, there were 54 lights on Main Street. Apparently, sample lights were installed and they were not all they were promised to be, because on December 13, 1921, the minutes state “the five sample lights were found to be not suitable.”

It wasn’t until December 15, 1926, that Adirondack Power and Light was given the go-ahead to install samples of new lights they had recommended for inspection. On August 3, 1927, it was resolved, “The new lighting system on display for the last few weeks be accepted and Adirondack

Power and Light install lights the whole length of Main Street.” The idea of burying power and phone lines first appeared in May, 1931, when the town issued a request for “underground wires for power and phone lines from the Plank Road Bridge to the Post Office and the removal of the poles.”

For nearly a century, the Schroon was also used for another purpose, not readily admitted to — as a catch basin for sewage disposal.

No record exists of the formation of a sewer district for the town, but in 1903, mention is made of a meeting of the Board of Sewer Commissioners. Until 1991, the sewage collection system throughout the town emptied its untreated contents into the Schroon River. Residents along the river piped their wastes directly into the waters of the Schroon. In 1941, the district sanitary engineer of the Water Power and Control Commission in Albany responded to a letter of complaint from Daisy Turpin, the manager of the Riverview Lodge, “regarding the odors resulting from the low water flow in the Schroon River.”

He wrote, “As a result of a recent study of the situation, I’d say the major part of the difficulty is caused by the illegal dumping of untreated sewage by residents along the Schroon River and more particularly, in the hamlet of Warrensburg itself. Sewage treatment facilities would eliminate the discharge of unsightly solids and would collect all of the liquid part of the sewage for discharge into the Schroon River at some point below the hamlet proper. You should, therefore, lose no time in starting agitation for the formation of a sewer district.”

In a 1964 New Year’s resolution, newly elected Supervisor Charles Hastings promised to find grant funds for a sewer study and system. In 1973, Hastings stated the town had permission to put sewage into the Schroon River until its population reached 4,000, but that a survey had been made for a treatment system and it was on hold until funds became available. Beginning in 1975, Warrensburg voted to be part of a proposed county-wide sewer project. Engineering studies were completed toward that end, and reports on progress were made periodically until the early 1980’s. Nothing ever came of the county-wide project, and in 1988, a citizen’s committee began a movement toward the formation of a district, actively seeking funding for the project. This system was completed in 1993.

Today, the industries have all closed their doors; the sewage passes through an engineered treatment system before its waters mix with the river’s. The Schroon’s power has been harnessed through the use of a hydroelectric station, located at the site of the former paper mill. Homes continue to line its shore, small boats once more ply its waters, and an occasional fisherman can be seen trying his luck with a rod.

RECORDS AND MEETING PLACES

The first town meeting was held on April 4, 1813, “at the house of Melinda Warren.” Town officers included the Supervisor, the Town Clerk, three Assessors, three Commissioners of Highways,

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two overseers of the poor, the constable and collector, two fence viewers, the poundmaster and 22 pathmasters.

April 3, 1838, is the first date in the surviving minute books of the Town. The first resolution read as follows: "It was resolved that \$3 of the money now in the hands of the Supervisor be expended by James W. Bishop to purchase a Book for the Town records." With meetings being held in private homes, it wasn't until 1862 that a motion was made for the "sum of \$20 to be raised to purchase a suitable desk for the use of the Town Clerk and that the Supervisor and Town Clerk be appointed a committee to get the desk." In December 1928 the Supervisor was authorized to purchase an adding machine and the Town Clerk a filing cabinet for the Town Board

On June 1, 1920, an offer was made to give the Town a formal meeting hall. The minutes state, "Said building to be of granite and brick and to have rooms for the Town Board, the School Board, etc. Also to house the fire department (which he intends to present with a new Water Apparatus and Equipment). Said building to have a fully equipped gymnasium, swimming pool, etc." Evidently, nothing came of this offer, because no further mention is made of it and meetings continued to be held in the office of the Town Clerk.

Before the construction of the Emerson Memorial Town Hall in 1965, the Town Board met in any number of different locations. In the early days, annual meetings were held in private homes, and then in public houses. From 1919 until the mid 1950's, the Town Clerk's office is stated as the site of meetings. For about 10 years, meetings were held in the fire house. During the year or two just prior to the building of the Hall, office space was leased at 42 Main Street and then at 31 Main Street, both business locations.

The decision of where to locate the present Town Hall was a matter of some controversy. Albert L. Emerson had left the town \$150,000 in his will to build a town hall. Upon his death, late in 1963, his estate offered to sell the Town, for \$22,000, Emerson's former home on the corner of Emerson Avenue and Main Street. The town refused the offer, citing problems with the size of the lot, its small amount of frontage on Main Street and its location so near the Grand Union parking lot. The Board also stated they did not want to tear down the home, stating remodeling it was not what Emerson had in mind when he envisioned a Town Hall. In April of 1964, the Board voted to purchase Frank Olden's property, formerly the Burhans' land. Scant detail is given in the minutes, but apparently this decision did not sit well with everyone. In June, an action filed by Robert Griffin and Marcel LaFond, asking for a public referendum for the new town hall site, was declared null and void. Three members of the Planning Commission apparently resigned over the matter. Roy Randall, Dr. Anthony Muratori and Gilbert Potter left the commission after "stating their views on certain aspects of the planning and the site for the new town hall."

Throughout time, the business of the Town Board has centered on district boundary changes, highway improvements, water improvements, concerns of sewage and other waste disposal, and matters brought up by the public. In the early minutes, court-related issues were mixed with Town business as was school organization. In 1884, apportionment for the school money was first detailed. There were eleven districts, ranging in population from 23 to 137 and totaling 532. The

apportionment for teachers' wages was based on district quotas, according to average attendance, the number of children and the amount of library funds.

HIGHWAYS AND BYWAYS

Issues of road and bridge maintenance have always been of primary municipal importance. Early minutes are filled with details of road building and repairs. In the early years, travel between communities was rough at best. A motion made March 19, 1839, to repair a roadway stated: the highway commissioner "...shall fill up a hollow or low place in the road. . .near the foot of Spruce Mountain with brush, dirt or gravel in such a manner as to make a dry good road in that place." In 1849, through the efforts of Pelatiah Richards, Joseph Woodward, B.P. Burhans and Thomas S. Gray, a plank road was built between Warrensburgh and Caldwell. During the following year, this road was extended to Chestertown. In 1885, road districts were described in detail "for the purpose of re-apportioning the Town into highway districts." There were 29 in all, plus the area of the Lake George & Warrensburgh Plank Road. Each highway district had its own road commissioner.

Throughout the years, various roads have been added to the town highway system. Early surveys offered rough descriptions only. It wasn't until 1882 that a detailed "Order laying out a Highway across the lands of Minerva R. King and William D. Aldrich" and an official offering of the land was entered into the minutes of the Town. By 1885, the dedication of land for a road "near G. Lockwood's residence" included a links and chains survey description.

The first evidence of an owner placing any money into road building before offering the land to the town appears on December 12, 1926, when Fred W. King offered the roads in "Griffin Addition" and said "he would lay out at least \$50 to place said streets in passable condition." Notations are made at various times of other roads and pieces of roads offered to the Town for maintenance.

On January 1, 1964, newly elected Town Supervisor Charles Hastings promised to encourage housing developers by offering Town material and labor for road building and water line installations. He made a New Year's resolution that included the following: "...to facilitate the building of new homes by cooperation with highway and water lines." This practice changed 22 years later, when the Town's Subdivision Regulations were first adopted. For a period of two years, the Town offered to supply the labor for road building while the developer supplied the materials. Since 1988, the developer has been responsible for all costs incurred in road building before the road is offered to the Town for inclusion in the municipal highway system.

The municipal purview extended to sidewalks as early as 1904. "The sidewalk question was agitated and nothing decisive was reached," states the minutes of May 13. It was decided to spend "\$100 up street, \$100 in Lewisville and \$100 down street" for sidewalks. A cement walk was to be laid from Front Street to the Presbyterian Church, "...Warrensburgh labor only to be employed." During that same session, the Board voted to "furnish cement to Jas. Potter for a walk in

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front of his residence he to pay all other charges and that the Commissioner shall have supervision of the walk.”

During the early years, the streets in Town were named but largely unlabeled. “A friendly and well-meant suggestion” was offered by the Chamber of Commerce to the Town Board in April, 1925. “Some action should be taken. . .to erect signs denoting the names of streets. . .for the reason that it is now practically impossible for a citizen to direct a stranger about the town with any degree of accuracy.” In March, 1938, the Town Board met with Stewart Farrar and Arthur Irish “to number the houses on streets in preparation for the delivery of mail.” It was determined the streets running north and south would begin with the number one on the south end. Houses on the right side of the street were to be even numbers, the left side, odd. The streets off Main Street would begin with number one on the Main Street end. After this time, the minutes show numerous references to house numbering corrections and changes.

Traffic lights made their appearance in early May of 1929. On May 1, \$1100 was made available for the installation of “two four-way, three color, pennant type traffic signals” to be placed at the intersections of Main, Hudson and Elm Streets and at Main and Water Streets. Apparently, motorists didn’t pay the signals much heed, because on May 27, a constable was appointed “to instruct motorists to obey the traffic signals.” The issue of cars using excessive speed shows up again and again in the minutes. Its first appearance was in November, 1940, when a 30 m.p.h. limit was requested for Main Street. On June 9, 1941, the following statement was entered into the minutes, “The Town has no desire to create a speed trap and our officer has been instructed to be courteous and give the motorist every break and we feel that this zoning will stop unnecessary speed through town.” The new speed limit was in effect for 1.84 miles, “from the Plank Road bridge to Duell’s Garage.” Beginning in 1970, snowmobile use became an issue for the Town Board to address. Concerns of speed and routes were mentioned at several different meetings in recent years.

Public transportation via railroad was a major means of travel until the early 1900’s. In November of 1926 The Hudson Valley Railroad announced it was considering the elimination of passenger rail service between Warrensburg and Lake George. A petition brought by 25 citizens requesting this decision be changed apparently could not sway the railroad company. In December, 1927, the Town Board passed a resolution relating to the discontinued service which left the town “with no common carrier.” The resolution required a license for anyone wishing to operate a “. . .stage, omnibus or motor vehicle route or line. . .” In February, 1928, the Glens Falls-Bolton Auto-Stage Line was granted a franchise to operate a route between Glens Falls and Warrensburg.

There was no apparent standard for bridge construction. In March of 1877, \$225 was appropriated for the building of a bridge across the Hudson River at the County House. Yet, in May of 1882, between \$2,000 and \$5,000 was appropriate at another location. A group of 17 citizens petitioned the Town Board to hold a vote to consider the amount of funds required to build a bridge across the Schroon River “opposite Charles W. Osborne’s store.” The notice of the hearing was “dated and posted in six of the most public and conspicuous places in the Town on the 24th day of April.” The whole number of votes cast was 159, with 110 in favor of raising as much as \$5000

for the project and 49 in favor of setting the limit at \$2000. Thomas Cunningham, James Herrick and Miles Thomas were appointed as a committee of three to undertake the project, "to be paid only such expense as is actually incurred in the building of said bridge."

Records show the naming of a constable from the first annual meeting. In December, 1937, the Town Board received a petition asking for the hiring of an experienced police officer "to protect the lives and property of the citizens of Warrensburg." New York State Assemblyman Harry Reoux was requested to use his office to have a State Trooper stationed in Warrensburg at all times. Sometime after this, the Town purchased a car and hired its own policeman. In June, 1961, the rules of conduct and duties of the Warrensburg police were published. No formal motion was found for the dissolution of the department, but today, police protection is provided by the Warren County Sheriff's Department.

WATER

The hamlet area had access to a common water source through the industry of The Warrensburgh Water Works, set up in 1884. The company used McLaren Brook as its source, providing pressure through gravity — the brook was about 250 to 300 feet higher than Main Street. According to The 1898 Souvenir Edition of The Warrensburgh News, "The streets are well piped and hydrants are found so situated as to be most useful in the event of a conflagration."

By 1926, after a serious "conflagration" destroyed much of the Main Street business district, residents were concerned about the reliability of the water supply and asked the Town "to take such steps as may be necessary to provide the town with an adequate supply of Water for domestic and fire preventive purposes." The issue was tabled. On September 21, 1927, attorney Harry Reoux presented the Town Board with a petition requesting the town to form a water district. A vote on the formation of the district, whose boundaries were roughly the same as those of the lighting district, was held on February 29, 1928, with the results being 311 for and 48 against spending \$35,000 to purchase the works, easements, rights, franchises and property of The Warrensburgh Water Company, owned by Albert Emerson and Mildred Spoor. 294 were in favor of and 57 against spending up to \$25,000 more for necessary improvements to the system, including "such additional pipes, etc. As are now most urgently needed to guarantee a reasonable supply of water. . ."

Complaints about the quality of the water from the open reservoir surfaced as early as 1934. A letter from the New York State Department of Health asked for chlorination of the public water supply, citing the problems caused by dead-end lines and complaints by residents of color, odor and taste. In July 1940, water superintendent Charles Hastings was "instructed to take the necessary steps to rid the watershed of beavers." In spite of the order and consistent problems with quality, the water supply from the reservoir was not chlorinated until the mid-1960's. The well water was first chlorinated around 1980.

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Supply during the summer months was first an issue in 1934, when the Town Board issued an order limiting the use of hand sprinklers by hose for watering gardens and lawns to the hours of 8:00 p.m. to 10:00 p.m.. Failure to comply could result in the shut-off of water to the home.

In July of 1941, lightning struck and broke the main water line from the reservoir to the town. During the time it took to install the eight inches class 150 asbestos pipe, water was pumped from both Echo Lake and the Schroon River for emergency use.

Since the establishment of the original district in 1928, the simple supply source of tapping a small reservoir near McLaren Brook has seen the addition of an open storage reservoir, in 1936, and four wells, added between 1940 and 1981. The open reservoir system was replaced in 1992 by a 520,000 gallon storage tank.

HEALTH

A Board of Health was first established on August 19, 1881. Although its rules and regulations were not published until a year later, the first action of the Board was to deal with the minor outbreak of small pox, carried to Warrensburgh by a young girl visiting the Stephen Griffin(g) household. The Griffin household was placed under quarantine and Griffin himself contracted the disease. Strong measures were taken to prevent any spread. The following record is made three days later, on August 22:

“The Board having ascertained that two lady inhabitants of Glens Falls had recently removed to this Town and being creditably informed that the Small Pox was raging to an alarming extent at Glens Falls it was resolved that they be sent back at once.”

There was one other case suspected. The man, Mr. Guyette, was confined and then moved to a pox house, set up in a vacant house on the Hudson River, where he was attended by a keeper of said house.

By September 4, Guyette's case was confirmed as a false alarm, Griffin had improved greatly, and Charles W. Osborne was also recovering from a very mild case. A resolution was passed requiring vaccination of all scholars attending the Academy. One other case of smallpox was mentioned in 1903.

The next mention of health related issues did not appear in the minutes until October 9, 1975. Supervisor Hastings reported William Phillion, the administrator of Glens Falls Hospital had contacted him regarding the establishment of a medical clinic in Warrensburg. A meeting was set for the 15th to meet with Phillion. At the time, the town had one physician, Dr. Lawrence, who reportedly said his work load was too heavy and he would close his practice in December to take a salaried position if the clinic were not opened. The minutes state Lawrence gave the Town until the October 25 to decide. On the 21st, the Town Board held a meeting to consider the establishment of a medical clinic. There were forty-four members of the public at that meeting, plus the press, plus the members of the hospital board. By November 5, Hastings had a contract ready to

sign for the lease of the former A&P building. He was authorized to sign it after it was approved by the town attorney. On December 15, the Town Board passed a resolution declaring "a state of emergency to facilitate the opening of a medical clinic in order to keep the services of the Town's sole practicing physician." The new health center held an open house on March 29, 1976.

LANDFILL

Today, the Town is facing a mandate for landfill closure. The disposal of garbage has been a problem for the town for more than 60 years. Back in 1929, residents complained about the location of the dump, and asked the Town to move it. In May of 1930, a new site was found. In July of 1931, the Town Board passed a resolution stating certain users had to bury their garbage, not just dump it. On May 6, 1935, Frank Hill was employed, at the rate of \$1 a day, to care for the Town Dump.

All later attempts to move the dump were unsuccessful. Each time a site was found, residents brought in petitions protesting the new location. In 1957, an ordinance regulating the disposal of garbage and rubbish was adopted. State regulations for the operations of dumps gave Warrensburg troubles as early as 1964 when the town was cited for burning, for not confining the garbage to a designated area, and for not compacting and covering the trash daily. The Town replied to this complaint by denial and stating the town was being discriminated against. In 1968 restrictions on who could use the dump were considered. By then, the problem of the dump's size was of enough concern that the possibility of a joint landfill with Lake George and Thurman was considered, as they "were already using the dump without paying for it." New York State Department of Environmental Conservation formally cited the town for improper operation of the landfill in 1971 and had issued a consent order for closure as early as February 1973. In September of that year, there was talk of the use of a joint landfill and an incinerator to be used by many towns. The estimated cost of closing the landfill at that time was \$20,000. This included cover and landscaping. As of 1996, the cost of the landfill closure has come to more than \$500,000. The joint landfill site has yet to be found, and the Warren-Washington County burn plant has been in operation since November 1991.

PLANNING AND ZONING

Attempts to regulate land use and other activities within the Town have met with mixed response over the years. Some were enacted with no opposition noted in the minutes; others were soundly rejected. On April 29, 1922, a resolution was passed that "the Town Board may prohibit the hawking and peddling in public streets or places, or the vending of same by calls from house to house without a license. . . The Town Board deems it unfair and inimical to the interests of our local merchants, who pay taxes or rent in said town, that such goods be sold without a license and tax. . ." Since then, the vending ordinance has been revised, but the idea remains essentially the same.

In September, 1958, a proposed ordinance to control the installation of electric wire by permit or license was defeated unanimously by the Town Board. No support was received in November,

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1969, for a proposal concerning the “matter of cigarettes ground out on the Town Hall meeting floor.”

Brief mention is made in 1957 of Zoning and Planning Board members. On February 2, 1960, the Planning Commission Organization Committee was named. Its first task was to do an inventory and come up with a long-range plan to be implemented step-by-step. In July, the minutes mention the need to “curb the growth of undesirable elements and replace them with those that lend themselves” to the assets of the community. A press release stated: “That the Planning Commission is inaugurated to protect your interests and investments in the future of the Town of Warrensburg.” The September, 1961, minutes mention “a heated discussion in regard to the problem of zoning and adopting restrictive regulations. No definitive decisions were made.” In June, 1962, the Town Board granted itself power for subdivision control and plat approval. Complaints about the keeping of domestic animals within the hamlet were brought to the Town Board in April, 1966. The petitioners were told there were no regulations controlling such land use.

In September, 1971, an ordinance “regulating trailer placement for tax purposes and water taps” was tabled indefinitely. “Sharp discussion and disapproval was voiced.” A roll call of those present (25 members of the public) showed “7/8 opposed and the remainder did not vote or voice an opinion.” An ordinance prohibiting the use of motors bigger than 3 horsepower on Kelm Lake was approved in July, 1972.

The Adirondack Park Agency is mentioned in January, 1973. Hastings had received a letter from the APA on land designations and he recommended serious consideration be given to the proposals. In March, Hastings joined with 16 other towns to ask the APA to delay enactment of their land use regulations for one year.

A Comprehensive Town Master Plan was presented in 1978. This plan was updated in 1984, in preparation for the adoption of zoning and subdivision regulations. Subdivision regulations were first adopted in February, 1986, authorizing the Planning Board to review plats. A Town Zoning Ordinance was adopted in September, 1988.

RECREATION

Recreational interests were first brought to a municipal level during this time period. After a special vote on the matter was held on November 3, 1924, \$3000 was appropriated for “equipping with suitable buildings, structures and apparatus” the park and playground that had been offered to the Town on the condition the town so equip it.

On June 11, 1926, a one-year contract was made with the Warrensburgh Cemetery Association for the opening of “a portion of the Echo Lake Shore owned by the Association for a public bathing beach.” The arrangement must have been successful, because in July of 1931, the minutes reflect an inspection of the Public Bathing Beach and a decision to make improvements to the dock and spring board. Improvements were made to the bath house and a decision made to “install outside toilets that nuisances will not be committed in the bath houses.” By August of 1935,

the Board voted to consider the purchase of the Beach for \$3,000. On November 13, of that year the deed to the beach was delivered to the Town Board by Stewart Farrar, representing the Cemetery Association.

In addition to the beach and the recreation field, both of which have been maintained since they were first acquired, the Town operated a ski hill with a rope tow for some years — beginning in 1966. This area, called “Blister Hill,” has since fallen into disrepair and has not been maintained. In 1980, Everett Frulla deeded Hackensack Mountain to the Town.

Public funds were first committed to advertising the area on October 17, 1928, when \$100 was set aside “to Flack Advertising Service for two pages of advertisements for cooperative advertising with hotel keepers and merchants of the town.” By 1934, this amount had increased to \$500 to the Chamber of Commerce.

Not all recreational interests were as well received. The results of a vote, held on October 10, 1927, “to raise, by tax, \$400 to employ a band of music to furnish public concerts during the Summer of 1928, show the idea was closely contested but defeated by a margin of 311 against and only 297 in favor. These concerts have been held during other Summers since. Today the Bandstand is the site of musical events each Wednesday night when the road is closed off to allow dancing in the streets.

The request for the building of the Floyd Bennett Memorial Bandstand was brought to the Town Board in July, 1929, by a petition signed by at least twenty-five people. The petition asked the Town to raise \$3000 “for a public rest and comfort room, with a suitable band stand over same in the so-called ‘Pasko Park’ recently donated as a public park.”

ODD BITS

The spelling of the name of the town changed from “Warrensburgh” to “Warrensburg” somewhere in the mid-1920’s. The first change is seen in the minutes in 1928, but there is no consistency. A piece of stationery from the Town Clerk’s Office, dated September 1936 still shows the spelling with an “h.”

Signs of the times are brought into sharp focus at different points with motions made or issues mentioned. Two actions taken at the first Town Board meeting involved animals. A bounty of five dollars was placed on wolves. A fine of five dollars was placed on “letting rams run at large between September 1st and December 1st.” In the minutes of both April and August, 1864, mention was made of funds to be raised for the payment of soldiers “to fill the quota of the Town on the call for 500,000 men” to fight in the Civil War. In stark contrast, more than 100 years later, in April, 1970, the Town Board established a Narcotics Council to work on a drug alert education program. In August, 1972, the minutes state: “No official action has been taken to prohibit people going barefoot in the community.”

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Other evidence is seen in the change of ideals. From June, 1978 until February, 1979, there was a conflict between the public perception of open meetings and that of the Town Board. Different members of the public chose to run tape recorders during Town Board meetings and Supervisor Hastings ordered the machines turned off. At the first attempt, the meeting adjourned for 40 minutes before resuming, without the recorder running. In February, Hastings cited a legal opinion allowing each town to decide whether tape recorders were allowed. The minutes state Hastings said, "The use of tape recorders is a violation of the rules of the Warrensburg Town Board and persons using them were subject to arrest." Today, the Town Board routinely runs a tape recorder of all its meetings.

It seems that originally, each area had a choice whether to adopt "daylight savings time" each year. In April 1929, a resolution was made for "Warrensburgh to adopt daylight savings time." However, in 1923, a straw poll showed a preference for keeping standard time that year.

Cable television became an option in the late 1960's. The Town Board met with cable providers "in a closed meeting" in 1969. A contract for service was signed in 1971, but it wasn't until January, 1975, that installation finally began.

Stately elm trees once lined the main streets of Warrensburg. Pesticide spraying for diseased elm trees was undertaken in 1949, but the efforts proved unsuccessful. By 1964, the Town drafted a letter to New York State Department of Public Works, asking them to remove the dead and dying elms on Main Street. The first mention of the danger of using pesticides near water sources shows up in 1970 with a resolution prohibiting the use of pesticide sprays near the town's water supply.

In its earliest days, Warrensburg relied on its natural resources to fuel its factories and run its mills. Today those same resources serve the town as a lure to visitors and homeowners who choose to live here and work in more metropolitan areas. The face of the Town has changed slowly.

I see now the principal streets lined with stores, and comfortable homes surrounded by smooth lawns and stately trees; I see the wooded hills and grassy slopes through which the winding Schroon goes singing to the Hudson; I see towering like a sentinel, Hackensack, from whose summit Warrensburg and the surrounding country can best be seen. . .

April 1996

PREFACE

The Town of Warrensburg has, over the years, passed through a process of legislative change common to many American communities. While only a few simple laws were necessary at the time of the establishment of the Town, subsequent growth of the community, together with the complexity of modern life, has created the need for new and more detailed legislation for the proper function and government of the Town. The recording of local law is an aspect of municipal history, and as the community develops and changes, review and revision of old laws and consideration of new laws, in the light of current trends, must keep pace. The orderly collection of these records is an important step in this ever-continuing process. Legislation must be more than mere chronological enactments reposing in the pages of old records. It must be available and logically arranged for convenient use and must be kept up-to-date. It was with thoughts such as these in mind that the Town Board ordered the following codification of the Town's legislation.

Contents of Code

The various chapters of the Code contain all currently effective legislation of a general and permanent nature enacted by the Town Board of the Town of Warrensburg, including revisions or amendments to existing legislation deemed necessary by the Town Board in the course of the codification.

Division of Code

The Code is divided into parts. Part I, Administrative Legislation, contains all Town legislation of an administrative nature, namely, that dealing with the administration of government, that establishing or regulating municipal departments and that affecting officers and employees of the municipal government and its departments. Part II, General Legislation, contains all other Town legislation of a regulatory nature. Items of legislation in this part generally impose penalties for violation of their provisions, whereas those in Part I do not.

Table of Contents and Grouping of Legislation

The Table of Contents details the arrangement of material alphabetically by chapter as a means of identifying specific areas of legislation. Wherever two or more items of legislation have been combined by the editor into a single chapter, the use of article designations has preserved the identity of the individual enactments, and the titles of the articles are listed beneath the chapter title in order to facilitate location of the individual enactments.

Reserved Chapters

Unassigned chapter numbers do not appear in the Table of Contents but are available for assignment to new enactments. In this manner, new subject matter can be included alphabetically.

WARRENSBURG CODE

Pagination

A unique page-numbering system has been used in which each chapter forms an autonomous unit. The first page of each chapter is the number of that chapter followed by a colon and the numeral "1." Thus, Chapter 6 would begin on page 6:1. By use of this system, it is possible to add or to change pages in any chapter, or add new chapters, without affecting the sequence of subsequent pages.

Numbering of Sections

A chapter-related section-numbering system is employed in which the section number indicates the number of the chapter and the location of the section within that chapter. Thus, the first section of Chapter 30 would be § 30-1, while the sixth section of Chapter 57 would be § 57-6.

Scheme

The scheme is the list of section titles that precedes the text of each chapter. These titles are carefully written so that, taken together, they may be considered as a summary of the content of the chapter. Taken separately, each describes the content of a particular section. For ease and precision of reference, the scheme titles are repeated as section headings in the text.

Histories

At the end of the Scheme (list of section titles) in each chapter is located the legislative history for that chapter. This History indicates the specific legislative source from which the chapter was derived, including the enactment number, if pertinent, and the date of adoption. In the case of chapters containing parts or articles derived from more than one item of legislation, the source of each part or article is indicated in the text, under its title. Amendments to individual sections or subsections are indicated by histories where appropriate in the text.

Codification Amendments and Revisions

New chapters adopted during the process of codification are cited in chapter histories with reference to "Ch. 1, General Provisions," where the legislation adopting the Code and providing for substantive revisions will appear after final enactment. Sections and subsections that are amended or revised during the process of codification are indicated in the text by means of Editor's Notes also referring to "Ch. 1, General Provisions." Following adoption of the Code, during the course of routine supplementation, these references will be updated to a History of the Code Adoption legislation.

General References; Editor's Notes

In each chapter containing material related to other chapters in the Code, a table of General References is included to direct the reader's attention to such related chapters. Editor's Notes are used

PREFACE

in the text to provide supplementary information and cross-references to related provisions in other chapters.

Appendix

Certain forms of local legislation are not of a nature suitable for inclusion in the main body of the Code but are of such significance that their application is community-wide or their provisions are germane to the conduct of municipal government. The Appendix of this publication is reserved for such legislation and for any other material that the community may wish to include.

Disposition List

The Disposition List is a chronological listing of legislation, indicating its inclusion in the publication or the reason for its exclusion. The Disposition List will be updated with each supplement to the Code to include the legislation reviewed with said supplement.

Index

The Index is a guide to information. Since it is likely that this publication will be used by persons without formal legal training, the Index has been formulated to enable such persons to locate a particular section quickly. Each section of each chapter has been indexed. The Index will be supplemented and revised from time to time as new legislation is added.

Instructions for Amending the Code

All changes to the Code, whether they are amendments, deletions or additions, should be adopted as amendments to the Code. In doing so, existing material that is not being substantively altered should not be renumbered.

Adding new sections. Where new sections are to be added to a chapter, they can be added at the end of the existing material (continuing the numbering sequence) or inserted between existing sections as decimal numbers (e.g., a new section between §§ 65-5 and 65-6 should be designated § 65-5.1).

Adding new chapters. New chapters should be added in the proper alphabetical sequence in the appropriate division or part (e.g., Part I, Administrative Legislation, or Part II, General Legislation), utilizing the reserved chapter numbers. New chapter titles should begin with the key word for the alphabetical listing (e.g., new legislation on abandoned vehicles should be titled "Vehicles, Abandoned" under "V" in the Table of Contents, and a new enactment on coin-operated amusement devices should be "Amusement Devices" or "Amusement Devices, Coin-Operated" under "A" in the Table of Contents). Where a reserved number is not available, an "A" chapter should be used (e.g., a new chapter to be included between Chapters 166 and 167 should be designated Chapter 166A).

Adding new articles. New articles may be inserted between existing articles in a chapter (e.g., adding a new district to the Zoning Regulations) by the use of "A" articles (e.g., a new article to

WARRENSBURG CODE

be included between Articles XVI and XVII should be designated Article XVIA). The section numbers would be as indicated above (e.g., if the new Article XVIA contains six sections and existing Article XVI ends with § 166-30 and Article XVII begins with § 166-31, Article XVIA should contain §§ 166-30.1 through 166-30.6).

Supplementation

Supplementation of the Code will follow the adoption of new legislation. New legislation or amendments to existing legislation will be included and repeals will be indicated as soon as possible after passage. Supplemental pages should be inserted as soon as they are received and old pages removed, in accordance with the Instruction Page which accompanies each supplement.

Acknowledgment

The assistance of the Town officials is gratefully acknowledged by the editor. The codification of the legislation of the Town of Warrensburg reflects an appreciation of the needs of a progressive and expanding community. As in many other municipalities, officials are faced with fundamental changes involving nearly every facet of community life. Problems increase in number and complexity and range in importance from everyday details to crucial areas of civic planning. It is the profound conviction of General Code that this publication will contribute significantly to the efficient administration of local government. As Samuel Johnson observed, "The law is the last result of human wisdom acting upon human experience for the benefit of the public."

GENERAL CODE

INSTRUCTIONS

Town of Warrensburg Code Supplement No. 6

The enclosed new and/or replacement pages should be placed in your Code volume immediately! The dateline, on the bottom of the page, indicates the supplement number and the month and year in which the last piece of legislation reviewed for this supplement was adopted. This instruction page should be placed in the front of your Code volume.

TITLE	REMOVE	INSERT
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<i>Ch 185 Taxation</i>	185:1 - 185:2	185:1 - 185:2.1
	185:5	185:5 - 185:7
<i>Ch 211 Zoning</i>	211:7 - 211:8	211:7 - 211:8.1
	211:51 - 211:56	211:51 - 211:56
	211:59 - 211:60	211:59 - 211:60.1
<i>Ch DL Disposition List</i>	DL:3 - DL:5	DL:3 - DL:5
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PART I

**ADMINISTRATIVE
LEGISLATION**

Chapter 1

GENERAL PROVISIONS

ARTICLE I Adoption of Code

- § 1-1. Legislative intent.
- § 1-2. Continuation of existing provisions.
- § 1-3. Repeal of enactments not included in Code.
- § 1-4. Enactments saved from repeal; matters not affected.
- § 1-5. Severability.
- § 1-6. Copy of Code on file.
- § 1-7. Amendments to Code.
- § 1-8. Code book to be kept up-to-date.
- § 1-9. Sale of Code book; supplementation.
- § 1-10. Penalties for tampering with Code.
- § 1-11. Changes in previously adopted legislation; new provisions.
- § 1-12. Incorporation of provisions into Code.
- § 1-13. When effective.

[HISTORY: Adopted by the Town Board of the Town of Warrensburg as indicated in article histories. Amendments noted where applicable.]

ARTICLE I Adoption of Code [Adopted 7-10-1996 by L.L. No. 1-1996]

§ 1-1. Legislative intent.

In accordance with Subdivision 3 of § 20 of the Municipal Home Rule Law, the local laws, ordinances and certain resolutions of the Town of Warrensburg, as codified by General Code Publishers Corp., and consisting of Chapters 1 through 211, together with an Appendix, shall be known collectively as the "Code of the Town of Warrensburg," hereafter termed the "Code." Wherever reference is made in any of the local laws, ordinances and resolutions contained in the "Code of the Town of Warrensburg" to any other local law, ordinance or resolution appearing in said Code, such reference shall be changed to the appropriate chapter title, chapter number, article number or section number appearing in the Code as if such local law, ordinance or resolution had been formally amended to so read.

§ 1-2. Continuation of existing provisions.

The provisions of the Code, insofar as they are substantively the same as those of local laws, ordinances and resolutions in force immediately prior to the enactment of the Code by this local law, are intended as a continuation of such local laws, ordinances and resolutions and not as new enactments, and the effectiveness of such provisions shall date from the date of adoption of the prior local law, ordinance or resolution. All such provisions are hereby continued in full force and effect and are hereby reaffirmed as to their adoption by the Town Board of the Town of Warrensburg, and it is the intention of said Board that each such

provision contained within the Code is hereby reaffirmed as it appears in said Code. Only such provisions of former local laws and ordinances as are omitted from this Code shall be deemed repealed or abrogated by the provisions of § 1-3 below.

§ 1-3. Repeal of enactments not included in Code.

All local laws and ordinances of a general and permanent nature of the Town of Warrensburg in force on the date of the adoption of this local law and not contained in such Code or recognized and continued in force by reference therein are hereby repealed from and after the effective date of this local law.

§ 1-4. Enactments saved from repeal; matters not affected.

The repeal of local laws and ordinances provided for in § 1-3 of this local law shall not affect the following classes of local laws, ordinances, rights and obligations, which are hereby expressly saved from repeal:

- A. Any right or liability established, accrued or incurred under any legislative provision of the Town of Warrensburg prior to the effective date of this local law or any action or proceeding brought for the enforcement of such right or liability.
- B. Any offense or act committed or done before the effective date of this local law in violation of any legislative provision of the Town of Warrensburg or any penalty, punishment or forfeiture which may result therefrom.
- C. Any prosecution, indictment, action, suit or other proceeding pending or any judgment rendered prior to the effective date of this local law brought pursuant to any legislative provision of the Town of Warrensburg.
- D. Any franchise, license, right, easement or privilege heretofore granted or conferred by the Town of Warrensburg.
- E. Any local law or ordinance of the Town of Warrensburg providing for the laying out, opening, altering, widening, relocating, straightening, establishing grade, changing name, improvement, acceptance or vacation of any right-of-way, easement, street, road, highway, park or other public place within the Town of Warrensburg or any portion thereof.
- F. Any local law or ordinance of the Town of Warrensburg appropriating money or transferring funds, promising or guaranteeing the payment of money or authorizing the issuance and delivery of any bond of the Town of Warrensburg or other instruments or evidence of the Town's indebtedness.
- G. Local laws or ordinances authorizing the purchase, sale, lease or transfer of property or any lawful contract or obligation.
- H. The levy or imposition of special assessments or charges.
- I. The annexation or dedication of property.

- J. Any legislation relating to salaries.
- K. Any local law or ordinance amending the Zoning Map.
- L. Any legislation adopted subsequent to January 23, 1996.
- M. Any ordinance relating to or establishing a pension plan or pension fund for municipal employees.
- N. Any legislation regarding personnel policies.
- O. Any legislation regarding current fees.
- P. Any legislation regarding health insurance for municipal employees.
- Q. Any legislation regarding alcohol and drug testing policies.
- R. Any legislation regarding building construction and fire prevention.
- S. Any legislation regarding vehicles and traffic legislation.

§ 1-5. Severability.

If any clause, sentence, paragraph, section, article, chapter or part of this local law or of any local law, ordinance or resolution included in this Code now or through supplementation 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, article, chapter or part thereof directly involved in the controversy in which such judgment shall have been rendered.

§ 1-6. Copy of Code on file.

A copy of the Code, in loose-leaf form, has been filed in the office of the Town Clerk of the Town of Warrensburg and shall remain there for use and examination by the public until final action is taken on this local law; and, if this local law shall be adopted, such copy shall be certified by the Town Clerk of the Town of Warrensburg by impressing thereon the Seal of the Town, and such certified copy shall remain on file in the office of said Town Clerk to be made available to persons desiring to examine the same during all times while said Code is in effect. The enactment and publication of this local law, coupled with the availability of a copy of the Code for inspection by the public, shall be deemed, held and considered to be due and legal publication of all provisions of the Code for all purposes.

§ 1-7. Amendments to Code.

Any and all additions, deletions, amendments or supplements to any of the local laws, ordinances and resolutions known collectively as the "Code of the Town of Warrensburg" or any new local laws, ordinances or resolutions, when enacted or adopted in such form as to indicate the intention of the Town Board to be a part thereof, shall be deemed to be incorporated into such Code so that reference to the Code shall be understood and intended to

include such additions, deletions, amendments or supplements. Whenever such additions, deletions, amendments or supplements to the Code shall be enacted or adopted, they shall thereafter be printed and, as provided hereunder, inserted in the loose-leaf book containing said Code as amendments and supplements thereto. Nothing contained in this local law shall affect the status of any local law, ordinance or resolution contained herein, and such local laws, ordinances or resolutions may be amended, deleted or changed from time to time as the Town Board deems desirable.

§ 1-8. Code book to be kept up-to-date.

It shall be the duty of the Town Clerk to keep up-to-date the certified copy of the book containing the Code of the Town of Warrensburg required to be filed in the office of the Town Clerk for use by the public. All changes in said Code and all local laws, ordinances and resolutions adopted by the Town Board subsequent to the enactment of this local law in such form as to indicate the intention of said Board to be a part of said Code shall, when finally enacted or adopted, be included therein by temporary attachment of copies of such changes, local laws, ordinances or resolutions until such changes, local laws, ordinances or resolutions are printed as supplements to said Code book, at which time such supplements shall be inserted therein.

§ 1-9. Sale of Code book; supplementation.

Copies of the Code may be purchased from the Town Clerk of the Town of Warrensburg upon the payment of a fee to be set by resolution of the Town Board, which Board may also arrange by resolution for procedures for the periodic supplementation thereof.

§ 1-10. Penalties for tampering with Code.

Any person who, without authorization from the Town Clerk, changes or amends, by additions or deletions, any part or portion of the Code of the Town of Warrensburg or who alters or tampers with such Code in any manner whatsoever which will cause the legislation of the Town of Warrensburg to be misrepresented thereby or who violates any other provision of this local law shall be guilty of an offense and shall, upon conviction thereof, be subject to a fine of not more than \$250 or imprisonment for a term of not more than 15 days, or both.

§ 1-11. Changes in previously adopted legislation; new provisions.

- A. In compiling and preparing the local laws, ordinances and resolutions for publication as the Code of the Town of Warrensburg, no changes in the meaning or intent of such local laws, ordinances and resolutions have been made, except as provided for in Subsection B hereof. In addition, certain grammatical changes and other minor nonsubstantive changes were made in one or more of said pieces of legislation. It is the intention of the Town Board that all such changes be adopted as part of the Code as if the local laws, ordinances and resolutions had been previously formally amended to read as such.
- B. In addition, the following amendments and/or additions are made herewith, to become effective upon the effective date of this local law as set forth in Schedule A attached

hereto and made a part hereof. (Chapter and section number references are to the local laws, ordinances and resolutions as they have been renumbered and appear in the Code.)¹

C. Nomenclature changes.

- (1) Throughout the Code, the terms "local law," "ordinance," or "resolution" are hereby changed to the term "chapter" or "article" or "part" wherever applicable.
- (2) Throughout the Code, the term "Codes Enforcement Officer" is hereby changed to "Code Enforcement Officer."
- (3) Throughout the Code, the terms "Department of Water and Wastewater (or Water Treatment)" are hereby changed to "Department of Water."
- (4) Throughout the Code, the term "Town Highway Superintendent" is hereby changed to "Town Superintendent of Highways."
- (5) Throughout the Code, the term "Zoning Officer" is hereby changed to "Zoning Administrator."
- (6) Throughout Chapter 170, Solid Waste, Article I, Transfer Station, the term "landfill" is hereby changed to "transfer station."

§ 1-12. Incorporation of provisions into Code.

The provisions of this local law are hereby made Article I of Chapter 1 of the Code of the Town of Warrensburg, such local law to be entitled "General Provisions, Article I, Adoption of Code," and the sections of this local law shall be numbered §§ 1-1 to 1-13, inclusive.

§ 1-13. When effective.

This local law shall take effect immediately upon filing with the Secretary of State of the State of New York.

1. Editor's Note: In accordance with § 1-11B, the chapters, parts and sections which were added, amended, adopted or deleted by this local law are indicated throughout the Code by a footnote referring to Chapter 1, General Provisions, Article I. During routine supplementation, footnotes indicating amendments, additions or deletions will be replaced with the following history: "Amended (added, deleted) 7-10-1996 by L.L. No. 1-1996." Schedule A, which contains a complete description of all changes, is on file in the Town offices.

Chapter 4

ANIMAL CONTROL OFFICER

§ 4-1. Title.

§ 4-3. Statutory authority.

§ 4-2. Intent.

§ 4-4. Duties.

[HISTORY: Adopted by the Town Board of the Town of Warrensburg at time of adoption of Code; see Ch. 1, General Provisions, Art. I. Amendments noted where applicable.]

GENERAL REFERENCES

Animals — See Ch. 77.

§ 4-1. Title.

This chapter shall be known as the "Animal Control Officer Law of the Town of Warrensburg."

§ 4-2. Intent.

The Town Board of the Town of Warrensburg hereby determines that there is a need for a Dog Warden/Animal Control Officer to carry out the provisions of the Agriculture and Markets Law and local municipal laws dealing with the control of small animals, including their seizure, impoundment and disposition.

§ 4-3. Statutory authority.

This chapter is hereby enacted pursuant to the authority granted by § 10 of the New York State Municipal Home Rule Law.

§ 4-4. Duties.

The duties of the Dog Warden/Animal Control Officer shall only exist in an emergency situation and shall be as follows:

- A. Investigate complaints as related to small animal annoyances.
- B. Report sick or injured animals to a veterinarian for corrective action.
- C. Maintain records of work performed.
- D. Enforce local laws and orders applicable to small animals.

Chapter 7

APPEARANCE TICKETS

§ 7-1. Authorization to issue tickets.

§ 7-3. Designation of issuing officer.

§ 7-2. Infractions warranting ticket.

[HISTORY: Adopted by the Town Board of the Town of Warrensburg 8-27-1987 as L.L. No. 2-1987. Amendments noted where applicable.]

§ 7-1. Authorization to issue tickets.

The public servant or servants responsible for enforcement of local or state laws applying in the Town of Warrensburg are hereby empowered and authorized to issue appearance tickets returnable in the Town Justice Court of the Town of Warrensburg.

§ 7-2. Infractions warranting ticket.

The appearance tickets may be issued for any infraction against any local or state laws applying in the Town of Warrensburg, including:

- A. Parking.
- B. Zoning, planning and building.
- C. Fire prevention and safety.
- D. Health and sanitation.
- E. Licensing of businesses and occupations.
- F. Such other areas as the Town Board may lawfully designate from time to time.

§ 7-3. Designation of issuing officer.

The Code Enforcement Officer is hereby specifically designated as a public servant authorized to issue such appearance tickets.

Chapter 10
ATTORNEY, TOWN

ARTICLE I
Authority to Secure Services

§ 10-1. Authorized agents designated.

[HISTORY: Adopted by the Town Board of the Town of Warrensburg as indicated in article histories. Amendments noted where applicable.]

GENERAL REFERENCES

Code of Ethics — See Ch. 22.

ARTICLE I
Authority to Secure Services
[Adopted 11-15-1995]

§ 10-1. Authorized agents designated.

The authorized usage of the Town Attorney is hereby restricted to the Town Supervisor and the Town Clerk, and all others shall obtain the permission of either the Town Supervisor or the Town Clerk prior to consulting with the Town Attorney.

Chapter 16

COMPUTER SYSTEM SECURITY BREACH NOTIFICATION POLICY

[The Computer System Security Breach Notification Policy was adopted by the Town Board of the Town of Warrensburg 3-8-2006 by Res. No. 103-06. It is on file and available for viewing in the office of the Town Clerk.]

Chapter 16A
(RESERVED)

[Former Ch. 16A, Constabulary Department, adopted 11-13-2019 by L.L. No. 5-2019,
was repealed 11-8-2023 by L.L. No. 3-2023.]

Chapter 16A
CONSTABULARY DEPARTMENT

- | | |
|--|-------------------------------|
| § 16A-1. Findings and purpose. | § 16A-7. Bond required. |
| § 16A-2. Title; authority. | § 16A-8. Hours and salary. |
| § 16A-3. Creation of Department. | § 16A-9. Term of appointment. |
| § 16A-4. Authorization of appointment. | § 16A-10. Severability. |
| § 16A-5. Powers and duties. | § 16A-11. Repealer. |
| § 16A-6. Residency. | § 16A-12. When effective. |

[HISTORY: Adopted by the Town Board of the Town of Warrensburg 11-13-2019 by L.L. No. 5-2019. Amendments noted where applicable.]

§ 16A-1. Findings and purpose.

The Town Board of the Town of Warrensburg finds that the creation of a Constabulary Department and the appointment of a Constable or Constables within the Town will promote the safety of residents and visitors to the Town and be in the best interests of the Town.

§ 16A-2. Title; authority.

This chapter shall be known as the "Warrensburg Constabulary Department Law." This chapter is adopted pursuant to New York Town Law and the Municipal Home Rule Law for the purpose of creating, staffing and supervision of the Warrensburg Constabulary Department within the Town.

§ 16A-3. Creation of Department.

The Town Board hereby authorizes creation of a Town Constabulary Department, which shall consist of Town Constables in such number and for such terms as the Town Board may from time to time decide and authorize by resolution. The officers appointed to staff the Constabulary Department shall be subject to the supervision of the Town Supervisor.

§ 16A-4. Authorization of appointment.

The Town Board is hereby authorized to appoint one Town of Warrensburg law enforcement officer, who shall be known as a "Town of Warrensburg Constable." The Town Board is hereby authorized to appoint more members as it sees fit from time to time.

§ 16A-5. Powers and duties.

The Town Constable(s) shall have the authority to enforce state laws and local laws as is granted to peace officers in state statute and the regulations of the State Division of Criminal

Justice Services. The Town Constable shall be authorized to carry a firearm in the discharge of his or her duties as long as such Constable has successfully completed training as required by state law and regulation, and to the extent any additional training is required by the Town Board. The specific duties shall be as prescribed by the Town Supervisor and as limited by applicable law and regulation.

§ 16A-6. Residency.

The Town Board finds that in order to fill the office of Town Constable with qualified individuals, it may be necessary to appoint individuals to the office who are not electors or residents of the Town of Warrensburg. Therefore, persons appointed and holding the office of Town Constable need not be electors or residents of the Town of Warrensburg.

§ 16A-7. Bond required.

The Town shall provide any bond in whatever form and amount required by applicable law or regulation.

§ 16A-8. Hours and salary.

The hours worked shall be subject to a schedule established by the Town Supervisor. The salary shall be set by the Town Board and modified from time to time as the Town Board sees fit. The position of Town Constable is a part-time position.

§ 16A-9. Term of appointment.

The Town of Warrensburg Constable shall serve at the pleasure of the Town Board. Upon adoption of this chapter, the Town Board shall appoint the Constable, and shall appoint the Constable(s) at the Board's organizational meeting each year, except for vacancies in the office or additional appointments, which may be made at the Town Board's pleasure.

§ 16A-10. Severability.

If any provision of this chapter is declared invalid by a court of competent jurisdiction, such declaration shall not affect or impair any other provision of this chapter and all other provisions shall remain in full force and effect.

§ 16A-11. Repealer.

All local laws or ordinances or parts of local laws or ordinances in conflict with any part of this chapter are hereby repealed.

§ 16A-12. When effective.

This chapter shall take effect upon filing by the office of the New York State Secretary of State pursuant to Municipal Home Rule Law § 27(3).

Chapter 17
CONTRACTS

ARTICLE I
Best Value

§ 17-1. Legislative intent.

§ 17-2. Authorization of best value as basis for award.

§ 17-3. Amendment of procurement policy.

[HISTORY: Adopted by the Town Board of the Town of Warrensburg as indicated in article histories. Amendments noted where applicable.]

GENERAL REFERENCES

Grants — See Ch. 25

ARTICLE I
Best Value
[Adopted 7-9-2014 by L.L. No. 2-2014]

§ 17-1. Legislative intent.

Section 103 of the New York General Municipal Law (GML § 103) requires competitive bidding for purchase contracts and public works contracts and has historically required that such bids be awarded to the lowest responsible bidder whose bid meets the requirements of the specifications for the project. General Municipal Law § 103 has been amended to provide that the Town may award purchase contracts which would otherwise be subject to the "lowest bidder" rule on the basis of "best value," as defined in New York State Finance Law § 163, to a responsive and responsible bidder or offerer, if authorized by local law. The Town Board hereby determines that it is in the best interests of the Town and its inhabitants for the Town Board to have the authority to award purchase contracts on the basis of best value.

§ 17-2. Authorization of best value as basis for award.

- A. The Town may award purchase contracts, including contracts for service work but excluding any purchase contracts necessary for the completion of a public works contract pursuant to Article 8 of the New York Labor Law, on the basis of best value, as defined in New York State Finance Law § 163, to a responsive and responsible bidder or offerer.
- B. The determination to award a contract on the basis of best value shall be made by the Town Board. Such determination shall include the specific criteria to be applied in determining best value which shall reflect, wherever possible, objective and quantifiable analysis. The Board shall document the determination of the evaluation criteria. The Board should use a cost-benefit analysis or other similar process to demonstrate quantifiable value or savings from non-price factors that offset the price differential of lower price offers. Such criteria may also identify a quantitative factor to be used in the evaluation of proposals from offerers that are small businesses or certified minority- or

women-owned business enterprises as defined in subdivisions one, seven, fifteen and twenty of Executive Law § 310. In making such determination, the Board shall consider the recommendation, if any, of the Department Head or designee of the Department for which the contract is being procured.

- C. The procedure for awarding a contract on the basis of best value shall include public solicitation of offers and submission of sealed offers or other formal competitive procurement process in accordance with the guidelines established under the Town's Procurement Policy. The solicitation shall include a description of the manner in which the evaluation of the offers and award of the contract will be conducted and, if appropriate, identification of the relative importance or weight of price and non-price factors. Non-price factors include, but are not limited to, such considerations as the reliability of a product, efficiency of operation, difficulty or ease of maintenance, cost of maintenance, useful lifespan, ability to meet needs regarding timeliness of performance and experience of a service provider with similar contracts.
- D. Documentation of the contract award shall, where practicable, include a description of the application of the price and non-price criteria to the proposals received and an evaluation of the results or, where not practicable, such other justification which demonstrates that best value will be achieved.
- E. In the event that the Town Board does not make a determination to award a contract on the basis of best value, contracts shall continue to be awarded to the lowest responsible bidder furnishing the required security as required by General Municipal Law § 103.

§ 17-3. Amendment of procurement policy.

The Town's Procurement Policy shall be amended to include a new section authorizing contract awards based on best value methodology which shall incorporate § 117-2 of this article as the text of the new section of the procurement policy.

Chapter 19

DRUG-FREE SCHOOL ZONES

§ 19-1. Statement of opposition to controlled substances.

§ 19-3. Enforcement; penalties.

§ 19-2. Drug-free zones established.

§ 19-4. Posting of signs.

[HISTORY: Adopted by the Town Board of the Town of Warrensburg 5-22-1997. Amendments noted where applicable.]

§ 19-1. Statement of opposition to controlled substances.

The Town of Warrensburg hereby declare its implacable opposition to the illegal sale of any controlled substance on or near school grounds and supports severe penalties for such acts.

§ 19-2. Drug-free zones established.

The Town of Warrensburg hereby declares that there shall be a drug-free school zone around each school in the Town of Warrensburg as defined in Chapter 280 of the Laws of 1986,¹ which zone shall consist of the area within the real property boundary of all schools within the Town of Warrensburg together with 1,000 feet beyond said real property boundary.

§ 19-3. Enforcement; penalties.

The Town of Warrensburg declares its support for full and strict law enforcement of all laws designed to prevent illegal sale of controlled substances within said drug-free school zones and its support for increased criminal penalties for sale of controlled substances within said zones.

§ 19-4. Posting of signs.

The Commissioner of Public Works shall be authorized to prepare and place appropriate signs, donated by Warrensburg Lodge No. 425 Free and Accepted Masons, to be posted at each of the schools in the Town of Warrensburg.

1. Editor's Note: See Penal Law § 220.00.

Chapter 21
EMPLOYEE POLICY

[The current employee personnel policy of the Town of Warrensburg is on file in the office of the Town Clerk and is available for examination during office hours.]

Chapter 22

ETHICS, CODE OF

§ 22-1. Purpose.

§ 22-2. Rules to be additional.

§ 22-3. Definitions.

§ 22-4. Standards of conduct.

§ 22-5. Filing of claims.

§ 22-6. Distribution of Code of Ethics.

§ 22-7. Penalties for offenses.

[HISTORY: Adopted by the Town Board of the Town of Warrensburg 8-5-1970. Amendments noted where applicable.]

§ 22-1. Purpose.

Pursuant to the provisions of § 806 of the General Municipal Law, the Town Board of the Town of Warrensburg recognizes that there are rules of ethical conduct for public officers and employees which must be observed if a high degree of moral conduct is to be obtained and if public confidence is to be maintained in our unit of local government. It is the purpose of this chapter to promulgate these rules of ethical conduct for the officers and employees of the Town of Warrensburg. These rules shall serve as a guide for official conduct of the officers and employees of the Town of Warrensburg.

§ 22-2. Rules to be additional.

The rules of ethical conduct of this chapter as adopted, shall not conflict with, but shall be in addition to any prohibition of Article 18 of the General Municipal Law or any other general or special law relating to ethical conduct and interest in contracts of municipal officers and employees.

§ 22-3. Definitions.

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

INTEREST [Amended 7-10-1996 by L.L. No. 1-1996] — A direct or indirect pecuniary or material benefit accruing to a municipal officer or employee as the result of a contract with the municipality which such officer or employee serves. For the purposes of this chapter, a municipal officer or employee shall be deemed to have an "interest" in the contract of:

- A. His spouse, minor children and dependents, except a contract of employment with the municipality which such officer or employee serves.
- B. A firm, partnership or association of which such officer or employee is a member.
- C. A corporation of which such officer or employee is an officer, director or employee.
- D. A corporation, any stock of which is owned or controlled directly or indirectly by such officer or employee.

MUNICIPAL OFFICER OR EMPLOYEE — An officer or employee of the Town of Warrensburg, whether paid or unpaid, including members of any administrative board, commission or other agency thereof. No person shall be deemed to be a "municipal officer or employee" solely by reason of being a volunteer fireman or civil defense volunteer, except as Fire Chief or Assistant Fire Chief. **[Amended 7-10-1996 by L.L. No. 1-1996]**

§ 22-4. Standards of conduct.

Every officer or employee of the Town of Warrensburg shall be subject to and abide by the following standards of conduct:

- A. **Gifts.** He shall not, directly or indirectly, solicit any gift having value of \$75 or more, whether in the form of money, services, loan, travel, entertainment, hospitality, thing or promise, or any other form, under circumstances in which it could reasonably be inferred that the gift was intended to influence him or could reasonably be expected to influence him in the performance of his official duties or was intended as a reward for any official action on his part. **[Amended 7-10-1996 by L.L. No. 1-1996]**
- B. **Confidential information.** He shall not disclose confidential information acquired by him in the course of his official duties or use such information to further his personal interest.
- C. **Representation before one's own agency.** He shall not receive or enter into any agreement, express or implied, for compensation for services to be rendered in relation to any matter before any municipal agency of which he is an officer, member or employee or of any municipal agency over which he has jurisdiction or to which he has the power to appoint any member, officer or employee.
- D. **Representation before any agency for a contingent fee.** He shall not receive or enter into any agreement, express or implied, for compensation for services to be rendered in relation to any matter before any agency of his municipality whereby his compensation is to be dependent or contingent upon any action by such agency with respect to such matter, provided that this subsection shall not prohibit the fixing at any time of fees based upon the reasonable value of the services rendered.
- E. **Disclosure of interest in legislation.** To the extent that he knows thereof, a member of the Town Board and any officer or employee of the Town of Warrensburg, whether paid or unpaid, who participates in the discussion or gives official opinion to the Town Board on any legislation before the Town Board shall publicly disclose on the official record the nature and extent of any direct or indirect financial or other private interest he has in such legislation.
- F. **Disclosure of interest in certain applications.** A member of the Town Planning Board and any officer or employee of the Town of Warrensburg, whether paid or unpaid, who participates in the discussion or gives official opinions to the Planning Board on any application for review before the Planning Board shall publicly disclose on the official record the nature and extent of any direct or indirect financial or other private interest he has in such application.
- G. **Disclosure of employment of relatives.** No person who is related by blood or marriage to a public officer or department head of the Town of Warrensburg shall be employed by

said public officer or department head before publicly disclosing the name, relationship and proposed employment to the Town Board and upon consent of a majority of said Board at a duly held meeting thereof.

- H. Investments in conflict with official duties. He shall not invest or hold any investment directly or indirectly in any financial, business, commercial or other private transaction which creates a conflict with his official duties.
- I. Private employment. He shall not engage in, solicit, negotiate for or promise to accept private employment or render services for private interests when such employment or service creates conflict with or impairs the proper discharge of his official duties.
- J. Future employment. He shall not, after the termination of service or employment with the Town of Warrensburg, appear before any board or agency of the Town of Warrensburg in relation to any case, proceeding or application in which he personally participated during the period of his service or employment or which was under his active consideration.

§ 22-5. Filing of claims.

Nothing herein shall be deemed to bar or prevent the timely filing by a present or former officer or employee of any claim, account, demand or suit against the Town of Warrensburg or any agency thereof on behalf of himself or any member of his family arising out of any personal injury or property damage or for any lawful benefit authorized or permitted by law.

§ 22-6. Distribution of Code of Ethics. [Amended 7-10-1996 by L.L. No. 1-1996]

The Supervisor of the Town of Warrensburg shall cause a copy of this Code of Ethics to be distributed to every officer and employee of the town within 30 days after the effective date of this chapter. Each officer and employee elected or appointed thereafter shall be furnished a copy before entering upon the duties of his office or employment. The failure to distribute any such copy or failure of any officer or employee to receive such copy shall have no effect on the duty of compliance with such code, nor the enforcement provisions thereof.

§ 22-7. Penalties for offenses.

In addition to any penalty contained in any other provision of law, any person who shall knowingly and intentionally violate any of the provisions of this code may be fined, suspended or removed from office or employment, as the case may be, in the manner provided by law.

Chapter 25
GRANTS

ARTICLE I
Review by Attorney

**§ 25-1. Submission of grants over
\$10,000.**

**[HISTORY: Adopted by the Town Board of the Town of Warrensburg as indicated in
article histories. Amendments noted where applicable.]**

ARTICLE I
Review by Attorney
[Adopted 10-9-1996]

§ 25-1. Submission of grants over \$10,000.

All grants for which the town could be responsible to pay, for more than \$10,000, shall be submitted to the Town Attorney for review.

Chapter 27
GRIEVANCE BOARD

§ 27-1. Establishment of Board; terms.

[HISTORY: Adopted by the Town Board of the Town of Warrensburg 9-16-1971. Amendments noted where applicable.]

GENERAL REFERENCES

Code of Ethics — See Ch. 22.

§ 27-1. Establishment of Board; terms.

The Grievance Board shall consist of the following members and terms of office as: Gilbert J. Potter, five year term; Lawrence Raymond, four year term; Leslie Olden, three year term; Austin Perry, two year term and Rino Frulla, one year term. A vote taken by Supervisor Hastings showed five ayes for these appointments and none against. Also compensation and expenses shall be set at \$25 per year, except for Mr. Frulla who is serving without any compensation or other expense.

Chapter 32

INVESTMENT POLICY

- | | |
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| § 32-1. Purpose. | § 32-6. Collateral. |
| § 32-2. Authorized commercial banks. | § 32-7. Delivery of securities. |
| § 32-3. Authorized investment instruments. | § 32-8. Written contracts. |
| § 32-4. Delegation of investing authorities. | § 32-9. Transfer funds. |
| § 32-5. Federal Deposit Insurance Corporation insurance and collateralization. | § 32-10. Safekeeping. |
| | § 32-11. Written reports. |
| | § 32-12. Borrowing policy. |

[HISTORY: Adopted by the Town Board of the Town of Warrensburg 12-11-1991. Amendments noted where applicable.]

§ 32-1. Purpose.

- A. The Town Board desires to provide the finest public services possible to its residents, compatible with the least cost to its taxpayers. To achieve this goal all other sources of revenue must be enhanced. Interest earnings offer a large potential alternative source of revenue.
- B. The Town Board desires that excess town and special district moneys not needed for immediate payment of bills be invested to earn a safe return as provided for within the Town Law, General Municipal Law and Local Finance Law. The priorities for so investing town moneys shall be (in order of priority):
 - (1) Safety. Funds must not be lost to the town.
 - (2) Liquidity. Appropriate amounts must be available for each payroll, debt service and abstract date.
 - (3) Yield. The highest market interest rate available (other conditions being equal) is to be solicited.

§ 32-2. Authorized commercial banks.

The Town Board authorizes the use of the following commercial banks or trust companies (not savings banks or associations), located and authorized to do business in New York State for placing investments and specifically prohibits using private brokerage or investment firms (General Municipal Law § 11; Local Finance Law § 165.00, Subdivision b):

- A. Evergreen Bank. [Amended 7-10-1996 by L.L. No. 1-1996]
- B. Fleet Bank. [Amended 7-10-1996 by L.L. No. 1-1996]

- C. Glens Falls National Bank.
- D. Any other commercial banks or trust companies meeting the above requirements when bidding conditions warrant.

§ 32-3. Authorized investment instruments.

The Town Board authorizes the following types of investment instruments for investing town moneys with commercial banks or trust companies authorized to do business in New York State:

- A. Savings accounts.
- B. N.O.W. accounts.
- C. Money market deposit accounts.
- D. Super N.O.W. accounts.
- E. Seven- to thirty-one-day accounts.
- F. Certificates of deposit.
- G. Repurchase agreements.
- H. United States Treasury bonds, bills and notes.
- I. Other investment instruments as may be approved by the Office of the State Comptroller from time to time, in the Comptroller's opinions.

§ 32-4. Delegation of investing authorities.

The Town Board hereby specifically delegates the authority to make the day-to-day investment decisions within the guidelines and limitations of this chapter to the:

- A. Supervisor; and/or
- B. Financial advisor, Town Clerk and bookkeeper or other persons as determined by the Town Board to work with the Sewer District Funds. [Amended 7-10-1996 by L.L. No. 1-1996]

§ 32-5. Federal Deposit Insurance Corporation insurance and collateralization.

- A. The primary objectives of this policy are to enhance the safety and availability of any town moneys invested. These objectives are partially met by the Federal Deposit Insurance Corporation (FDIC). Insurance for the first \$100,000 of town checking account deposits and an additional \$100,000 for time or savings account deposits with any one specific commercial bank or trust company. (12 CFR 330.8).
- B. Any amounts exceeding the FDIC insurance limit, as presently set or subsequently revised, are to be insured to the town by requiring a pledging of appropriate collateral by

the bank or trust company winning the bid for the investment. Where appropriate and banks are able to participate, all investments should be bid specifying "with third party collateral" or "with collateral" if the third party arrangement is not available from the designated bank.

§ 32-6. Collateral.

- A. Collateral shall be delivered to the trust department of the issuing bank or the town or a custodial bank with which, where practical, the town has entered into written custodial agreement. The market value of collateral shall at all times equal or exceed the principal amount of the certificate of deposit. Collateral shall be monitored no less frequently than monthly, and "market value" shall mean the bid or closing price as quoted in the Wall Street Journal or as quoted by another recognized pricing service.
- B. Securities purchased through a repurchase agreement shall be valued to the market at least monthly.
- C. Collateral shall not be required with respect to the direct purchase of obligations of New York State, obligations of the United States and obligations of federal agencies, the principal and interest of which are guaranteed by the United States government.

§ 32-7. Delivery of securities.

- A. Repurchase agreements. Every repurchase agreement shall provide for deposit of the investment proceeds with the issuing bank or trust company only upon its delivery of collateral obligations of the United States to the trust department or the custodial bank designated by the town or, in the case of a book-entry transaction, when the obligations of the United States are credited to the custodian's federal reserve bank account. The issuing bank shall not be entitled to substitute securities without prior approval of the town. Repurchase agreements shall be for periods of 30 days or less. The trust department or the custodial bank shall confirm all transactions in writing to ensure that the town's ownership of the securities is properly reflected on the records of the trust department or the custodial bank.
- B. Deposit of the investment proceeds shall be made by or on behalf of the town for obligations of New York State, obligations the principal and interest of which are guaranteed by the United States, United States obligations, certificates of deposit and other purchased securities upon the delivery thereof to the trust department or the custodial bank or, in the case of a book-entry transaction, when the purchased securities are credited to the custodial bank's federal reserve system account. All transactions shall be confirmed, in writing.

§ 32-8. Written contracts.

Where practical, written contracts are to be completed for repurchase agreements, certificates of deposit and custodial undertakings. With respect to the purchase of obligations of United States, New York State or other governmental entities, etc., in which moneys may be invested, the interests of the town will be adequately protected by conditioning payment on

the physical delivery of purchased securities to the trust department, the town or custodian or, in the case of book-entry transactions, on the crediting of purchased securities to the custodian's federal reserve system account. All purchases will be confirmed in writing to the town.

§ 32-9. Transfer funds.

The Town Board specifically authorizes the designated officials the authority to use electronic transfer of funds, among the approved banking institutions, to assist in obtaining federal funds enhanced interest rates. Each such transfer shall be specifically identified in the original journal entry as a wire transfer and subsequently supported by the bank confirmation notice to provide an audit trail.

§ 32-10. Safekeeping.

The Town Board specifically authorizes the designated officials the authority to turn over the physical custody of certificates of deposit and other evidences of investments for safekeeping possession to the winning bank, as provided in § 11, Subdivision 3, of the General Municipal Law, to facilitate access to funds at maturity and to eliminate having live certificates in the town offices.

§ 32-11. Written reports.

All investments shall be documented in written reports to the Supervisor for subsequent presentation to the Town Board, outlining the details of each investment and the bids received thereon. When investments are placed, these reports should be presented no less than monthly.

§ 32-12. Borrowing policy.

A. Borrowing purposes and debt instruments.

- (1) The Local Finance Law authorizes operating borrowings to cover cash-flow shortfalls, including revenue anticipation notes, tax anticipation notes or budget notes. These types of borrowings must be authorized by the Town Board through the adoption of a formal borrowing resolution.
- (2) Capital borrowings may include bond anticipation notes, statutory installment bonds and serial bonds. These borrowings are only authorized for items for which a period of probable usefulness has been established by the New York Legislature through § 11.00 of the Local Finance Law. These borrowings, generally, may only be undertaken after a positive two-thirds majority vote (four out of five) at a regular or properly advertised special meeting. The Town Board must formalize the authority for the indebtedness by adopting a legally complete formal bond resolution prior to any borrowing. The text of the bond resolution, vote and legal notices should be prepared by a recognized bond counsel. The Town Board hereby delegates its authority to set the terms and conditions of any borrowing to the Supervisor, as Chief Fiscal Officer of the town. Most borrowings require a 5%

down payment, and the resolution is subject to a thirty-day permissive referendum period followed by an additional twenty-day period of estoppel before contracts can be signed or money borrowed.

- B. Borrowing procedures. The Supervisor, assisted by his staff and the Town Financial Consultant, shall make recommendations to the Town Board on the timing, bidding, terms and conditions of, placement and reporting on any borrowings. Operating borrowing recommendations shall be supported by a monthly cash flow estimate covering the time thereof and establishing the amount of such borrowing. The Supervisor is authorized to solicit and use the services of a financial consultant and bond counsel in planning and completing any borrowing to optimize the number of potential bids and obtain lower market interest rates.
- C. Written reports. All borrowings shall be documented in written reports outlining the details of each borrowing and the interest rate bids received thereon. The written report shall first be presented to the Supervisor who shall report thereon at the next regularly scheduled Town Board meeting.
- D. Legal opinion. The use of a recognized bond counsel is hereby approved to draft the legal notices, resolutions, and borrowing instruments and render his approving legal opinion on the legality and tax status of the debt instrument.

Chapter 42
OFFICERS AND EMPLOYEES

ARTICLE I
Residency Requirements

§ 42-1. Deputy Superintendent of Highways.

[HISTORY: Adopted by the Town Board of the Town of Warrensburg as indicated in article histories. Amendments noted where applicable.]

ARTICLE I
Residency Requirements
[Adopted 1-10-2018 by L.L. No. 1-2018]

§ 42-1. Deputy Superintendent of Highways.

- A. Purpose and intent. It is the purpose and intent of this section to eliminate the residency requirement for the appointed office of Deputy Superintendent of Highways for the Town of Warrensburg.
- B. Authority. This section is adopted pursuant to Municipal Home Rule Law Section 10(1)(ii)(a)(i) which grants to local governments the authority to enact local laws regarding the qualifications of local officers. Furthermore, this section recognizes that the State Legislature has amended Public Officers Law Sections 3 and 30 and Town Law Section 23 to add new subdivisions expanding the residency requirements for public office in various municipalities throughout the state, thereby rendering Public Officers Law Sections 3 and 30 and Town Law Section 23 as Special Laws with respect to any appointed Town Officer. As Special Laws, Public Officers Law Sections 3 and 30 and Town Law Section 23 may be suspended under Municipal Home Rule Law.
- C. Residency requirement. The person holding the Office of Deputy Superintendent of Highways of the Town Of Warrensburg shall not be required to be a resident of the Town of Warrensburg.
- D. Supersession. This section shall supersede the residency requirements of Public Officers Law Sections 3 and 30 and Town Law Section 23 in their application to the Office of Deputy Superintendent of Highways of the Town of Warrensburg.
- E. Severability. The invalidity of any clause, sentence, paragraph or provision of this section shall not invalidate any other clause, sentence, paragraph or part thereof.

Chapter 46
(RESERVED)

[Former Ch. 46, Planning Board, which consisted of Art. I, Creation, adopted 7-10-1996 by L.L. No. 1-1996, as amended, and Art. II, Alternate Members, adopted 7-11-2001 by L.L. No. 1-2001, as amended, was repealed 5-9-2012.]

Chapter 47

POLICE DEPARTMENT

ARTICLE I Establishment

ARTICLE II Police Commissioner

§ 47-1. Police Department established.

§ 47-3. Designating Police Commissioner.

§ 47-2. Notifications.

[HISTORY: Adopted by the Town Board of the Town of Warrensburg as indicated in article histories. Amendments noted where applicable.]

ARTICLE I Establishment

[Adopted 2-19-2004 by Res. No. 77-04]

§ 47-1. Police Department established.

The Town Board hereby establishes a Town Police Department.

§ 47-2. Notifications.

- A. The Town Board, upon establishing the Police Department, shall notify the New York State Commissioner of the Division of Criminal Justice Services of this action within 30 days thereafter.
- B. The Town Board, pursuant to New York Executive Law § 845, upon hiring police officers, shall notify the New York State Commissioner of the Division of Criminal Justice Services as to each officer, his or her name, date of birth, social security number, rank or title, department, and whether the officer is employed full-time or part-time. Following the initial notification, the Town Board shall update this information, as changes occur, no later than the 10th day of each January and July.

ARTICLE II Police Commissioner

[Adopted 6-9-2004 by Res. No. 114-04]

§ 47-3. Designating Police Commissioner.

- A. Section 150 of Town Law does state that a town board of a town in which a police department has been established, but in which a board of police commissioners has not been established or has been established and thereafter abolished, can designate the Town Supervisor to serve as police commissioner, the Town Board may by resolution designate the Supervisor to serve as police commissioner, and such Supervisor shall have and

exercise all the powers relative to police matters conferred upon the Town Board pursuant to Article 10, § 150 of Town Law,

- B. The Town Supervisor is so designated as Police Commissioner for the Town of Warrensburg by this Town Board this 9th day of June, 2004.

Chapter 49
(RESERVED)

[Former Ch. 49, Procurement Policy, adopted 8-12-1992, as amended, was repealed 7-9-2014 by L.L. No. 1-2014.]

Chapter 49

PROCUREMENT POLICY

- | | |
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| § 49-1. Evaluation of prospective purchases; exceptions to formal bid. | § 49-4. Obtaining required number of proposals. |
| § 49-2. Purchase at lowest price without favoritism; exceptions. | § 49-5. Required documentation. |
| § 49-3. Purchases requiring written or oral quotes or proposals. | § 49-6. Exceptions to formal bid requirements. |
| | § 49-7. Annual review. |

[HISTORY: Adopted by the Town Board of the Town of Warrensburg 8-12-1992. Amendments noted where applicable.]

§ 49-1. Evaluation of prospective purchases; exceptions to formal bid.

- A. Every purchase to be made must be initially reviewed to determine whether it is a purchase contract or a public works contract. Once that determination is made, a good faith effort will be made to determine whether it is known or can reasonably be expected that the aggregate amount to be spent on the item of supply or service is not subject to competitive bidding, taking into account past purchases and the aggregate amount to be spent in a year.
- B. The following items are not subject to competitive bidding pursuant to § 103 of the General Municipal Law:
- (1) Purchase contracts under \$10,000;
 - (2) Public works contracts under \$20,000;
 - (3) Emergency purchases;
 - (4) Certain municipal hospital purchases;
 - (5) Goods purchased from agencies for the blind or severely handicapped;
 - (6) Goods purchased from correctional institutions;
 - (7) Purchases under state and county contracts; and
 - (8) Surplus and secondhand purchases from another governmental entity.
- C. The decision that a purchase is not subject to competitive bidding will be documented, in writing, by the individual making the purchase. This documentation may include written or verbal quotes from vendors, a memo from the purchaser indicating how the decision was arrived at, a copy of the contract indicating the source which makes the item or service exempt, a memo from the purchaser detailing the circumstances which led to an emergency purchase or any other written documentation that is appropriate.

§ 49-2. Purchase at lowest price without favoritism; exceptions.

All goods and services will be secured by use of written requests for proposals, written quotations, verbal quotations or any other method that assures that goods will be purchased at the lowest price and that favoritism will be avoided, except in the following circumstances:

- A. Purchase contracts over \$10,000 and public works contracts over \$20,000;
- B. Goods purchased from agencies or the blind or severely handicapped pursuant to § 175-b of the State Finance Law;¹
- C. Goods purchased from correctional institutions pursuant to § 186 of the Correction Law;
- D. Purchases under state contracts pursuant to § 104 of the General Municipal Law;
- E. Purchases under county contracts pursuant to § 103, Subdivision 3, of the General Municipal Law; or
- F. Purchases pursuant to § 49-6 of this chapter.

§ 49-3. Purchases requiring written or oral quotes or proposals. [Amended 7-28-1994; 9-13-1995; 4-15-1998]

The following method of purchase will be used when required by this policy in order to achieve the highest savings:

Estimated Amount of Purchase Contract

\$250 to \$2,999
 \$3,000 to \$9,999

Method

3 verbal quotations
 3 written/fax quotations or written request for proposals

Estimated Amount of Public Works Contract

\$250 to \$2,999
 \$3,000 to \$19,999

Method

3 verbal quotations
 3 written/fax quotations

§ 49-4. Obtaining required number of proposals.

A good faith effort shall be made to obtain the required number of proposals or quotations. If the purchaser is unable to obtain the required number of proposals or quotations, the purchaser will document the attempt made at obtaining the proposals. In no event shall the failure to obtain the proposals be a bar to the procurement.

1. Editor's Note: Section 175-b of the State Finance Law was repealed by L.1995, c. 83, § 33, effective April 1, 1995. See now State Finance Law § 162.

§ 49-5. Required documentation.

- A. Documentation is required of each action taken in connection with each procurement.
- B. Documentation and an explanation is required whenever a contract is awarded to other than the lowest responsible offeror. This documentation will include an explanation of how the award will achieve savings or how the offeror was not responsible. A determination that the offeror is not responsible shall be made by the purchaser and may not be challenged under any circumstances.

§ 49-6. Exceptions to formal bid requirements.

Pursuant to General Municipal Law § 104-b, Subdivision 2f, the procurement policy may contain circumstances when or types of procurements for which, in the sole discretion of the governing body, the solicitation of alternative proposals or quotations will not be in the best interest of the municipality. In the following circumstances, it may not be in the best interests of the Town of Warrensburg to solicit quotations or document the basis for not accepting the lowest bid:

- A. Professional services or services requiring special or technical skill, training or expertise. The individual or company must be chosen based on accountability, reliability, responsibility, skill, education and training, judgment, integrity and moral worth. These qualifications are not necessarily found in the individual or company that offers the lowest price, and the nature of these services are such that they do not readily lend themselves to competitive procurement procedures. In determining whether a service fits into this category, the Town Board shall take into consideration the following guidelines:
 - (1) Whether the services are subject to state licensing or testing requirements.
 - (2) Whether substantial formal education or training is a necessary prerequisite to the performance of the services.
 - (3) Whether the services require a personal relationship between the individual and municipal officials. Professional or technical services shall include, but not be limited to, the following:
 - (a) Services of an attorney;
 - (b) Services of a physician;
 - (c) Technical services of an engineer engaged to prepare plans, maps and estimates;
 - (d) Securing insurance coverage and/or services of an insurance broker;
 - (e) Services of a certified public accountant;
 - (f) Investment management services;
 - (g) Printing services involving extensive writing, editing or art work;
 - (h) Management of municipally owned property; and

- (i) Computer software or programming services for customized programs or services involved in substantial modification and customizing of prepackaged software.
- B. Emergency purchases pursuant to § 103, Subdivision 4, of the General Municipal Law. Due to the nature of this exception, these goods or services must be purchased immediately, and a delay in order to seek alternate proposals may threaten the life, health, safety or welfare of the residents. This subsection does not preclude alternate proposals if time permits.
- C. Purchases of surplus and secondhand goods from any source. If alternate proposals are required, the town is precluded from purchasing surplus and secondhand goods at auctions or through specific advertised sources where the best prices are usually obtained. It is also difficult to try to compare prices of used goods and a lower price may indicate an older product.
- D. Goods or services under \$50. The time and documentation required to purchase through this policy may be more costly than the item itself and would, therefore, not be in the best interests of the taxpayer. In addition, it is not likely that such de minimis contracts would be awarded based on favoritism.

§ 49-7. Annual review.

This policy shall go into effect January 1, 1992 and will be reviewed annually.

Chapter 53

REGISTRAR OF VITAL STATISTICS

§ 53-1. Appointment of officer.

[HISTORY: Adopted by the Town Board of the Town of Warrensburg at time of adoption of Code; see Ch. 1, General Provisions, Art. I. Amendments noted where applicable.]

§ 53-1. Appointment of officer.

The Town Clerk of the Town of Warrensburg is hereby appointed the Registrar of Vital Statistics.

Chapter 57
(RESERVED)

[Former Ch. 57, Smoking, adopted 3-14-1990, as amended, was repealed 8-12-2015 by L.L. No. 1-2015.]

Chapter 57

SMOKING

§ 57-1. Restrictions.

§ 57-2. Designation of smoking areas.

§ 57-3. Complaints.

§ 57-4. Copies.

§ 57-5. Penalties for offenses.

§ 57-6. Designation of enforcement officer.

[HISTORY: Adopted by the Town Board of the Town of Warrensburg 3-14-1990. Amendments noted where applicable.]

§ 57-1. Restrictions.

- A. Smoking is prohibited in all indoor places of employment of town employees under the jurisdiction and control of the Town of Warrensburg, except in areas specifically designated for smoking.
- B. Smoking is permitted in an enclosed office occupied by a person who smokes or if it is occupied by more than one person, provided that all persons in that office consent to smoking.
- C. Smoking is not permitted in any conference room or meeting room or any enclosed private office unless all persons in such place consent to smoking.
- D. No person shall carry a lighted cigarette, cigar or pipe or other smoking material in any indoor hallway, passage or other common area while walking through such area.
- E. Smoking shall be prohibited in auditoriums, gymnasiums, restrooms, elevators, classrooms, hallways, employee medical facilities and rooms or areas which contain photocopying equipment or other office equipment used in common and in company vehicles occupied by more than one person, unless the occupants of such vehicle agree that smoking may be permitted.

§ 57-2. Designation of smoking areas.

- A. Smoking areas will be designated by the Town Board for employees who wish to smoke. Such smoking areas will be clearly marked by a sign "Smoking Permitted."
- B. The Town Superintendent of Highways shall designate in the highway garage or other building in which town highway employees work specific enclosed smoking area (if one is required) clearly a marked by a sign "Smoking Permitted."
- C. The smoking policy in town courts shall be as promulgated by the Office of Court Administration.

§ 57-3. Complaints.

Employees are encouraged to present any concerns to their supervisor and may register a complaint with the County Enforcement Officer.

§ 57-4. Copies.

The copy of this policy shall be posted upon the town bulletin board and in each separate building in which town employees work.

§ 57-5. Penalties for offenses.

Employees found smoking outside of designated smoking areas will be considered in violation of this policy and may be subject to the penalty prescribed by the State Commissioner of Health.

§ 57-6. Designation of enforcement officer. [Amended 7-10-1996 by L.L. No. 1-1996]

The Code Enforcement Officer shall be designated an agent to assist in the enforcement of this policy by notifying employees who are in violation.

Chapter 60
TAX COLLECTOR

§ 60-1. Office of Collector abolished.

[HISTORY: Adopted by the Town Board of the Town of Warrensburg 5-22-1961. Amendments noted where applicable.]

GENERAL REFERENCES

Taxation — See Ch. 185.

§ 60-1. Office of Collector abolished.

Pursuant to the provisions of § 36 of the Town Law, the office of Town Tax Collector in the Town of Warrensburg shall be and the same hereby is abolished, and that the Office of Collector shall not be filled at the biennial town election to be held in the Town of Warrensburg on November 7, 1961, and that, commencing on January 1, 1962, all taxes and assessments in the Town of Warrensburg shall be collected by the Town Clerk as provided by law.

Chapter 63
TERMS OF OFFICE

ARTICLE I
(Reserved)

§ 63-1. (Reserved)

ARTICLE II
Town Clerk

§ 63-2. Authority.

§ 63-3. Term.

§ 63-4. Mandatory referendum.

§ 63-5. Supersession of Town Law.

ARTICLE III
Town Superintendent of Highways

§ 63-6. Authority.

§ 63-7. Term.

§ 63-8. Mandatory referendum.

§ 63-9. Supersession of Town Law.

ARTICLE IV
Town Supervisor

§ 63-10. Statutory authority.

§ 63-11. Increase in term of office.

§ 63-12. Mandatory referendum.

§ 63-13. Supersession of Town Law.

[HISTORY: Adopted by the Town Board of the Town of Warrensburg as indicated in article histories. Amendments noted where applicable.]

ARTICLE I
(Reserved) ¹

§ 63-1. (Reserved)

ARTICLE II
Town Clerk

[Adopted 8-9-1995 by L.L. No. 1-1995]

§ 63-2. Authority.

This article is adopted pursuant to the provisions of the Municipal Home Rule Law of the State of New York.

§ 63-3. Term.

The term of office of the elected Town Clerk shall be four years. Such four-year term shall commence as of the first day of January 1996 and shall apply to the person elected to such

1. Editor's Note: Former Art. I, Planning Board and Zoning Board of Appeals, adopted 1-10-1990, was superseded 5-9-2012. For current provisions, see now Ch. 211, Zoning.

office at the biennial town election to be held on November 7, 1995 and to those elected thereafter, provided that a proposition submitted pursuant to § 63-4 below is approved.

§ 63-4. Mandatory referendum.

This article is adopted subject to a mandatory referendum and shall be submitted for approval of the qualified voters of the Town of Warrensburg at the biennial town election to be held on November 7, 1995. A proposition in the following form shall be included on the ballot at such biennial town election, and the increased term of office shall not take effect unless such proposition is approved by a majority vote of the qualified voters voting thereon: "Shall Local Law No. 1-1995, entitled 'A Local Law Increasing the Term of Office of Town Clerk from Two to Four Years' be approved?"²

§ 63-5. Supersession of Town Law.

This article shall supersede Town Law § 24 relating to the term of office for Town Clerk of the Town of Warrensburg.

ARTICLE III

Town Superintendent of Highways
[Adopted 8-9-1995 by L.L. No. 2-1995]

§ 63-6. Authority.

This article is adopted pursuant to the provisions of the Municipal Home Rule Law of the State of New York.

§ 63-7. Term.

The term of office of the elected Superintendent of Highways shall be four years. Such four-year term shall commence as of the first day of January 1996 and shall apply to the person elected to such office at the biennial town election to be held on November 7, 1995, and to those elected thereafter, provided that a proposition submitted pursuant to § 63-8 below is approved.

§ 63-8. Mandatory referendum.

This article is adopted subject to a mandatory referendum and shall be submitted for approval of the qualified voters of the Town of Warrensburg at the biennial town election to be held on November 7, 1995. A proposition in the following form shall be included on the ballot at such biennial town election, and the increased term of office shall not take effect unless such proposition is approved by a majority vote of the qualified voters voting thereon: "Shall Local

2. Editor's Note: Said legislation received the affirmative vote of a majority of the qualified voters at the general election on November 7, 1995.

Law No. 2-1995, entitled 'A Local Law Increasing the Term of Office of the Superintendent of Highways from Two to Four Years' be approved?"³

§ 63-9. Supersession of Town Law.

This article shall supersede Town Law § 24 relating to the term of office for the Superintendent of Highways of the Town of Warrensburg.

ARTICLE IV

Town Supervisor

[Adopted 8-11-1999 by L.L. No. 4-1999]

§ 63-10. Statutory authority.

This article is adopted pursuant to the provisions of the Municipal Rome Rule Law of the State of New York.

§ 63-11. Increase in term of office.

The term of office of the elected Town Supervisor shall be four years. Such four-year term shall commence as of the first day of January 2000 and shall apply to the person elected to such office at the biennial town election to be held on November 2, 1999, and to those elected thereafter, provided that a proposition submitted pursuant to § 63-12 below is approved.

§ 63-12. Mandatory referendum.

This article is adopted subject to a mandatory referendum and shall be submitted for approval of the qualified voters of the Town of Warrensburg at the biennial town election to be held on November 2, 1999. A proposition in the following form shall be included on the ballot at such biennial town election, and the increased term of office shall not take effect unless such proposition is approved by a majority vote of the qualified voters voting thereon: "Shall Local Law No. 4-1999, entitled 'A Local Law Increasing the Term of Office of the Town Supervisor from Two to Four Years' be approved?"⁴

§ 63-13. Supersession of Town Law.

This article shall supersede Town Law § 24 relating to the term of office for the Town Supervisor of the Town of Warrensburg.

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3. Editor's Note: Said legislation received the affirmative vote of a majority of the qualified voters at the general election on November 7, 1995.
 4. Editor's Note: Said legislation received the affirmative vote of a majority of the qualified voters at the general election on November 2, 1999.

PART II

**GENERAL
LEGISLATION**

Chapter 67

WATER AND SEWER BILLING AND ACCOUNTING

§ 67-1. Findings and purpose.

§ 67-4. Bond required.

§ 67-2. Title; authority.

§ 67-5. Severability.

§ 67-3. Duties of Water Department Clerk.

§ 67-6. Repealer.

§ 67-7. When effective.

[HISTORY: Adopted by the Town Board of the Town of Warrensburg 9-10-2019 by L.L. No. 4-2019. Amendments noted where applicable.]

§ 67-1. Findings and purpose.

The Town Board of the Town of Warrensburg finds that the preparation, delivery, and accounting of water and sewer billing has become more complex in recent years. In recognition of that, the Town Board sees the need to create the position of Water Department Clerk in the Water Department of the Town, and wishes to delegate the preparation, delivery and collection of and accounting for water and sewer rent bills to said Water Department Clerk.

§ 67-2. Title; authority.

This chapter shall be known as the "Water and Sewer Billing and Accounting Law." This chapter is adopted pursuant to New York Municipal Home Rule Law for the purpose of delegating the creation, delivery and collection of and accounting for water and sewer rents within the Town.

§ 67-3. Duties of Water Department Clerk.

As of the effective date hereof, the duties of preparing billing statements for Town water and sewer rents, ensuring delivery of such bills, collecting the receipts and accounting for the same, maintaining accurate records of all water and sewer accounts, modifying the records based on changes in ownership or responsible parties, and reporting to the Town Board at such times and in such format as the Town Board from time to time directs shall be delegated to the Water Department Clerk within the Town Water Department. The Water Department Clerk shall perform all functions and administration as the Town Board shall direct in furtherance of the purposes of this chapter.

§ 67-4. Bond required.

The Town shall provide any bond in whatever form and amount required by applicable law or regulation.

§ 67-5. Severability.

If any provision of this chapter is declared invalid by a court of competent jurisdiction, such declaration shall not affect or impair any other provision of this chapter and all other provisions shall remain in full force and effect.

§ 67-6. Repealer.

All local laws or ordinances or parts of local laws or ordinances in conflict with any part of this chapter are hereby repealed.

§ 67-7. When effective.

This chapter shall take effect upon filing by the office of the New York State Secretary of State pursuant to Municipal Home Rule Law § 27(3).

Chapter 70
(RESERVED)

[Former Ch. 70, Zoning Administration, which consisted of Art. I, Filing of Orders and Decisions, adopted 3-8-2000, was superseded by 5-9-2012. For current provisions, see now Ch. 211, Zoning.]

Chapter 74

ALCOHOLIC BEVERAGES

§ 74-1. Definitions.

§ 74-3. Permits.

§ 74-2. Restrictions.

§ 74-4. Penalties for offenses.

[HISTORY: Adopted by the Town Board of the Town of Warrensburg 5-26-1967; amended in its entirety at time of adoption of Code; see Ch. 1, General Provisions, Art. I. Amendments noted where applicable.]

GENERAL REFERENCES

Peddling and soliciting — See Ch. 141.

§ 74-1. Definitions.

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

INTENT TO CONSUME — includes any of the following:

- A. Drinking from the container.
- B. Possession with movement of the container to the mouth.
- C. Possession with alcohol on the breath of the possessor.
- D. Any circumstances evidencing an intent to ultimately consume on any public lands.

OPEN CONTAINER — A container not (or no longer) securely capped, corked or sealed, and includes a can or similar container which has been perforated or a container on which the secure capping, sealing or corking (normally provided by the manufacturer of the alcoholic beverage) has been disturbed, as would be exemplified by containers on which the cap has been loosened or the cork displaced or the seal torn or mutilated.

§ 74-2. Restrictions.

No person shall have in his or her possession with intent to consume any open bottle or container containing liquor, beer, wine or other alcoholic beverages while such person is on foot on any public highway, public street, public sidewalks, public parking area or public place in the Town of Warrensburg, excepting on those premises duly licensed for the sale of alcoholic beverages for consumption on such premises.

§ 74-3. Permits.

A permit may be obtained in accordance with Chapter 141, Peddling and Soliciting.

§ 74-4. Penalties for offenses.

A violation of this chapter shall constitute an offense punishable upon conviction thereof by a fine of not more than \$250 or by imprisonment of not more than 15 days, or both such fine and imprisonment.

Chapter 77

ANIMALS

ARTICLE I Boarding Fees

§ 77-1. Payment of fee to animal shelter.

ARTICLE II Defecation by Dogs

- § 77-2. Definitions.
§ 77-3. Nuisances prohibited; disposal of feces.
§ 77-4. Exceptions.
§ 77-5. Penalties for offenses.
§ 77-6. Enforcement.

ARTICLE III Control and Licensing of Dogs

- § 77-7. Statutory authority.
§ 77-8. Purpose.
§ 77-9. Definitions.

- § 77-10. Prohibited acts.
§ 77-11. Female dogs.
§ 77-12. Conditions for keeping dogs.
§ 77-13. Licensing of dogs; fees.
§ 77-14. Seizure of dogs; redemption; disposition; impoundment fee.
§ 77-15. Record of seizure.
§ 77-16. Complaints.
§ 77-17. Enforcement.
§ 77-18. Impeding Dog Warden/Animal Control Officer unlawful.
§ 77-19. Disclaimer of liability.
§ 77-20. Penalties for offenses.

ARTICLE IV (Reserved)

§ 77-21. (Reserved)

ARTICLE V Rabies Plan

[HISTORY: Adopted by the Town Board of the Town of Warrensburg as indicated in article histories. Amendments noted where applicable.]

ARTICLE I Boarding Fees

[Adopted 12-13-1989; amended in its entirety 7-10-1996 by L.L. No. 1-1996]

§ 77-1. Payment of fee to animal shelter.

The Town of Warrensburg shall pay a designated local animal shelter a fee as set forth from time to time by resolution of the Town Board.

ARTICLE II
Defecation by Dogs
[Adopted 12-11-1991]

§ 77-2. Definitions.

For the purpose of this article, the following definitions shall have the meanings indicated:

DOG — Any dog, bitch or spayed bitch.

OWNER — When applied to the proprietorship of a dog, includes every person having a right of property in such dog and every person who has such dog in his keeping.

§ 77-3. Nuisances prohibited; disposal of feces.

No person owning, harboring, keeping or in charge of any dog shall cause, suffer or allow such dog to soil, defile, defecate on or commit any nuisance on any common thoroughfare, sidewalk, passageway, bypath, play area, park or any place where people congregate or walk or upon any private property, without the permission of the owner of said property. The restriction in this section shall not apply to that portion of the street lying between the curblines, which shall be used to curb such dog under the following conditions:

- A. The person who so curbs such dog shall immediately remove all feces deposited by such dog.
- B. The feces removed from the aforementioned designated area shall be disposed of by the person owning, harboring, keeping or in charge of any dog curbed by flushing same down a sanitary sewer or septic system or by use of a chemical container causing disintegration.

§ 77-4. Exceptions.

The provisions of this article shall not apply to a guide dog accompanying any blind persons, to a dog used to assist any other physically challenged person or to animals used in any police or fire activities of the township.

§ 77-5. Penalties for offenses. [Amended 7-10-1996 by L.L. No. 1-1996]

Any violation of any of the provisions of this article shall be punishable by a fine not to exceed \$250 or imprisonment not to exceed 15 days, or both such fine and imprisonment.

§ 77-6. Enforcement.

The provisions of this article shall be enforced by the Warren County Sheriff's Department and the local Dog Warden/Animal Control Officer.

ARTICLE III

Control and Licensing of Dogs

[Adopted 7-10-1996 by L.L. No. 1-1996; amended in its entirety 10-27-2010 by L.L. No. 3-2010]

§ 77-7. Statutory authority.

This article is enacted pursuant to the provisions of Article 7 of the Agriculture and Markets Law of the State of New York, as amended by Chapter 59, Part T, of the Laws of 2010, and as may be subsequently amended or revised.

§ 77-8. Purpose.

The purpose of this article shall be to preserve public peace and good order in the Town of Warrensburg and to promote the public health, safety and welfare of its people by enforcing regulations and restrictions on the activities of dogs that are consistent with the rights and privileges of dog owners and the rights and privileges of other citizens of the Town of Warrensburg.

§ 77-9. Definitions.

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

AT LARGE — Off the premises of the owner.

DOG WARDEN/ANIMAL CONTROL OFFICER — A person or persons appointed by the Town for the purpose of enforcing this article.

LEASHED — Restrained by a leash, attached to a collar or harness of sufficient strength to restrain the dog and which shall be held by a person having the ability to control the dog.

OWNER — The person entitled to claim lawful custody and possession of a dog and who is responsible for purchasing the license for such dog unless the dog is or has been lost and such loss was promptly reported to the Dog Warden/Animal Control Officer, or any peace officer, and a reasonable search has been made. If a dog is not licensed, the term "owner" shall designate and cover any person or persons, firm, association or corporation who or which at any time owns or has custody or control of, harbors or is otherwise responsible for any dog which is kept in, brought into or comes within the Town. Any person owning or harboring a dog for a period of one week prior to the filing of any complaint charging a violation of this article shall be held and deemed to be the owner of such dog for the purpose of this article. In the event that the owner of any dog found to be in violation of this article shall be under 18 years of age, any head of the household in which said minor resides shall be deemed to have custody and control of said dog and shall be responsible for any acts of said dog in violation of this article.

§ 77-10. Prohibited acts.

It shall be unlawful for any owner of a dog in the Town of Warrensburg to permit or allow such dog to:

- A. Run at large, unless the dog is restrained by an adequate leash or unless it is accompanied by its owner or a responsible person and under the full control of such owner or person. For the purpose of this article, a dog or dogs hunting in company of a hunter or hunters shall be considered as accompanied by its owner.
- B. Engage in habitual loud howling, barking or whining or to conduct itself in such a manner as to habitually annoy any person other than the owner or harbinger of the dog.
- C. Cause damage or destruction to public or private property, defecate, urinate or otherwise commit a nuisance upon the property of other than the owner or harbinger of the dog.
- D. Bite, chase, jump upon or otherwise harass any person in such a manner as to cause intimidation or to put such a person in reasonable apprehension of bodily harm or injury.
- E. Chase, leap on or otherwise harass bicycles or motor vehicles.
- F. Kill or injure any dog, cat or other household pet.
- G. Be unlicensed when four months of age or older.
- H. Not have a current and valid Town of Warrensburg identification tag on its collar while at large, whether or not restrained by an adequate leash.

§ 77-11. Female dogs.

All female dogs shall be confined to the premises of their owner while such are in season (heat) and may not be left outside unattended. Any owner not adhering to this rule will be subject to having the dog seized by the Dog Warden/Animal Control Officer, or any peace officer, and removed to a safe place of confinement.

§ 77-12. Conditions for keeping dogs.

All premises occupied or used by dogs shall be kept in a clean, sanitary condition. Failure to provide adequate food, water or space shall subject dogs to seizure and confinement. "Adequate" shall mean sufficient for age, size and number of dogs on the premises. Upon conviction of the owner or harbinger, the dogs become the property of the Town of Warrensburg to be released to an authorized humane society, veterinarian or kennel for adoption or euthanasia.

§ 77-13. Licensing of dogs; fees.

- A. License required. All dogs in the Town of Warrensburg shall be licensed with the Town Clerk by the age of four months, and any person applying for a dog license shall present a current certificate of rabies vaccination at the time of making application for a license or for the renewal of an existing license.
- B. Expiration of license. All dog licenses shall be valid for a period of one year and shall expire at the end of the month one year from the date of issuance.

- C. License fees. The fee for a spayed or neutered dog shall be \$5, which fee includes the assessment of a surcharge of \$1 for the purpose of carrying out a program of animal population control. The fee for an unspayed or unneutered dog shall be \$15, which fee includes the assessment of a surcharge of \$3 for the purpose of carrying out a program of animal population control. Replacement tag fees shall be \$2. Such fees shall be reviewed by the Town Board periodically and may be changed by resolution of the Town Board, as necessary.
- D. Enumeration fee. When the Town Board determines the need for a dog enumeration, a fee of \$5 will be assessed to the owner of any dog found unlicensed or for which the license has not been renewed at the time the enumeration is conducted.
- E. Purebred license. The Town of Warrensburg shall not issue purebred or kennel licenses. All dogs shall be licensed individually in accordance with the fees stated above.
- F. Service dogs. The Town of Warrensburg shall require a license for any guide dog, service dog, hearing dog or detection dog. The license fee will be waived as those terms are defined by Article 7 of the Agriculture and Markets Law.
- G. Shelters. The Town of Warrensburg does not allow the licensing of dogs by a shelter. The shelter shall send the adoptive dog owners to the Clerk of the town or city in which the dog will be harbored for licensing or to the Town Clerk of the Town of Warrensburg where the shelter is located for the purchase of the license for adoption purposes.
- H. All dog licenses shall be purchased in person at the Town offices or by regular mail. If licensing or renewing a license by mail, the appropriate fee shall accompany the forms. There shall be no refund of fees.
- I. All fees shall be used in funding the administration of the Dog Control Law of the Town of Warrensburg.

§ 77-14. Seizure of dogs; redemption; disposition; impoundment fee.

The Dog Warden/Animal Control Officer, or any peace officer, shall seize any unlicensed dog whether on or off the owner's premises and/or any dog not wearing a tag, not identified and not on the owner's premises.

- A. If a dog seized is not wearing an identification tag (license tag), it shall be held for a period of no less than five days.
- B. If a dog seized is wearing an identification number, the owner shall be promptly notified either in person or by certified mail. If the owner is notified in person, the dog shall be held for a period of no less than seven days; if notified by mail, no less than nine days.
- C. The fees for any seizure and impoundment of each dog in violation of Article 7 of the Agriculture and Markets Law or of Article III of this chapter are as follows:
 - (1) For the first impoundment: \$45 plus the prevailing charge to the Town of Warrensburg for each day of impoundment.

- (2) For the second impoundment: \$60 plus the prevailing charge to the Town of Warrensburg for each day of impoundment.
 - (3) For the third impoundment: \$90 plus the prevailing charge to the Town of Warrensburg for each day of impoundment.
- D. If not redeemed, the owner shall forfeit all title to the dog, and it shall be released to an authorized humane society or kennel to be adopted or euthanized.

§ 77-15. Record of seizure.

Upon taking custody of any animal, the Dog Warden/Animal Control Officer, or any peace officer, shall make a record of the matter. The record shall include date of pickup, breed, general description, sex, identification numbers, time of pickup, location or release and name and address of owner, if any.

§ 77-16. Complaints.

Any person who observes a dog in violation of any section of this article may file a signed complaint, under oath, with a Justice of the Town of Warrensburg or with the authorized Dog Warden/Animal Control Officer, or any peace officer, specifying the violation, the date of violation, the damage caused and including the place(s) the violation occurred and the name and address of the dog owner, if known.

§ 77-17. Enforcement.

The Dog Warden/Animal Control Officer of the Town of Warrensburg shall, and all peace officers may, administer and enforce the provisions of this article and for that purpose shall have the authority to issue appearance tickets and to seize dogs, either on or off the owner's premises, if witnessed to be in violation of this article.

§ 77-18. Impeding Dog Warden/Animal Control Officer unlawful.

No person shall hinder, resist or oppose the Dog Warden/Animal Control Officer, or peace officer, authorized to administer or enforce the provisions of this article in the performance of the officer's duties under this article.

§ 77-19. Disclaimer of liability.

The owner or harbinger of any dog so destroyed under the provisions of this article, whether destroyed by a Dog Warden/Animal Control Officer, or peace officer, or released to an authorized humane society or veterinarian, shall not be entitled to any compensation, and no action shall be maintainable thereafter to recover the value of such dog or any other type of damage.

§ 77-20. Penalties for offenses.

Any violation of this article shall be punishable, for each violation, by a fine of not more than \$250 or imprisonment for not more than 15 days, or both.

ARTICLE IV
(Reserved) ¹

§ 77-21. (Reserved)

ARTICLE V
Rabies Plan

[The Rabies Plan of the County of Warren will be the controlling standards in the Town of Warrensburg.]

1. Editor's Note: Former Art. IV, Dog License Fees, adopted 10-8-1997 by L.L. No. 1-1997, was repealed 10-27-2010 by L.L. No. 3-2010. See now § 77-13, Licensing of dogs; fees.

Chapter 82

BINGO

§ 82-1. Authorization for conduct of games.

§ 82-2. Application and issuance of licenses.

§ 82-3. Restrictions.

§ 82-4. Sunday games authorized.

§ 82-5. Frequency of games.

§ 82-6. Award of prizes; restrictions.

§ 82-7. Penalties for offenses.

[HISTORY: Adopted by the Town Board of the Town of Warrensburg 10-6-1971 by L.L. No. 1-1971¹; amended in its entirety at time of adoption of Code (see Ch. 1, General Provisions, Art. I). Subsequent amendments noted where applicable.]

GENERAL REFERENCES

Games of chance — See Ch. 120.

Sunday activities — See Ch. 181.

§ 82-1. Authorization for conduct of games.

It shall be lawful for any authorized organization, as defined in § 476 of Article 14-H of the General Municipal Law, upon retaining the required license, to conduct bingo games in the Town of Warrensburg, subject to the provisions of this chapter, Article 14-H of the General Municipal Law, Article 19-B of the Executive Law and the rules and regulations of the State Racing and Wagering board.

§ 82-2. Application and issuance of licenses.

The Town Clerk shall accept application for and issue licenses for the conduct of bingo games in accordance with Article 14-H of the General Municipal Law.

§ 82-3. Restrictions.

The restrictions imposed by § 479 of the General Municipal Law shall apply to bingo games in the town, in addition to any further restrictions imposed by this chapter.

§ 82-4. Sunday games authorized.

As authorized by General Municipal Law § 485, bingo games shall be held on any day of the week provided for in the license issued pursuant to this chapter.

1. Editor's Note: Said legislation passed at mandatory referendum 12-7-1971.

§ 82-5. Frequency of games.

In addition to the provisions of General Municipal Law § 487, no bingo games shall be held, operated or conducted under any license issued pursuant to this chapter more often than six days in any one month.

§ 82-6. Award of prizes; restrictions.

- A. All winners shall be determined and all prizes shall be awarded in any game played on any occasion within the same calendar day as that upon which the game was played.
- B. No alcoholic beverage shall be offered or given as a prize in any such game.

§ 82-7. Penalties for offenses.

Violations of the provisions of this chapter, Article 14-H of the General Municipal Law, Article 19-B of the Executive Law and the rules and regulations of the State Racing and Wagering Board shall be prosecuted as misdemeanors, punishable by a maximum fine of \$1,000 or one year of imprisonment, or both such fine and imprisonment.

Chapter 86
BOATS AND BOATING

ARTICLE I
Kelm Lake (Pond)

ARTICLE II
Echo Lake (Pond)

§ 86-1. Definitions.

§ 86-2. Restrictions.

§ 86-3. Penalties for offenses.

§ 86-4. Definitions.

§ 86-5. Restrictions.

§ 86-6. Penalties for offenses.

[HISTORY: Adopted by the Town Board of the Town of Warrensburg as indicated in article histories. Amendments noted where applicable.]

GENERAL REFERENCES

Parks and beaches — See Ch. 137.

ARTICLE I
Kelm Lake (Pond)
[Adopted 7-26-1972]

§ 86-1. Definitions.

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

BOAT — Includes any vessel propelled in any other manner than by hand.

MOTOR — Includes both inboard and outboard engines.

PERSON — Includes the individual, society, club, firm, partnership, corporation or association of persons, and the singular shall include the plural number.

WATERS — Includes only the water of Kelm Lake (Pond).

§ 86-2. Restrictions.

- A. No person shall operate on the waters of Kelm Lake (Pond) any boat having installed therein or attached thereto a motor having a rated power exceeding three horsepower.
- B. No person shall operate on the waters of Kelm Lake (Pond) any boat having installed therein or attached thereto a motor using gasoline or similar fuel.

§ 86-3. Penalties for offenses. [Amended 7-10-1996 by L.L. No. 1-1996]

Any person violating any of the provisions of this article shall be punishable by a fine of not more than \$250 or imprisonment for not more than 15 days, or both such fine and imprisonment.

ARTICLE II
Echo Lake (Pond)
[Adopted 9-14-1977]

§ 86-4. Definitions.

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

BOAT — Includes any vessel propelled in any manner other than by hand.

MOTOR — Includes both inboard and outboard engines.

PERSON — Includes the individual, society, club, firm, partnership, corporation or association of persons, and the singular shall include the plural number.

WATERS — Includes only the water of Echo Lake (Pond).

§ 86-5. Restrictions.

- A. No person shall operate on the waters of Echo Lake (Pond) any boat having installed therein or attached thereto a motor having a rated power exceeding three horsepower.
- B. No person shall operate on the water of Echo Lake (Pond) any boat having installed therein or attached thereto a motor using gasoline or similar fuel.

§ 86-6. Penalties for offenses. [Amended 7-10-1996 by L.L. No. 1-1996]

Any person violating any of the provisions of this article shall be punishable by a fine of not more than \$250 or imprisonment for not more than 15 days, or both such fine and imprisonment.

Chapter 95

BUILDINGS, UNSAFE

§ 95-1. Definitions.

§ 95-3. Penalties for offenses.

§ 95-2. Town procedures for removal or repair; notice; costs.

[HISTORY: Adopted by the Town Board of the Town of Warrensburg 5-25-1983. Amendments noted where applicable.]

GENERAL REFERENCES

Property maintenance — See Ch. 145.

Zoning — See Ch. 211.

§ 95-1. Definitions.

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

DANGEROUS OR UNSAFE BUILDINGS [Added 7-10-1996 by L.L. No. 1-1996] — All buildings or structures which have any or all of the following defects shall be deemed "dangerous or unsafe buildings":

- A. Those whose exterior walls or other vertical structural members list, lean or buckle to such an extent that a plumb line passing through the center of gravity falls outside of the middle 1/3 of its base.
- B. Those which, exclusive of the foundation, show 33% or more of damage or deterioration of the supporting member or members or 50% of damage or deterioration of the nonsupporting enclosing or outside walls or covering.
- C. Those which have improperly distributed loads upon the floors or roofs or in which the same are overloaded or which have insufficient strength to be reasonably safe for the purpose used.
- D. Those which have been damaged by fire, wind or other causes so as to have become dangerous to life, safety, morals or the general health and welfare of the occupants or the people of the town.
- E. Those which have become or are so dilapidated, decayed, unsafe, unsanitary or which so utterly fail to provide the amenities essential to decent living that they are unfit for human habitation or are likely to cause sickness or disease, so as to work injury to the health, morals, safety or general welfare of those living therein.
- F. Those having light, air and sanitation facilities which are inadequate to protect the health, morals, safety or general welfare of human beings who live or may live therein.
- G. Those having inadequate facilities for egress in case of fire or panic or those having insufficient stairways, elevators, fire escapes or other means of communication.

- H. Those which have parts thereof which are so attached that they may fall and injure members of the public or property.
- I. Those which, because of their condition, are unsafe, unsanitary or dangerous to the health, morals, safety or general welfare of the people of the town.
- J. Those buildings existing in violation of any provision of Chapter 90, Building Construction and Fire Prevention, or any other provisions of the Code of the town.

OWNER — Includes an individual, society, club, firm, partnership, corporation, legal representative or association or persons, and the singular number shall include the plural number.

§ 95-2. Town procedures for removal or repair; notice; costs.

Whenever it shall be determined by the Town Board of the Town of Warrensburg that any building in business, industrial or residential areas of the Town of Warrensburg from any cause may now be or shall hereafter become dangerous or unsafe to the public, the Town Board shall forthwith require the removal or repair of such building or buildings in the following manner:

- A. The Town Board shall appoint an official to inspect the building and make a written report to the Town Board of the condition of the building and whether the building can be repaired and put in safe condition.
- B. Upon filing of this report of the inspection of the building, the Town Board shall cause notice to be served on the owner or someone of the owner's executors, legal representative, agents, lessees or any other person having a vested or contingent interest in the building, either personally or by registered mail addressed to the last known owner's address, if any, or address of legal representatives, agents, lessees or other persons having vested or contingent interest in the building, as shown by the records of the receiver of taxes and/or in the office of the County Clerk, containing a description of the premises, a statement of the particulars in which the building or structure is unsafe or dangerous and an order requiring same to be made safe and secure or removed; and if such service is made by registered mail, for a copy of such notice to be posted on the premises. **[Amended 12-18-1985]**
- C. Within 10 days from the date of mailing of said notice of unsafe building, the owner shall commence the securing or removal of the building and shall complete the securing of said building within a reasonable time thereafter.
- D. Within five days from the date of mailing of said notice, or within five days from the date of personal service of said notice, the town shall file a copy of said notice in the office of the Clerk of the County of Warren, which notice shall be filed by such clerk in the same manner as a notice of pendency pursuant to Article 65 of the Civil Practice Law and Rules.
- E. The notice to repair or demolish the building or structure served on the owner as provided herein shall contain a notice of a hearing before the Town Board at a date and time specified in said notice at which the owner or someone of the owner's agents, legal

representative or lessees shall appear before the Town Board. After the hearing by the Town Board, as provided in the notice to repair or remove the buildings or structure, the Town Board shall make a determination as to whether the owner has commenced the repair or removal of said buildings or structures. In the event that the owner has failed or refuses to commence the repair or removal of the buildings or structures, the Town Board shall make and serve a final order on the owner, setting a time within which the owner of the buildings or structures shall complete the repair or removal of the buildings or structures as required by such final notice and for the removal of said buildings or structures by the town in the event such owner fails or refuses to repair or remove the same within the time ordered by the Town Board.

- F. All costs and expenses incurred, in addition to a ten-percent surcharge, by the town in connection with the proceedings to remove or secure the building or structure, including the cost of actually removing said building or structures, shall be assessed against the land on which the building or structures are located and shall thereupon become a lien against the property and be collected in the same manner as taxes levied thereon. **[Amended 7-10-1996 by L.L. No. 1-1996]**

§ 95-3. Penalties for offenses. [Added 7-10-1996 by L.L. No. 1-1996]

Any violation of any of the provisions of this chapter shall be punishable by a fine of not more than \$250 or imprisonment for not more than 15 days, or both such fine and imprisonment. Each days' continued violation shall constitute a separate offense.

Chapter 98

BURNING, OUTDOOR

§ 98-1. Legislative intent.

§ 98-2. Definitions.

§ 98-3. Burning of garbage, rubbish
and/or brush.

§ 98-4. Penalties for offenses.

[HISTORY: Adopted by the Town Board of the Town of Warrensburg 4-12-2006 by L.L. No. 4-2006.¹ Amendments noted where applicable.]

§ 98-1. Legislative intent.

- A. The open burning of garbage on the surface of the ground, in pits or in trash burners or barrels creates offensive smoke and odors and results in a residue of unburned garbage which decays and causes offensive odors and attracts flies, rodents and vermin, and is a menace to public health and should be prohibited.
- B. The unrestricted burning in an open fire of rubbish creates unreasonable risks of harm from brush and forest fires, causes air pollution and is generally an unhealthy and unsafe practice which should be prohibited.

§ 98-2. Definitions.

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

BRUSH — Trees or leaves and needles and branches therefrom, vines, lawn and garden debris.

GARBAGE — Includes waste food; fruit; vegetables; meat; dead animals, birds, or fish, or parts thereof; or any kind of waste material capable of fermentation or decay.

INCINERATOR — Equipment or a device designed specifically for the burning of garbage in such manner or means as to effect complete combustion and burning of garbage, leaving only ash residue.

OPEN FIRE — Any outdoor fire or outdoor smoke-producing process from which air contaminants are emitted directly into the outdoor atmosphere.

PERSON — Includes an individual, society, club, firm, partnership, corporation, municipality or association of persons; and the singular number shall include the plural number.

RUBBISH — Solid or liquid waste material, including but not limited to paper and paper products, rags, furniture, cans, crockery, plastics, cartons, chemicals, paint, grease, sludges, oils and other petroleum products, wood, sawdust and demolition materials, tires, and automobiles and other vehicles and parts for junk, salvage or disposal.

1. Editor's Note: This local law also repealed former Ch. 98, Burning, Outdoor, adopted 4-5-1937 as amended.

§ 98-3. Burning of garbage, rubbish and/or brush.

- A. No person shall burn, cause to be burned or permit to be burned in the Town of Warrensburg any garbage and/or rubbish by open fire on the ground or in trash burners or barrels or in pits. Trash burners or barrels or pits are prohibited on any lands within the Town of Warrensburg. Garbage shall be disposed of in the Town of Warrensburg by depositing it at an authorized solid waste management facility.
- B. Open fires used exclusively for the purpose of preparing food will be permitted, provided that the fire is properly contained, appropriately sized and temporary in nature.
- C. Burning of brush shall only be allowed after a burning permit is obtained from the Town of Warrensburg and issued in accordance with the terms and conditions of this chapter. Burning of brush larger than three inches in diameter is prohibited. Burning of garbage or rubbish in outdoor or indoor recreational fires, outdoor furnaces or boilers is prohibited. Outdoor recreational fires are permitted without a burning permit as long as they are contained within an enclosure that will limit the size of the fire to three feet in diameter and no more than three feet in height.
- D. Exemption. The Town of Warrensburg Fire Company and its members are exempt from the above laws for training purposes. Acquired structures which are to be used for training must have the asphalt or plastic roofing materials, asphalt or vinyl siding and/or any asbestos materials removed prior to any burning of the structure.

§ 98-4. Penalties for offenses.

An offense against any of the provisions of this chapter shall be a violation, and upon conviction thereof, such violator shall be subject to a fine of not more than \$950 for a first offense, or \$950 or imprisonment for a period of not more than one year, or both, for a second offense.

Chapter 101

CURFEW

§ 101-1. Statutory authority.

§ 101-2. Purpose and finding.

§ 101-3. Restrictions.

§ 101-4. Exemptions.

§ 101-5. Violations.

[HISTORY: Adopted by the Town Board of the Town of Warrensburg 12-10-2003 by L.L. No. 2-2003. Amendments noted where applicable.]

§ 101-1. Statutory authority.

The Town Board, pursuant to the authority granted it under Article 9, § 130 of Town Law and § 10 of the Municipal Home Rule Law of the State of New York, hereby enacts this chapter.

§ 101-2. Purpose and finding.

The Town Board has determined that large numbers of minors have been congregating in the Town after dark causing general disturbances to residents. In order to reduce juvenile crime, protect the children of this municipality, and reinforce parental authority, it is necessary that a curfew be established to keep minors out of public areas after dark.

§ 101-3. Restrictions. [Amended 9-14-2005 by L.L. No. 4-2005]

- A. It shall be unlawful for any child under the age of 18 years to remain in or upon any public street, highway, park, vacant lot or other public place, or to congregate on private property without consent of the property owner, between the hours of 10:00 p.m. and 5:00 a.m. on Sunday through Thursday and between the hours of 11:00 p.m. and 5:00 a.m. on Friday and Saturday.
- B. It shall be unlawful for anyone over the age of 18 years to facilitate a violation of curfew by concealing, providing transportation for or in any way assisting a person under the age of 18 years to violate the provisions of this chapter. This restriction shall not apply to a person over the age of 18 years who is transporting a person under the age of 18 years with the consent of the latter's parents to the latter's residence.

§ 101-4. Exemptions.

The following shall constitute valid exceptions to the operation of this curfew:

- A. At any time, if the child is accompanied by his or her parents or legal guardian.
- B. If the child is legally employed, for 1/2 hour before to 1/2 hour after work, while going directly between his or her home and place of employment. This exception shall also apply if the child is in a public place during curfew hours in the course of his or her

employment. To come under this exception, the child must be carrying a written statement from the employer attesting to the place and hours of employment.

- C. If the child is on the property of or the sidewalk directly adjacent to the building in which he or she resides.
- D. If the child is coming directly home from a school activity or an activity of a religious or other voluntary association, or a place of public entertainment, such as a movie, play, or sporting event. This exception will apply for one hour after the completion of such event but in no case beyond 12:00 midnight. If the event is not commercial in nature or does not have a fixed, publicly known time at which it will end, the sponsoring organization must register the event with the Supervisor at least 24 hours in advance, informing him of the time such event is scheduled to begin, the place at which it shall be held, the time at which it shall end, and the name of the sponsoring organization.
- E. If the minor is exercising first amendment rights protected by the Constitution, such as the free exercise of religion, speech, or assembly, provided the minor first has given notice to the Supervisor by delivering a written communication signed by the minor and countersigned by a parent of the minor which specifies when, where, in what manner, and for what first amendment purpose the minor will be on the streets at night during the curfew period,

§ 101-5. Violations. [Amended 9-14-2005 by L.L. No. 4-2005]

- A. Any parent or guardian or person having legal custody of a minor who commits an offense against the provisions of this chapter shall be guilty of a violation under the Penal Law and, upon conviction thereof, shall be punishable for the first offense by a minimum fine of \$100 mandatory and for each subsequent offense by a fine of not more than \$250.
- B. Any person over the age of 16 years found to be in violation of this chapter shall be fined a minimum fine of \$100 for the first offense and a minimum fine of \$200 for any subsequent offense. A sentence of community service may also be imposed in addition to or in place of such fine. Any person over the age of 18 years found to be in violation of § 101-3B of this chapter which prohibits facilitating a curfew violation shall be fined a minimum of \$100 for the first offense and a minimum fine of \$200 for any subsequent offenses. A sentence of community service may also be imposed in addition to or in place of such fine.
- C. In the event that any person shall fail to pay the fine imposed for a violation of this chapter or shall fail to perform the community service imposed by the court, the Town shall institute civil proceedings to enforce the provisions of this chapter.

Chapter 102

DONATION BINS

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| <p>§ 102-1. Legislative intent.</p> <p>§ 102-2. Definitions.</p> <p>§ 102-3. Permit required.</p> <p>§ 102-4. Form of application.</p> <p>§ 102-5. Additional requirements.</p> <p>§ 102-6. Proof of permit.</p> | <p>§ 102-7. Management and maintenance requirements.</p> <p>§ 102-8. Placement of bins.</p> <p>§ 102-9. Label and information for bins.</p> <p>§ 102-10. Penalties for offenses.</p> |
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[HISTORY: Adopted by the Town Board of the Town of Warrensburg 4-14-2021 by L.L. No. 4-2021. Amendments noted where applicable.]

§ 102-1. Legislative intent.

It is the intent of the Town of Warrensburg, New York, to support and encourage the placement and use of attended and unattended not-for-profit donation bins. This chapter is intended to protect the public health, safety, welfare and to protect the environment by establishing rules and regulations for such bins.

§ 102-2. Definitions.

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

DONATION BIN — An attended or unattended receptacle, trailer or container made of metal, wood, steel, or similar material for permanent or temporary use, designed for the collection of unwanted clothing, shoes, textiles, books and household items, collected for use and distribution by a not-for-profit organization.

NOT-FOR-PROFIT ORGANIZATION — A corporation, association or other entity which has been granted tax-exempt status under Section 501(c)(3) of the Internal Revenue Code and has a Federal Employer Identification Number (FEIN).

PERMITTEE — Any organization, firm or entity that receives a permit to operate a donation bin pursuant to this chapter.

SITE — Town of Warrensburg waste receiving facility located at property I.D. No. 210.2-1-2.

SITE HOST — The owner of the site, which is the Town of Warrensburg.

§ 102-3. Permit required.

- A. It shall be unlawful to erect, place, or operate any form of donation bin without first obtaining a permit issued by the Town Zoning and Planning Department.

- B. A permit issued under this chapter shall be valid for one year from the date of issue and renewable each year thereafter unless revoked by the Town.
- C. Contact information for all persons and/or entities who have any form of association with a donation bin placed on site host property shall be provided with the application for a permit.
- D. The cost of the permit, and any other associated fees, shall be established by resolution of the Town Board.
- E. In order to qualify as a permittee under this chapter, an applicant must be a not-for-profit organization.

§ 102-4. Form of application.

The application shall be made to the Zoning and Planning Administrator of the Town of Warrensburg and shall include the following:

- A. If the applicant claims to be a not-for-profit organization:
 - (1) A copy of the determination letter issued by the Internal Revenue Service stating that the applicant is a public charity exempt under Internal Revenue Code Section 501(c)(3).
 - (2) If the applicant is a corporation, a certificate of good standing issued by the Secretary of State. Such certificate shall not be more than three months old from the date of application for a permit.
- B. Name, address and telephone number of the contact person who will be responsible for the management and maintenance requirements under this chapter.
- C. Name and telephone number of the person who will respond within 24 hours after receiving notice of a complaint regarding the donation bin.
- D. Written consent from the site host to place a donation bin at the location described in the application.

§ 102-5. Additional requirements.

At the time of application, the applicant shall also provide the following:

- A. Performance bond in the amount established by resolution of the Town Board for the faithful and complete performance by the permittee of the duties and obligations required by this chapter.
- B. Certificate of liability insurance of at least \$1,000,000 covering the permittee's donation bin. The certificate of liability insurance shall name the Town of Warrensburg as an additional insured.

§ 102-6. Proof of permit.

The Town of Warrensburg shall provide the permittee with two copies of the issued permit. One of the permit copies must be placed on the donation bin in a conspicuous location, in some form sealed from the elements for public and official viewing. Such posting shall be maintained throughout the permit period of issue. Replacement cost of additional printed permits if the posted one is destroyed, falls off or disappears shall be established by resolution of the Town Board.

§ 102-7. Management and maintenance requirements.

- A. The permittee must maintain the aesthetic presentation of the donation bin, including fresh paint, readable signage and general upkeep.
- B. Each donation bin shall be emptied of its contents on a regular basis. The Permittee shall provide a written schedule of such service which must be approved by Planning and Zoning of the Town of Warrensburg, New York.
- C. Any donation bin which is damaged, vandalized or defaced shall be repaired or replaced within five days of notice.
- D. All donation bins shall comply with the requirements of General Business Law § 399-bbb.

§ 102-8. Placement of bins.

- A. Donation bins may only be placed at the Town of Warrensburg waste receiving facility located at property I.D. No. 210.2-1-2.
- B. Each permittee shall be allowed one donation bin to be placed at the site, to be determined by a person who has the authority to govern such donation bin placement by the Town of Warrensburg. The Town of Warrensburg may approve additional donation bins for the permittee after a period of one year, which shall be determined solely on the past performance of the permittee. The number of bins under the request for additional ones shall not exceed a total of two donation bins per permittee at the site.
- C. Placement of donation bins other than at the specific location approved and permitted by the Town of Warrensburg shall be a violation of this chapter and shall be punishable by a fine to be determined by resolution of the Town Board.

§ 102-9. Label and information for bins.

The front of the donation bin shall be lettered to comply with New York General Business Law § 399-bbb.

- A. The name, address, telephone number, and internet address of the owner and operator of the donation bin shall appear on the front of the donation bin.

- B. A statement in a minimum of two-inch letters that reads "This collection bin is owned and operated by a not-for-profit organization" and also includes a statement describing the charitable causes that will benefit from the donations taken in by the permittee.

§ 102-10. Penalties for offenses.

- A. The permittee shall be liable for all violations with regard to the collection bin placed at the site.
- B. A violation of this chapter shall include but not be limited to:
- (1) Unpermitted placement of donation bins.
 - (2) Failure to respond to notifications from the Town of Warrensburg, New York, pursuant to this chapter.
 - (3) Failure to adhere to placement of donation bins at the host facility.
- C. The Code Enforcement Officer of the Town of Warrensburg shall hereby be authorized to issue violation notices, summons and appearance tickets to the permittee for violations associated with placement of a not-for-profit bin at the site.
- D. In addition to any other penalty that may be imposed for an offense against the Penal Law, any violation of this chapter shall be punishable by a fine of not less than \$50 nor more than \$350 for the first such offense.
- E. For each subsequent offense, a violation of this chapter shall be punishable by a fine of not less than \$100 nor more than \$500 per week thereafter. Each week such offense is permitted to continue shall constitute a separate offense and shall be punishable as such hereunder without further need for the Town to issue additional notices of violation, summonses, or appearance tickets. The Town may also bring an action or proceeding to enjoin the offense and recover any cost incurred by the Town for removing and/or storing the donation bin or otherwise remedying conditions brought about by offense of this chapter. Permittees who are found in violation more than two times in a calendar year shall be found ineligible to place not-for-profit donation bins at the host property for a period of five years. In this event, the permittee shall remove the donation bin, including all donated items, from the host property within 10 days of such notice.

Chapter 104
(RESERVED)

Former Ch. 104, Drug Paraphernalia, adopted 5-12-1999 by L.L. No. 3-1999, was repealed 9-12-2018 by L.L. No. 3-2018.

Chapter 113

FEES

ARTICLE I Codebooks and Pamphlets

§ 113-1. Availability; fees.

ARTICLE II Supplementation of Codebooks

§ 113-2. Prepaid subscriptions; annual fee.

[HISTORY: Adopted by the Town Board of the Town of Warrensburg as indicated in article histories. Amendments noted where applicable.]

ARTICLE I Codebooks and Pamphlets [Adopted 7-10-1996]

§ 113-1. Availability; fees.

The Code of the Town of Warrensburg shall be available for sale to members of the general public at a price of \$150 per Code, \$25 per Zoning pamphlet, and \$15 per Subdivision pamphlet.

ARTICLE II Supplementation of Codebooks [Adopted 7-10-1996]

§ 113-2. Prepaid subscriptions; annual fee.

Supplementation of the Code of the Town of Warrensburg shall be available on a prepaid subscription basis to owners of copies of said Code at a price of \$25 per year, payable at the office of the Town Clerk prior to November 30 each year.

Chapter 115
FIREWORKS

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| § 115-1. Findings and purpose. | § 115-8. Permit requirements. |
| § 115-2. Title; authority. | § 115-9. Bond required. |
| § 115-3. Definitions. | § 115-10. Right of entry; revocation of permit. |
| § 115-4. Permit authority designation. | § 115-11. Penalties for offenses. |
| § 115-5. Permit required. | § 115-12. Severability. |
| § 115-6. Permit application; fee. | § 115-13. Repealer. |
| § 115-7. Application review; inspection requirement and issuance. | § 115-14. Effective date. |

[HISTORY: Adopted by the Town Board of the Town of Warrensburg 7-11-2018 by L.L. No. 2-2018. Amendments noted where applicable.]

§ 115-1. Findings and purpose.

- A. The Town of Warrensburg wishes to provide residents the ability to celebrate private events by use of commercial fireworks displays provided these displays are undertaken in a manner that promotes safety consistent with the provisions of New York State Penal Law Section 405.00. The Town Board wishes to set forth the process for obtaining a commercial fireworks display permit and to establish the minimum requirements that must be met by applicants.
- B. It is not the intent nor the purpose of this chapter to regulate items defined as "sparkling devices" under Section 225.1 of Title 9 of the New York Codes, Rules and Regulations which are regulated by New York Penal Law Section 405 and Local Law No. 3 of 2015 adopted by the Warren County Board of Supervisors on April 17, 2015, and filed by the New York Department of State on April 29, 2015, and as may be amended. Nor does it imply or take any jurisdiction over any other enforcement agency for the illegal use or possession of any form of consumer or commercial fireworks as described in New York Penal Law Section 270.00[2], or any other state or federal law or regulation.

§ 115-2. Title; authority.

This chapter shall be known as the "Commercial Fireworks Display Law." This chapter is adopted pursuant to New York Municipal Home Rule Law and New York Penal Law Section 405.00 for the purpose of regulating commercial fireworks displays consistent with the standards established by the American Pyrotechnic Association and the codes, standards, recommended practices and guides established by the National Fire Protection Association ("NFPA Standards"), specifically NFPA Standards 1123, 1124 and 1126.

§ 115-3. Definitions.

The following terms shall have the meaning indicated for purposes of this chapter:

COMMERCIAL FIREWORKS — Shall mean "fireworks" and "dangerous fireworks" as defined in New York Penal Law Section 270.00[1].

COMMERCIAL FIREWORKS DISPLAY — A display of commercial fireworks fired by a person or persons holding a valid certificate of competence as a pyrotechnician as required under the General Business Law and Article 16 of the Labor Law.

§ 115-4. Permit authority designation.

The Town Board hereby authorizes the Town of Warrensburg Code Enforcement Officer as the "permit authority" authorized to grant permits for commercial fireworks displays pursuant to New York State Penal Law Section 405.00 and this chapter.

§ 115-5. Permit required.

No person, firm or other entity may discharge commercial fireworks or allow the discharge of commercial fireworks on property under his/her/its ownership or control in the Town of Warrensburg without first obtaining a commercial fireworks display permit as described below and unless doing so complies with Penal Law Section 405.00 and the requirements of this chapter.

§ 115-6. Permit application; fee.

- A. The application for a commercial fireworks display permit shall be submitted to the Code Enforcement Officer not less than 14 days prior to the proposed display date. The application shall be on a form approved by the Town and shall contain the following:
- (1) The name and address of the person or entity sponsoring the display.
 - (2) The names of the persons actually to be in charge of the firing of the display, each of whom shall possess a valid certificate of competence as a pyrotechnician as required under the General Business Law and Article 16 of the Labor Law, together with a verified statement from the applicant identifying the individuals who are authorized to fire the display, their certificate numbers, and that such individuals possess a valid certificate of competence as a pyrotechnician.
 - (3) The date and time of day at which the display is to be held.
 - (4) The exact location planned for the display.
 - (5) The number and kind of commercial fireworks to be discharged.
 - (6) The manner and place of storage of such commercial fireworks prior to the display.
 - (7) A diagram of the grounds on which the display is to be held showing the point at which the commercial fireworks are to be discharged, the location of all

buildings, highways and other lines of communication, the lines behind which the audience will be restrained and the location of all nearby trees, telegraph or telephone lines or other overhead obstructions.

- (8) A statement that such commercial fireworks display will be conducted in accordance with the rules promulgated by the Commissioner of Labor pursuant to Section 462 of the Labor Law and NFPA Standards 1123, 1124 and 1126.
 - (9) Such other information as the Town Board may deem necessary to protect persons or property.
- B. The applicant must sign the commercial fireworks display permit application after acknowledging that all the information provided is true and that the commercial fireworks display will comply with all local, state and federal laws, rules, ordinances and regulations.
- C. A nonrefundable fee in such amount as may be fixed by resolution of the Town Board shall be submitted with the application.

§ 115-7. Application review; inspection requirement and issuance.

The Code Enforcement Officer may not approve any application which does not comply with the requirements set forth herein. Upon issuance of a commercial fireworks display permit, the permittee shall provide a copy of the permit to the Warren County Sheriff's Department.

§ 115-8. Permit requirements.

Each commercial fireworks display permit shall be subject to the following requirements:

- A. The actual point at which the commercial fireworks are to be fired shall be in accordance with the rules promulgated by the Commissioner of Labor pursuant to Section 462 of the Labor Law and shall be conducted in compliance with NFPA Standards 1123, 1124 and 1126;
- B. All the persons in actual charge of firing the commercial fireworks shall be over the age of 18 years, competent and physically fit for the task and there shall be at least two such operators constantly on duty during the discharge.
- C. At least two approved-type fire extinguishers shall be kept at as widely separated points as possible within the actual area of the display. Extinguishers shall be dry chemical type with a minimum designation of 3A:40BC.
- D. No fireworks display permit may be issued to conduct a display of fireworks upon any property where the boundary line of such property is less than 500 yards from the boundary line of any property which is owned, leased or operated by any breeder as defined in Section 251(4) of the Racing, Pari-mutuel Wagering and Breeding Law.¹

1. Editor's Note: Section 251 of this law was repealed effective 2-19-2008.

- E. Notwithstanding § 115-10 of this chapter, the Code Enforcement Officer shall have the right of entry to the premises, upon reasonable notice to the property owner, either prior to or following issuance of a commercial fireworks display permit.
- F. No commercial fireworks display may be held when the wind reaches a velocity of 30 miles per hour. It is the permittee's obligation to be aware of wind speeds prior to and during the display. The wind speeds shall be measured with an anemometer and the measurements recorded by the permittee.
- G. The permittee shall be responsible for removing any residual debris resulting from the display. In the event debris is located on any neighboring properties, the permittee shall seek permission of the neighboring property owners to enter upon such lands and, with such permission, shall be responsible for cleanup.
- H. No commercial fireworks display may continue for more than 30 minutes.
- I. commercial fireworks displays must begin no later than 9:30 in the evening during the months of June through August and no later than 9:00 in the evening during all other months.
- J. The commercial fireworks display permit will authorize only the commercial fireworks display activities specified in the application and a new commercial fireworks display permit will be required for any different or subsequent commercial fireworks display.
- K. Any commercial fireworks display permit granted and issued hereunder shall be nontransferable.
- L. The permittee shall display the commercial fireworks display permit on the site and shall make the commercial fireworks display permit available, if requested, to the Code Enforcement Officer, the Warren County Sheriff's Office, the New York State Police, or any other local, state or federal agency with enforcement authority over fireworks or such displays.

§ 115-9. Bond required.

- A. Before granting and issuing a commercial fireworks display permit for a display of commercial fireworks as herein provided, the applicant shall provide an adequate bond therefor, unless it is a state entity, county park, city, village or town, in a sum to be fixed by the Town Board but not less than \$1,000,000. Such bond shall be conditioned for the payment of all damages which may be caused to a person or persons or to property by reason of the display so permitted and arising from any acts of the permittee, his or her agents, employees, contractors or subcontractors.
- B. Such bond shall run to the state if the commercial fireworks display permit is granted for a display on State property, or to the Town. Such bond shall be for the use and benefit of any person or persons or any owner or owners of any property so injured or damaged, and such person or persons or such owner or owners are hereby authorized to maintain an action thereon, which right of action also shall accrue to the heirs, executors, administrators, successors or assigns of such person or persons or such owner or owners.

- C. The Town Board may accept, in lieu of such bond, an indemnity insurance policy with liability coverage and indemnity protection equivalent to the terms and conditions upon which such bond is predicated and for the purposes provided in this chapter.

§ 115-10. Right of entry; revocation of permit.

The Code Enforcement Officer, any law enforcement officer and/or fire official, for reasons of public safety, may enter without delay any site within the Town whenever commercial fireworks are being used by a permittee under this chapter. The Code Enforcement Officer may revoke any commercial fireworks display permit issued hereunder at any time for good cause shown.

§ 115-11. Penalties for offenses.

- A. Any person, firm or other entity owning, leasing or otherwise controlling any premises where a violation of this chapter occurs and any person, firm or other entity who commits or assists in the commission of any violation of this chapter may be found guilty of an offense and subject to the following:
- (1) A fine of \$50 for the first offense;
 - (2) A fine of \$200 for a second offense within a two-year period; and
 - (3) A fine of \$500 for each subsequent violation within any two-year period.
- B. If within any two-year period, a person, firm or other entity is found guilty of three or more violations of this chapter, such person, firm or entity shall be prohibited from obtaining a commercial fireworks display permit for a period of five years running from the last violation date. If within any two-year period, any premises is the location of three or more commercial fireworks displays that in any way violate this chapter, no commercial fireworks display permit may be obtained for that location for a five-year period running from the last violation date.
- C. The Code Enforcement Officer has the authority to prosecute any violations of this chapter in the Town of Warrensburg Justice Court or other court of competent jurisdiction. In addition to the foregoing, the Town Board may institute any appropriate action or proceeding to prevent, restrain, enjoin, correct or abate any violation of or to enforce compliance with any provision of this chapter.

§ 115-12. Severability.

If any provision of this chapter is declared invalid by a court of competent jurisdiction, such declaration shall not affect or impair any other provision of this chapter and all other provisions shall remain in full force and effect.

§ 115-13. Repealer.

All local laws or ordinances or parts of local laws or ordinances in conflict with any part of this chapter are hereby repealed.

§ 115-14. Effective date.

This chapter shall take effect upon filing by the office of the New York State Secretary of State pursuant to Municipal Home Rule Law Section 27(3).

Chapter 116

FLOOD DAMAGE PREVENTION

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| § 116-1. Findings. | § 116-10. Designation of local administrator. |
| § 116-2. Purpose. | § 116-11. Establishment of development permit. |
| § 116-3. Objectives. | § 116-12. Duties and responsibilities of local administrator. |
| § 116-4. Definitions. | § 116-13. Fees. |
| § 116-5. Applicability. | § 116-14. General standards for flood hazard reduction. |
| § 116-6. Basis for establishing areas of special flood hazard. | § 116-15. Specific standards for flood hazard reduction. |
| § 116-7. Interpretation; conflict with other provisions. | § 116-16. Floodways. |
| § 116-8. Penalties for offenses. | § 116-17. Appeals Board. |
| § 116-9. Warning and disclaimer of liability. | § 116-18. Conditions for variances. |

[HISTORY: Adopted by the Town Board of the Town of Warrensburg: 8-27-1987 as L.L. No. 1-1987. Amendments noted where applicable.]

GENERAL REFERENCES

Property maintenance — See Ch. 145.

Zoning — See Ch. 211.

§ 116-1. Findings.

The Town Board of the Town of Warrensburg finds that the potential and/or actual damages from flooding and erosion may be a problem to the residents of the Town of Warrensburg and that such damages may include destruction or loss of private and public housing, damage to public facilities, both publicly and privately owned, and injury to and loss of human life. In order to minimize the threat of such damages and to achieve the purposes and objectives hereinafter set forth, this chapter is adopted.

§ 116-2. Purpose.

It is the purpose of this chapter to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- A. Regulate uses which are dangerous to health, safety and property due to water or erosion hazards or which result in damaging increases in erosion or in flood heights or velocities.

- B. Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction.
- C. Control the alteration of natural floodplains, stream channels and natural protective barriers which are involved in the accommodation of floodwaters.
- D. Control filling, grading, dredging and other development which may increase erosion or flood damages.
- E. Regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands.
- F. Qualify and maintain for participation in the National Flood Insurance Program.

§ 116-3. Objectives.

The objectives of this chapter are to:

- A. Protect human life and health.
- B. Minimize expenditure of public money for costly flood control projects.
- C. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public.
- D. Minimize prolonged business interruptions.
- E. Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone, sewer lines and streets and bridges located in areas of special flood hazard.
- F. Help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood-blight areas.
- G. Provide that developers are notified that property is in an area of special flood hazard.
- H. Ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

§ 116-4. Definitions.

Unless specifically defined below, words or phrases used in this chapter shall be interpreted so as to give them the meaning they have in common usage and to give this chapter its most reasonable application.

APPEAL — A request for a review of the local administrator's interpretation of any provision of this chapter or a request for a variance.

AREA OF SHALLOW FLOODING — A designated AO or VO Zone on a community's Flood Insurance Rate Map (FIRM) with base flood depths from one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate and where velocity flow may be evident.

AREA OF SPECIAL FLOOD HAZARD — The land in the floodplain within a one-percent or greater chance of flooding in any given year. This area may be designated as Zone A, AE, AH, AO, AI-99, V, VO, VE or VI-30. It is also commonly referred to as the "base floodplain" or "one-hundred-year floodplain."

BASE FLOOD — The flood having a one-percent chance of being equaled or exceeded in any given year.

BASEMENT — That portion of a building having its floor subgrade (below grade level) on all sides.

BREAKAWAY WALL — A wall that is not part of the structural support of the building and is intended, through its design and construction, to collapse under specific lateral loading forces without causing damage to the elevation of the building or the supporting foundation system.

BUILDING — Any structure built for support, shelter or enclosure for occupancy or storage.

CELLAR — Has the same meaning as "basement."

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 located within the area of special flood hazard.

ELEVATED BUILDING — A nonbasement building built to have the lowest floor elevated above the ground level by means of fill, solid foundation perimeter pilings, columns (posts and piers) or shear walls.

FLOOD BOUNDARY AND FLOODWAY MAP (FBFM) — An official map of the community by the Federal Emergency Management Agency as part of a riverine community's Flood Insurance Study. The "FBFM" delineates a regulatory floodway along watercourses studied in detail in the Flood Insurance Study.

FLOOD INSURANCE RATE MAP (FIRM) — An official map of a community, on which the Federal Emergency Management Agency has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

FLOOD INSURANCE STUDY — The official report provided by the Federal Emergency Management Agency. The report contains flood profiles, as well as the Flood Boundary Floodway Map and the water surface elevations of the base flood.

FLOOD or FLOODING — A general and temporary condition of partial or complete inundation of normally dry land areas from the:

- A. Overflow of inland or tidal waters.
- B. Unusual and rapid accumulation or run off of waters from any source.

1. Editor's Note: The former definition of "coastal high hazard area," which immediately followed this definition, was repealed 7-10-1996 by L.L. No. 1-1996.

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

FLOODWAY — The same meaning as "regulatory floodway."

FLOOR — The top surface of an enclosed area in a building (including basement), i.e., the top of slab in concrete slab construction or the top of wood flooring in wood frame construction.

FUNCTIONALLY DEPENDENT USE — A use which cannot perform its intended purpose unless it is located or carried out in close proximity to water, such as a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding and ship repair. The term does not include long-term storage, manufacture, sales or service facilities.

HIGHEST ADJACENT GRADE — The highest natural elevation of the ground surface, prior to construction, next to the proposed walls of a structure.

LOWEST FLOOR — The lowest level, including basement or cellar, of the lowest enclosed area. An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement is not considered a building's "lowest floor," provided that such enclosure is not built so as to render the structure in violation of the applicable nonelevation design requirements of this chapter.

MANUFACTURED HOME — A structure, transportable in one or more sections, which is built on a portable chassis and is designed to be used with or without a permanent foundation when connected to the trailers, travel trailers and similar transportable structures placed on a site for 180 days or longer and intended to be improved property.

MEAN SEA LEVEL — For purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

MOBILE HOME — The same meaning as "manufactured home."

NATIONAL GEODETIC VERTICAL DATUM (NGVD) — As corrected in 1929, a vertical control used as a reference for establishing varying elevations within the floodplain.

NEW CONSTRUCTION — Structures for which the start of construction commenced on or after the effective date of this chapter.

ONE-HUNDRED-YEAR FLOOD — The same meaning as "base flood."

PRINCIPALLY ABOVE GROUND — At least 51% of the actual cash value, excluding land value, is above ground.

REGULATORY FLOODWAY — The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water more than a designated height as determined by the Federal

Emergency Management Agency in a Flood Insurance Study or by other agencies as provided in § 116-12B of this chapter.²

START OF CONSTRUCTION — The initiation, excluding planning and design, of any project, physical alteration of the property, and shall include land preparation, such as clearing, grading and filling; installation of streets and/or walkways; excavation for a basement, footings, piers or foundations or the erection of temporary forms. It also includes the placement and/or installation on the property of accessory buildings (garages, sheds), storage trailers and building materials. For manufactured homes, the actual start means affixing of the manufactured home to its permanent site.

STRUCTURE — A walled and roofed building, a manufactured home or a gas or liquid storage tank that is principally above ground.

SUBSTANTIAL IMPROVEMENT — Any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure either before the improvement or repair is started or, if the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition "substantial improvement" is considered to commence when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either:

- A. Any project for improvement of a structure to comply with existing state or local building, fire, health, sanitary or safety code specifications which are solely necessary to assure safe living conditions; or
- B. Any alteration of a structure or contributing structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

VARIANCE — A grant of relief from the requirements of this chapter which permits construction or use in a manner that would otherwise be prohibited by this chapter.

§ 116-5. Applicability.

This chapter shall apply to all areas of special flood hazards within the jurisdiction of the Town of Warrensburg.

§ 116-6. Basis for establishing areas of special flood hazard. [Amended 7-10-1996 by L.L. No. 1-1996]

The areas of special flood hazard have been identified by the Federal Emergency Management Agency in a scientific and engineering report entitled "Flood Insurance Study Town of Warrensburg, New York, Warren County," dated September 1, 1983, with Flood Insurance Rate Maps enumerated on Map Index No. 3608820001-0045, dated March 1, 1984, and with accompanying Flood Boundary and Floodway Maps enumerated on Map Index No. 3608820001-0045, dated March 1, 1984.

2. **Editor's Note:** The former definition of "sand dunes," which immediately followed this definition, was repealed 7-10-1996 by L.L. No. 1-1996.

§ 116-7. Interpretation; conflict with other provisions.

- A. This chapter is adopted in response to revisions to the National Flood Insurance Program effective October 1, 1986, and shall supersede all previous laws adopted for the purpose of establishing and maintaining eligibility for flood insurance.
- B. In their interpretation and application, the provisions of this chapter shall be held to be requirements adopted for the promotion of the public health, safety and welfare. Whenever the requirements of this chapter are at variance with the requirements of any other lawfully adopted rules, regulations or ordinances, the most restrictive, or that imposing the higher standards, shall govern.

§ 116-8. Penalties for offenses.

No structure shall hereafter be constructed, located, extended, converted or altered and no land shall be excavated or filled without full compliance with the terms of this chapter and any other applicable regulations. Any infraction of the provisions of this chapter by failure to comply with any of its requirements, including infractions of conditions and safeguards established in connection with conditions of the permit, shall constitute a violation. Any person who violates this chapter or fails to comply with any of its requirements shall, upon conviction thereof, be fined no more than \$250 or imprisoned for not more than 15 days, or both. Each day of noncompliance shall be considered a separate offense. Nothing herein contained shall prevent the Code Enforcement Officer from taking such other lawful action as necessary to prevent or remedy an infraction. Any structure found not compliant with the requirements of this chapter for which the developer and/or owner has not applied for and received an approved variance under §§ 116-16 and 116-17 will be declared noncompliant, and notification will be sent to the Federal Emergency Management Agency.

§ 116-9. Warning and disclaimer of liability.

The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This chapter does not imply that land outside the area of special flood hazards or uses permitted with such areas will be free from flooding or flood damages. This chapter shall not create liability on the part of the Town of Warrensburg, any officer or employee thereof or the Federal Emergency Management Agency for any flood damages that result from reliance on this chapter or any administrative decision lawfully made thereunder.

§ 116-10. Designation of local administrator.

The Code Enforcement Officer or his designee or such other individual as said Town Board may designate from time to time by resolution of said Board is hereby appointed local administrator to administer and implement this chapter by granting or denying development applications in accordance with its provisions.

§ 116-11. Establishment of development permit.

A development permit shall be obtained before the start of construction or any other development within the area of special flood hazard, as established in § 116-6. Application for a development permit shall be made on forms furnished by the local administrator and may include, but not be limited to plans, in duplicate, drawn to scale and showing the nature, location, dimensions, and elevations of the area in question and existing or proposed structures, fill, storage of materials, drainage facilities and the location of the foregoing.

A. Application stage. The following information is required where applicable:

- (1) Elevation in relation to mean sea level of the proposed lowest floor (including basement or cellar) of all structures.
- (2) Elevation in relation to mean sea level to which any nonresidential structure will be floodproofed.
- (3) When required, a certificate from a licensed professional engineer or architect that the utility floodproofing will meet the criteria in § 116-14C(1).
- (4) Certificate from a licensed professional engineer or architect that the nonresidential floodproofed structure will meet the floodproofing criteria in § 116-15B.
- (5) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

B. Construction stage. Upon placement of the lowest floor or floodproofing by whatever means, it shall be the duty of the permit holder to submit to the local administrator a certificate of the elevation of the lowest floor or floodproofed elevation in relation to mean sea level. The elevation certificate shall be prepared by or under the direct supervision of a licensed land surveyor or professional engineer and certified by the same. When floodproofing is utilized for a particular building, the floodproofing certificate shall be prepared by or under the direct supervision of a licensed professional engineer or architect and certified by the same. Any further work undertaken prior to submission and approval of the certification shall be at the permit holder's risk. The local administrator shall review all data submitted. Deficiencies detected shall be cause to issue a stop-work order for the project, unless immediately corrected.

§ 116-12. Duties and responsibilities of local administrator.

Duties of the local administrator shall include, but not be limited to:

A. Permit application review. The local administrator shall:

- (1) Review all development permit applications to determine that the requirements of this chapter have been satisfied.
- (2) Review all development permit applications to determine that all necessary permits have been obtained from those federal, state or local governmental agencies from which prior approval is required.

- (3) Review all development permit applications to determine if the proposed development adversely affects the area of special flood hazard. For the purposes of this chapter, "adversely affects" means physical damage to adjacent properties. An engineering study may be required of the applicant for this purpose.
 - (a) If there is no adverse effect, then the permit shall be granted consistent with the provisions of this chapter.
 - (b) If there is an adverse effect, then flood damage mitigation measures shall be made a condition of the permit.
 - (4) Review all development permits for compliance with the provisions of § 116-14E, Encroachments.
- B. Use of other base flood and floodway data. When base flood elevation data has not been provided in accordance with § 116-6, Basis for establishing the areas of special flood hazard, the local administrator shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a federal, state or other source, including data developed pursuant to § 116-14D(4), in order to administer § 116-15, Specific standards for flood hazard reduction, and § 116-16, Floodways.
- C. Information to be obtained and maintained. The local administrator shall:
- (1) Obtain and record the actual elevation, in relation to mean sea level, of the lowest floor, including basement or cellar of all new or substantially improved structures, and whether or not the structure contains a basement or cellar.
 - (2) For all new or substantially improved floodproofed structures:
 - (a) Obtain and record the actual elevation, in relation to mean sea level, to which the structure has been floodproofed.
 - (b) Maintain the floodproofing certifications required in §§ 116-14 and 116-15.
 - (3) Maintain for public inspection all records pertaining to the provisions of this chapter including variances, when granted, and certificates of compliance.
- D. Alteration of watercourses. The local administrator shall:
- (1) Notify adjacent communities and the New York State Department of Environmental Conservation prior to any alteration or relocation of a watercourse and submit evidence of such notification to the Regional Director, Federal Emergency Management Agency, Region II, 26 Federal Plaza, New York, New York 10278.
 - (2) Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.
- E. Interpretation of FIRM boundaries.

- (1) The local administrator shall have the authority to make interpretations when there appears to be a conflict between the limits of the federally identified area of special flood hazard and actual field conditions.
- (2) Base flood elevation data established pursuant to § 116-6 and/or § 116-12B, when available, shall be used to accurately delineate the area of special flood hazards.
- (3) The local administrator shall use flood information from any other authoritative source, including historical data, to establish the limits of the area of special flood hazards when base flood elevations are not available.

F. Stop-work orders.

- (1) All floodplain development found ongoing without an approved permit shall be subject to the issuance of a stop-work order by the local administrator. Disregard of a stop-work order shall be subject to the penalties described in § 116-8 of this chapter.
- (2) All floodplain development found noncompliant with the provisions of this chapter and/or the conditions of the approved permit shall be subject to the issuance of a stop-work order by the local administrator. Disregard of a stop-work order shall be subject to the penalties described in § 116-8 of this chapter.

G. Inspections. The local administrator and/or the developer's engineer or architect shall make periodic inspections at appropriate times throughout the period of construction in order to monitor compliance with permit conditions and enable said inspector to certify that the development is in compliance with the requirements of either the development permit or the approved variance.

H. Certificate of compliance.

- (1) It shall be unlawful to use or occupy or to permit the use or occupancy of any building or premises, or both, or part thereof hereafter created, erected, changed, converted or wholly or partly altered or enlarged in its use or structure until a certificate of compliance has been issued by the local administrator stating that the building or land conforms to the requirements of this chapter.
- (2) All other development occurring within the designated flood hazard area will have upon completion a certificate of compliance issued by the local administrator.
- (3) All certifications shall be based upon the inspections conducted subject to Subsection G and/or any certified elevations, hydraulic information, floodproofing, anchoring requirements or encroachment analysis which may have been required as a condition of the approved permit.

§ 116-13. Fees. ³ [Amended 7-10-1996 by L.L. No. 1-1996]

3. Editor's Note: A fee schedule is on file at the office of the Town Clerk.

Fees, as set forth from time to time by resolution of the Town Board, for all applications submitted pursuant to this chapter shall be collected in advance by the administrator and shall be made payable to the Town of Warrensburg according to the fee schedule.

§ 116-14. General standards for flood hazard reduction.

In all areas of special flood hazards, the following standards are required:

A. Anchoring.

- (1) All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure.
- (2) All manufactured homes shall be installed using methods and practices which minimize flood damage. Manufactured homes must be elevated and anchored to resist flotation, collapse or lateral movement. Manufactured homes shall be elevated to or above the base flood elevation or two feet above the highest adjacent grade when no base flood elevation has been determined. Methods of anchoring may include, but are not to be limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces.

B. Construction materials and methods.

- (1) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
- (2) All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

C. Utilities.

- (1) Electrical, heating, ventilation, plumbing, air-conditioning equipment and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding. When designed for location below the base flood elevation, a professional engineer's or architect's certification is required.
- (2) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.
- (3) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters.
- (4) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

D. Subdivision proposals.

- (1) All subdivision proposals shall be consistent with the need to minimize flood damage.

- (2) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage.
- (3) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage.
- (4) Base flood elevation data shall be provided for subdivision proposals and other proposed developments (including proposals for manufactured home parks and subdivisions) greater than either 50 lots or five acres.

E. Encroachments.

- (1) All proposed development in riverine situations where no flood elevation data is available (unnumbered A Zones) shall be analyzed to determine the effects on the flood-carrying capacity of the area of special flood hazards set forth in § 116-12A(3), regarding permit review. This may require the submission of additional technical data to assist in the determination.
- (2) In all areas of special flood hazard which base flood elevation data is available pursuant to § 116-12B or 116-14D(4) and no floodway has been determined, the cumulative effects of any proposed development, when combined with all other existing and anticipated development, shall not increase the water surface elevation of the base flood more than one foot at any point.
- (3) In all areas of the special flood hazard where floodway data is provided or available pursuant to § 116-12B, the requirements of § 116-16, Floodways, shall apply.

§ 116-15. Specific standards for flood hazard reduction.

In all areas of special flood hazards where base flood elevation data has been provided as set forth in § 116-6, Basis for establishing the areas of special flood hazards, and § 116-12B, Use of other base flood data, the following standards are required:

- A. Residential construction. New construction and substantial improvements of any resident structure shall:
- (1) Have the lowest floor, including basement or cellar, elevated to or above the base flood elevation.
 - (2) Have fully enclosed areas below the lowest floor that are subject to flooding designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a licensed professional engineer or architect or meet or exceed the following minimum criteria:
 - (a) A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.

- (b) The bottom of all such openings shall be no higher than one foot above the lowest adjacent finished grade.
- (c) Openings may be equipped with louvers, valves, screens or other coverings or devices, provided that they permit the automatic entry and exit floodwaters.

B. Nonresidential construction.

- (1) New construction and substantial improvements of any commercial, industrial or other nonresidential structure, together with attendant utility and sanitary facilities, shall either have the lowest floor, including basement or cellar, elevated to or above the base flood elevation or be floodproofed so that the structure is watertight below the base flood level, with walls substantially able to the passage of water. All structural components located below the base flood level must be capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy.
 - (a) If the structure is to be elevated, fully enclosed areas below the base flood elevation shall be designed to automatically (without human intervention) allow for the entry and exit of floodwaters for the purpose of equalizing hydrostatic flood forces on exterior walls. Designs for meeting this requirement must either be certified by a licensed professional engineer or a licensed architect or meet the following criteria:
 - [1] A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.
 - [2] The bottom of all such openings shall be no higher than one foot above the lowest adjacent finished grade.
 - [3] Opening may be equipped with louvers, valves, screens or other coverings or devices, provided that they permit the automatic entry and exit of floodwaters.
 - (b) If the structure is to be floodproofed:
 - [1] A licensed professional engineer or architect shall develop and/or review structural design, specifications and plans for the construction and shall certify that the design and methods of construction are in accordance with accepted standards of practice to make the structure watertight, with walls substantially able impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.
 - [2] A licensed professional engineer or licensed land surveyor shall certify the specific elevation (in relation to mean sea level) to which the structure is floodproofed.
- (2) The local administrator shall maintain, on record, a copy of all such certificates noted in this section.

- C. Construction standards for areas of special flood hazards without base flood elevations. New construction or substantial improvements of structures, including manufactured homes, shall have the lowest floor, including basement, elevated to or above the base flood elevation, as may be determined in § 116-12B, or two feet above the highest adjacent grade where no elevation data is available.
- (1) New construction or substantial improvements of structures including manufactured homes shall have the lowest floor (including basement) elevated at least two feet above the highest adjacent grade next to the proposed foundation of the structure.
 - (2) Fully enclosed areas below the lowest floor that are subject to flooding shall be designed to automatically (without human intervention) allow for the entry and exit of floodwaters for the purpose of minimizing hydrostatic flood forces on exterior walls. Designs for meeting this requirement must either be certified by a licensed professional engineer or a licensed architect or meet the following criteria:
 - (a) A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.
 - (b) The bottom of all such openings shall be no higher than one foot above the lowest adjacent finished grade.
 - (c) Openings may be equipped with louvers, valves, screens or other coverings or openings, provided that they permit the automatic entry and exit of floodwaters.

§ 116-16. Floodways.

Located within areas of special flood hazard are areas designated as floodways (see definition, § 116-4). The floodway is an extremely hazardous area due to high-velocity floodwaters carrying debris and posing additional threats from potential erosion forces. When floodway data is available for a particular site as provided by § 116-6 and § 116-12B, all encroachments including fill, new construction, substantial improvements and other development are prohibited within the limits of the floodway, unless a technical evaluation demonstrates that such encroachments shall not result in any increase in flood levels during the occurrence the base flood discharge.

§ 116-17. Appeals Board.

- A. The Warrensburg Town Planning Board, as established by the Town Board, shall hear and decide appeals and requests for variances from the requirements of this chapter.
- B. The Planning Board shall hear and decide appeals when it is alleged there is an error in any requirement, decision or determination made by the local administrator in the enforcement or administration of this chapter.

- C. Those aggrieved by the decision of said Planning Board may appeal such decision to the Supreme Court, pursuant to Article 78 of the Civil Practice Law and Rules.
- D. In passing upon such applications, said Planning Board shall consider all technical evaluations, all relevant law and:
- (1) The danger that materials may be swept onto other lands to the injury of others.
 - (2) The danger to life and property due to flooding or erosion damage.
 - (3) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
 - (4) The importance of the services provided by the proposed facility to the community.
 - (5) The necessity to the facility of a waterfront location, where applicable.
 - (6) The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage.
 - (7) The compatibility of the proposed use with existing and anticipated development.
 - (8) The relationship of the proposed use to the Comprehensive Plan and floodplain management program of that area.
 - (9) The safety of access to the property in times of flood for ordinary and emergency vehicles.
 - (10) The costs to local governments and the dangers associated with conducting search and rescue operations during periods of flooding.
 - (11) The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site.
 - (12) The costs of providing governmental services during and after flood conditions, including search and rescue operations, maintenance and repair of public utilities and facilities, such as sewer, gas, electrical and water systems and streets and bridges.
- E. Upon consideration of the factors of Subsection D and the purposes of this chapter, the Planning Board may attach such conditions to the granting of variances as it deems necessary to further the purposes of this chapter.
- F. The local administrator shall maintain the records of all appeal actions, including technical information, and report any variances to the Federal Emergency Management Agency upon request.

§ 116-18. Conditions for variances.

- A. Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of 1/2 acre or less in size contiguous to and surrounded by lots with

existing structures constructed below the base flood level, provided that the provisions of § 116-17D have been fully considered. As the lot size increases beyond the 1/2 acre, the technical justification required for issuing the variance increases.

- B. Variances may be issued for the reconstruction, rehabilitation or restoration of structures and contributing structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the contributing structures procedures set forth in the remainder of this section.
- C. Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use, provided that:
 - (1) The criteria Subsections A, D, E and F of this section are met.
 - (2) The structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threat to public safety.
- D. Variances shall not be issued within any designated floodway, if any increase in flood levels during the base flood discharge would result.
- E. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- F. Variances shall only be issued upon receiving written justification such as:
 - (1) A showing of good and sufficient cause.
 - (2) A determination that failure to grant the variance would result in exceptional hardship to the applicant.
 - (3) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public use, create nuisances, cause fraud on or victimization of the public or conflict with existing local laws or ordinances.
- G. Any applicant to whom a variance is granted for a building with the lowest floor below the base flood elevation shall be given written notice that the cost of flood insurance will be commensurate with the increased risk resulting from the lowest floor elevation.

Chapter 120
GAMES OF CHANCE

§ 120-1. Authorization.

§ 120-3. Designation of enforcement officer.

§ 120-2. Sunday games.

[HISTORY: Adopted by the Town Board of the Town of Warrensburg 5-3-1978¹; amended in its entirety at time of adoption of Code; see Ch. 1, General Provisions, Art. I. Subsequent amendments noted where applicable.]

GENERAL REFERENCES

Bingo — See Ch. 82.

Sunday activities — See Ch. 181.

§ 120-1. Authorization.

It shall be lawful for any authorized organization, upon obtaining a license as provided in Article 9-A of the General Municipal Law to conduct games of chance within the Town of Warrensburg, subject to the provisions of this chapter, Article 9-A of the General Municipal Law and the New York State Racing and Wagering Board.

§ 120-2. Sunday games.

The conduct of games of chance on Sunday is only permitted when it is specifically provided for in the license issued. No games of chance, however, shall be conducted on Easter Sunday, Christmas Day, New Year's Eve, Rosh Hashanah or Yom Kippur.

§ 120-3. Designation of enforcement officer.

The Chief Law Enforcement Officer of the County of Warren shall exercise control over and supervision of all games of chance.

1. Editor's Note: Said legislation passed at mandatory referendum on 6-6-1978.

Chapter 125

HOTELS AND MOTELS

ARTICLE I

Registered Sex Offender Occupancy License

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|---|--|
| § 125-1. Purpose and intent. | § 125-9. Transfer of license prohibited. |
| § 125-2. Definitions. | § 125-10. Inspections of licensed premises without notice. |
| § 125-3. License required to house registered sex offenders. | § 125-11. Keeping and inspection of register. |
| § 125-4. Application for license. | § 125-12. Occupancy points. |
| § 125-5. Criminal convictions barring issuance of license. | § 125-13. Exceeding occupancy points prohibited. |
| § 125-6. Inspection for securing license; denial for noncompliance. | § 125-14. Suspension or revocation of license; hearing. |
| § 125-7. License fee. | § 125-15. Posting of provisions. |
| § 125-8. Term of license; display required. | § 125-16. Penalties for offenses. |
| | § 125-17. Grandfather provision. |
| | § 125-18. Interpretation. |
| | § 125-19. Conflicts. |
| | § 125-20. Records. |

[HISTORY: Adopted by the Town Board of the Town of Warrensburg as indicated in article histories. Amendments noted where applicable.]

GENERAL REFERENCES

Unsafe buildings — See Ch. 95.
Property maintenance — See Ch. 145.

Zoning — See Ch. 211.

ARTICLE I

Registered Sex Offender Occupancy License [Adopted 7-14-2010 by L.L. No. 2-2010]

§ 125-1. Purpose and intent.

It is the purpose and intent of this article to promote the public health, safety and general welfare of the guests of hotels and motels located within the Town and that of the general citizenry of the Town.

§ 125-2. Definitions.

A. As used in this article, the following terms shall have the meanings indicated:

HIGH MANAGERIAL AGENT — The same meaning as set forth in § 20.20 of the Penal Law of the State of New York and, in addition, means a member of a limited-liability company or any other agent in a position of comparable authority with respect to the formulation of corporate policy or the supervision in a managerial capacity of subordinate employees.

HOTEL or MOTEL — Any hotel, motel or tourist accommodation, as defined in Chapter 211, Zoning, and, in addition, any other inn, tourist home, trailer park, trailer camp, boardinghouse, rooming house, halfway house, rehabilitation facility, prison transitional facility, or any other structure, building or part of a building used in the business of renting rooms, individual or several, or a similar establishment where sleeping accommodations are furnished for pay to guests, lodgers, tourists, transients or travelers, whether meals are served therein, or not, to such guests, lodgers, tourists, transients or travelers.

LICENSE — A registered sex offender occupancy license issued under this article.

LICENSED PREMISES — Includes the hotel or motel as defined above, together with all other real property and improvements appurtenant thereto owned or leased by the licensee or one or more of its officers, directors, shareholders, partners or other principals.

LICENSEE — The holder of the license to conduct such hotel or motel business.

PERSON — Includes an individual, or any firm, partnership, corporation, limited-liability company or association of persons or entity of any kind.

REGISTER — The register required to be maintained under § 125-11 of this article and § 204 of the New York General Business Law.

REGISTERED SEX OFFENDER — A person who has been convicted of a violation of a sexual offense, as defined by the New York State Penal Law or federal law, and who has received a Level One, Two or Three designation as described in Article 6-C of the New York State Correction Law, or under any other state or federal law which would require that individual to register as a sex offender under such respective state or federal law.

ZONING ENFORCEMENT OFFICER — The Zoning Administrator or other individual designated by the Town Board and charged with the responsibility for enforcing zoning requirements.

- B. Unless specifically defined above, all terms used in this article shall be interpreted to give them the meanings they have in common usage and to give this article its most reasonable application.

§ 125-3. License required to house registered sex offenders.

- A. No person shall engage in the business of owning or operating an establishment as defined in § 125-2 (i.e., rooming house, tourist house, tourist accommodation, hotel or motel) that accepts placements, referrals or payment by or on behalf of any federal, state

or local government or any subdivision thereof, or from any not-for-profit group, association or entity of any type or nature, on account of providing accommodations to one or more registered sex offenders without first obtaining a license therefor from the Town Clerk of the Town of Warrensburg for each establishment owned or operated by said person, as hereinafter provided.

- B. In addition to all the other enforcement provisions in this article, if it is determined by the Town Board or the Zoning Enforcement Officer that the operation or business requiring such a license is continuing in the Town of Warrensburg without the application for such license or if any such business is operated after the determination or revocation or expiration of such license, the Town Board may direct the Town Attorney to seek injunctive relief in Supreme Court and secure an order directing that the operation of said business be immediately terminated pending whatever further directions may be given by the Court issuing the injunction.

§ 125-4. Application for license.

- A. Each applicant for a license under this article shall make a written application on a form supplied by the Town Clerk setting forth:
- (1) The name, residence and postal address of the applicant and the name under which the applicant intends to do business, if different.
 - (2) The exact location of the proposed licensed premises.
 - (3) A description of the buildings, structures and accommodations that comprise the licensed premises.
 - (4) A statement of the number of lawful housing or lodging units at said hotel or motel and the maximum number of persons that can lawfully be accommodated in the licensed premises and each individual unit thereof at any given time.
 - (5) The number and location of the automobile parking spaces and parking facilities at the licensed premises.
 - (6) The name and address of the owner of the licensed premises.
 - (7) The name or names of the person or persons on the licensed premises upon whom process may be served.
 - (8) A detailed description of the register or system used for the registration of persons to whom accommodations are extended as required by the General Business Law of the State of New York.
 - (9) Whether the applicant, or any partner of a partnership applicant, or any officer, director, high managerial agent or stockholder of a corporate applicant holding 5% or more of the stock thereof, or any member of a limited-liability company, or any principal of any other applicant that is not a natural person, has ever been convicted of any crime listed in § 125-5 of this article and, if so, the details thereof, including, with respect to each conviction, the name of the person

convicted, the date thereof, the nature of the crime, the court in which the conviction was entered and the punishment imposed.

- (10) If applicable pursuant to § 125-5 of this article, a certified copy of a certificate of relief from disabilities or certificate of good conduct granted to the applicant pursuant to Article 23-A of the New York Correction Law.
 - (11) In the case of any applicant that is a corporation, limited-liability company, partnership or other entity:
 - (a) The place of incorporation or establishment of the applicant.
 - (b) A copy of the applicant's certificate of incorporation, limited-liability organizational instruments, partnership agreement or other organizational documentation.
 - (c) Any fictitious or assumed name under which the applicant does business.
 - (d) The names and residences of all stockholders, partners, members or other principals holding 5% or more of any stock or other interest of the applicant.
 - (e) The names and residences of all officers, directors and high managerial agents of the corporation and the office held by each.
- B. Any premises required to be licensed pursuant to this article in operation on the effective date of this article shall apply for a license hereunder within 30 days of such effective date. Such application shall include all information set forth in Subsection A above.
- C. The licensee shall notify the Town Clerk, in writing, of any change in information provided by the licensee in the license application during the term of the license within 10 business days of such change.

§ 125-5. Criminal convictions barring issuance of license.

No such license shall be issued to any person who has been convicted of any crime defined as a felony or a Class A misdemeanor under Articles 120, 125, 130, 135, 140 or 160 of the New York Penal Law, subject in each case to the rehabilitation procedures under Article 23-A of the New York Correction Law, nor shall any such license be issued to any partnership in which any general partner shall have been convicted or to any corporation or limited-liability company in which any stockholder holding 5% or more of any of the stock thereof or any director, officer or high managerial agent thereof, or any other applicant other than a natural person, any owner or other principal of which shall have been convicted of any crime defined as a felony or a Class A misdemeanor under Articles 120, 125, 130, 135, 140 or 160 of the New York Penal Law, subject in each case to the rehabilitation procedures under Article 23-A of the New York Correction Law.

§ 125-6. Inspection for securing license; denial for noncompliance.

The Zoning Enforcement Officer or designee shall inspect the premises within 30 days of application to determine whether or not the licensed premises and operation thereof comply

with all applicable health, fire, safety, construction and zoning ordinances, laws, regulations and statutes. If the licensed premises does not comply with such regulations, the Zoning Enforcement Officer or designee shall so notify the Town Clerk within 10 days of such inspection, who shall notify the applicant that the application is denied, setting forth the reasons for the denial. The applicant shall have 30 days to correct any deficient condition and request a reinspection for the purpose of securing a license.

§ 125-7. License fee.

The annual fee per year for said license for any licensed premises will be set by resolution of the Town Board and on file in the office of the Town Clerk; the initial fee as set by the Board is \$3,000. The fee is due upon application and is nonrefundable, even if a license is not granted.

§ 125-8. Term of license; display required.

- A. All licenses issued under the provisions of this article shall be for a term of one year commencing on the date of their issuance, unless sooner revoked pursuant to this article.
- B. All licenses shall be prominently displayed in a conspicuous place in the lobby or registration area of the licensed premises. The license shall be denominated as the "registered sex offender occupancy license."
- C. A license shall not be altered in any manner.

§ 125-9. Transfer of license prohibited.

A license shall be valid only to the applicant to whom it is issued and for the licensed premises stated on the license. No transfer of any license issued hereunder shall be permitted. Any sale of all or substantially all of the licensed premises or the assets of or merger or other consolidation of or any transfer of more than 50% in ownership or voting interest in any licensee that is a corporation, partnership or other entity shall be deemed a transfer for purposes of this article.

§ 125-10. Inspections of licensed premises without notice.

The Zoning Enforcement Officer, or designee, and a constable of the Town of Warrensburg, if there is one, shall have the authority to inspect the public areas of the licensed premises from time to time, at any hour of the day or night without prior notice, to determine that the provisions of this article are followed.

§ 125-11. Keeping and inspection of register.

Any licensed premises as defined herein shall keep for a period of three years a register which shall show the name, residence, date of arrival and departure of all persons provided with sleeping accommodations at the licensed premises. Said register must be available for inspection by any representative of the Town of Warrensburg, including but not limited to the

Zoning Enforcement Officer and Town Engineer, who shall have the authority to inspect the register from time to time, at any hour of the day or night without prior notice, to determine that the provisions of this article are followed.

§ 125-12. Occupancy points.

- A. There is hereby established in the Town of Warrensburg an occupancy point system applicable to licensed premises based upon and equal to the risk level designation assigned to a sex offender by the sentencing court pursuant to Correction Law § 168-n. For the purposes of this article, a Level One sex offender is hereby assigned one occupancy point; a Level Two sex offender is hereby assigned two occupancy points; and a Level Three sex offender is hereby assigned three occupancy points.
- B. Hotels, motels and other licensed premises as defined in this article are granted a total of three occupancy points.

§ 125-13. Exceeding occupancy points prohibited.

It shall be a violation of this article to knowingly provide accommodations to persons who are registered sex offenders in any hotel or motel or other licensed premises in the Town of Warrensburg if the occupancy by such registered sex offender results in the hotel, motel or other licensed premises exceeding the maximum number of assigned occupancy points at any one time on any given day.

§ 125-14. Suspension or revocation of license; hearing.

- A. Any license issued under this article shall be revoked by the Town of Warrensburg for any of the following causes, provided that said licensee shall be afforded a hearing before the Town Board or its designee and notice of such hearing prior to such a revocation:
- (1) The violation by the licensee, or any officer, director, member, partner, five-percent-or-greater shareholder, high managerial agent or other principal of the licensee, of any provision of this article or § 204 of the General Business Law of the State of New York.
 - (2) Upon the recommendation of the Zoning Enforcement Officer, or designee, or Town Constable, if there is one, for the failure to cure any violation of any applicable health, fire, safety, construction or zoning ordinance, law, regulation or statute within the time provided in the Town of Warrensburg Zoning Law, or other applicable code, after notification to the licensee of such violation by the Zoning Enforcement Officer, or designee, or Town Constable, if there is one.
 - (3) Upon the recommendation of the Zoning Enforcement Officer, or designee, or Town Constable, if there is one, for knowingly permitting the licensed premises to be used, alone or in association with others, for acts constituting violation of Articles 220, 225 or 230 of the Penal Law of the State of New York or failure to make reasonable effort to abate such use by ejecting such occupants or other

persons on or about the licensed premises, notifying law enforcement authorities or other legal means.

- (4) False statements made in an application for a license.
- B. Notice of the hearing for revocation of a license shall be given in writing, setting forth specifically the grounds of complaint and the time and place of hearing. Such notice shall be given personally or mailed by first-class mail, postage prepaid, to the licensee at his or her last known address at least five days prior to the date set for such hearing.
- C. Such license may, pending revocation proceedings, be suspended by the Town Clerk if, in the opinion of the Zoning Enforcement Officer or designee, the nature of the violation of this article by the licensee is such that operation of the hotel or motel may be detrimental to the health, safety and welfare of guests of said hotel or motel or the inhabitants of the Town. In the event of any such suspension, the licensee shall be entitled to a hearing before the Town Board within 20 days after the suspension.

§ 125-15. Posting of provisions.

Every licensee shall post in a public and conspicuous place and manner in the registration office or lobby of the licensed premises a notice that a printed copy of this article is available for inspection by the public in such registration office.

§ 125-16. Penalties for offenses.

A. Specific penalties.

- (1) Any licensee or person acting on behalf of a licensee who violates any provision of this article shall, upon conviction thereof, be punished as follows:
 - (a) Upon a first conviction: by a fine not less than \$250 or by imprisonment for a period not to exceed seven days, or by both such fine and imprisonment.
 - (b) Upon a second conviction: by a fine not less than \$500 or by imprisonment for a period not to exceed 10 days, or by both such fine and imprisonment.
 - (c) Upon a third or subsequent conviction: by a fine not less than \$1,000 or by imprisonment for a period not to exceed 15 days, or by both such fine and imprisonment.
 - (d) Notwithstanding a conviction for an offense against any provisions or sections hereof, a person, association or corporation convicted shall be subject to revocation of any license herein granted without reimbursement of fees paid therefor.
 - (e) Any penalties provided for in Town Law § 135.
- (2) The continuation of a violation on each successive day shall constitute a separate offense, and the person or persons allowing or permitting the continuation of the violations may be punished as provided for above for each separate offense.

- B. An action or proceeding in the name of the Town of Warrensburg may be commenced in any court of competent jurisdiction to compel compliance with or restrain by injunction the provisions of this article.

§ 125-17. Grandfather provision.

Any hotel or motel or other premises required to be licensed pursuant to this article in operation on the effective date of this article shall have 30 days after the issuance of a license hereunder to comply with the terms of this article.

§ 125-18. Interpretation.

This article shall be liberally construed so as to effectuate the purposes described in this article. Nothing herein shall abridge the powers and responsibilities of any police department or law enforcement agency to enforce the provisions of this article. Nothing herein shall be construed to abridge the emergency powers of any health department or the right of such department to engage in any necessary or proper activities.

§ 125-19. Conflicts.

If this article conflicts with any federal, state or local legislation, then, in that instance, the more stringent law shall apply. A law shall be determined to be more stringent if it limits the allowable number of registered sex offenders that may reside at a hotel, motel or other licensed premises at any one time to a lesser number of registered sex offenders than allowed by this article.

§ 125-20. Records.

The Town Clerk shall keep a record of all applications, the determinations thereon and all licenses issued and their date of termination and/or revocation and shall maintain a record for each license issued of the reports of violation relative thereto.

Chapter 129

JUNKYARDS

- | | |
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| § 129-1. Findings. | § 129-8. Application for license and certificate of approval. |
| § 129-2. Definitions. | § 129-9. Hearing. |
| § 129-3. License and certificate of approval required. | § 129-10. License requirements. |
| § 129-4. Limitations on location. | § 129-11. Determination; appeal; license. |
| § 129-5. Enclosure required. | § 129-12. License fees. |
| § 129-6. Stacking restrictions. | § 129-13. Penalties for offenses. |
| § 129-7. Burning of wastes. | § 129-14. Established junkyards. |

[HISTORY: Adopted by the Town Board of the Town of Warrensburg 8-3-1983. Amendments noted where applicable.]

GENERAL REFERENCES

Solid waste — See Ch. 170.

Zoning — See Ch. 211.

§ 129-1. Findings.

It is hereby determined that the operation of junkyards in the vicinity of dwellings, buildings and wooded areas, including, but not limited to, the burning of inflammable parts of automobiles, paper and other waste materials, constitutes a public nuisance, a constant fire menace and a danger to the public health, safety and welfare of the residents of the Town of Warrensburg, and that the unrestrained accumulation of junk motor vehicles is a hazard to such health, safety and welfare of the residents of the Town of Warrensburg and creates an environment which tends to discourage sound continued development of the economy of the Town of Warrensburg and is against the public interest.

§ 129-2. Definitions.

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

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 facilities for processing iron, steel or nonferrous scrap and whose principal produce is scrap 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.

MOTOR VEHICLE — All vehicles propelled or drawn by power other than muscular power and originally intended for use on public highways.

PERSON — Includes a natural person, corporation, firm, partnership or association of persons.

§ 129-3. License and certificate of approval required.

No person shall operate, establish or maintain a junkyard until he:

- A. Has obtained a license to operate a junkyard business; and
- B. Has obtained a certificate of approval for the location of such junkyard.

§ 129-4. Limitations on location. [Amended 7-10-1996 by L.L. No. 1-1996]

No junkyard shall be established or operated within 100 feet of the boundary line of any public highway, street, avenue or place in the Town of Warrensburg nor within 500 feet of a dwelling, school, church, hospital, public building or place of public assembly or other building.

§ 129-5. Enclosure required.

Every junkyard established and operated shall have the entire area of lands used in any manner in connection with such junkyard enclosed within a tight board or sheet metal fence not less than eight feet in height, and such fence shall be painted either green or another color which will fairly blend with the surroundings. No advertising matter of any kind shall be attached to or painted on any fence enclosing a junkyard.

§ 129-6. Stacking restrictions.

Vehicles or other waste material within a licensed junkyard shall not be piled or stacked to a height where the same shall be visible over the top of the fence.

§ 129-7. Burning of wastes.

No burning of waste material shall be done in a licensed junkyard, unless a permit for such burning shall have been issued by the Environmental Conservation Department of the State of New York or other state agencies having jurisdiction.

§ 129-8. Application for license and certificate of approval.

Application for the license and the certificate of approved location shall be made, in writing, to the Town Board of the Town of Warrensburg by filing of the application with the Town Clerk. The application shall contain a description of the land to be included within the the junkyard.

§ 129-9. Hearing.

A hearing on the application shall be held by the Town Board not less than two nor more than four weeks from the date of the receipt of the application by the Town Board. Notice of the hearing shall be given to the applicant by mail, postage prepaid, to the address given in the application and shall be published once in a newspaper having a circulation within the town, which publication shall be not less than seven days before the date of the hearing.

§ 129-10. License requirements.

At the time and place set for hearing, the Town Board shall hear the applicant and all other persons wishing to be heard on the application for a license to operate, establish or maintain the junkyard. In considering such application, it shall take into account the suitability of the applicant with reference to his ability to comply with the fencing requirements or other reasonable regulations concerning the proposed junkyard, to any record or convictions for any type of larceny or receiving of stolen goods and to any other matter within the purposes of this section.

§ 129-11. Determination; appeal; license.

After a hearing, the Town Board shall, within two weeks, make a finding as to whether or not the application should be granted, giving notice of their finding to the applicant by mail, postage prepaid, to the address given on the application. If approved, the license, including the certificate of approved location, shall be forthwith issued to remain in effect until the following April 1. Approval shall be personal to the applicant and not assignable. Licenses shall be renewed thereafter upon payment of the annual license fee¹ without hearing, provided that all provisions of this chapter are complied with during the license period, the junkyard does not become a public nuisance under the common law and the applicant is not convicted of any type of larceny or the receiving of stolen goods. The determination of the Town Board may be reviewed under Article 78 of the Civil Practice Law and Rules.

§ 129-12. License fees. ² [Amended 7-10-1996 by L.L. No. 1-1996]

The annual license fee, as set forth from time to time by resolution of the Town Board, shall be paid at the time the application is made and annually thereafter, in the event of renewal. In event that the application is not granted, the fee shall be returned to the applicant. The Town

1. Editor's Note: A fee schedule is on file at the office of the Town Clerk.

2. Editor's Note: A fee schedule is on file at the office of the Town Clerk.

Board, in addition to the license fee, shall assess the applicant with the costs of advertising such application and such other reasonable costs incident to the hearing, as are clearly attributable thereto, and may make the license conditional upon payment of the same.

§ 129-13. Penalties for offenses. [Amended 7-10-1996 by L.L. No. 1-1996]

The operation of a junkyard in the Town of Warrensburg without a license therefore issued by the Town Clerk, pursuant to resolution adopted by the Town Board or the Town of Warrensburg or by any portion of this chapter, shall constitute an offense punishable by a fine of not more than \$250 or imprisonment for not more than 15 days, or both such fine and imprisonment. Each week of operation of an unlicensed junkyard shall constitute a separate offense and a separate violation of this chapter. In addition to the foregoing penalties, the Town Board of the Town of Warrensburg may bring an action in a court of competent jurisdiction to compel the holder of a junkyard license to comply with the provisions of this chapter and may, by resolution, refuse to renew a junkyard license if the holder thereof shall refuse or fail to comply with the provisions of this chapter.

§ 129-14. Established junkyards.

For the purposes of this section, the location of junkyards already established shall be considered approved by the governing board of the municipality where located and the owner thereof deemed suitable for the issuance of a license. Within 60 days from the passage of this chapter, however, the owner shall furnish the governing board the information as to location which is required in an application, together with the license fee, and the governing board shall issue him a license valid until the next April 1, at which time such owner may apply for renewal as herein provided. Such owner shall comply with all other provisions of this section, including the fencing requirements set forth in § 129-5.

Chapter 137

PARKS AND BEACHES

ARTICLE I

General Regulations

- § 137-1. Purpose.
- § 137-2. Domestic animals prohibited; exceptions.
- § 137-3. Vehicles and bicycles restricted.
- § 137-4. Standing and climbing on benches or walls prohibited.
- § 137-5. Performances; permit; fee.
- § 137-6. Occupation prohibited during certain hours.
- § 137-6.1. Age restriction for use of tot lot.
- § 137-7. Bathing attire required for beach.
- § 137-8. Playing of games on beach prohibited.
- § 137-9. Picnicking.
- § 137-10. Firearms and other weapons.
- § 137-11. Swimming, bathing and wading requirements.
- § 137-12. Boating.
- § 137-13. Advertising.
- § 137-14. Alcoholic beverages and illegal drugs.
- § 137-15. Defacing public property prohibited.
- § 137-16. Vending and solicitation of alms.
- § 137-17. Responsibility for loss, damage or theft.
- § 137-18. Enforcement.
- § 137-19. Penalties for offenses.

ARTICLE II

Echo Lake (Pond) Public Beach Rules

- § 137-20. Rules and regulations.
- § 137-21. Penalties for offenses.

ARTICLE III

Tobacco-Free Policy

- § 137-22. Prohibited activities.
- § 137-23. Notification.
- § 137-24. Compliance.

[HISTORY: Adopted by the Town Board of the Town of Warrensburg as indicated in article histories. Amendments noted where applicable.]

GENERAL REFERENCES

Alcoholic beverages — See Ch. 74.
Animals — See Ch. 77.
Boats and boating — See Ch. 86.

Peddling and soliciting — See Ch. 141.
Sunday activities — See Ch. 181.

ARTICLE I
General Regulations
[Adopted 7-1-1981]

§ 137-1. Purpose.

The purpose of this article is to ensure the safety, comfort and convenience of the public in their appropriate uses of parks and beaches in the Town of Warrensburg.

§ 137-2. Domestic animals prohibited; exceptions. [Amended 7-10-1996 by L.L. No. 1-1996]

It shall be unlawful for any person to bring or otherwise possess any domestic animal, except service dogs, Seeing Eye dogs or guide dogs trained to aid the disabled and actually in use for such purpose, leashed or otherwise, within the area designated as a beach area.

§ 137-3. Vehicles and bicycles restricted. [Amended 7-10-1996 by L.L. No. 1-1996]

Vehicles, motor scooters, motorcycles, minibikes, snowmobiles and bicycles are prohibited within the confines of any beach or park, except when in designated areas or in the exercise of governmental functions or in the case of a bona fide emergency.

§ 137-4. Standing and climbing on benches or walls prohibited. [Amended 7-10-1996 by L.L. No. 1-1996]

It shall be unlawful to stand upon any benches or any wall or climb over any wall or fence located within or on the boundary of any beach or park. It shall be unlawful to stand upon or climb upon the monument or bandstand at Floyd Bennett Memorial Park or on any structure located on any other town property. This shall not include authorized personnel in the performance of their duty.

§ 137-5. Performances; permit; fee.

- A. It shall be unlawful to conduct performances of any nature whatsoever, including, but not limited to, concerts, dramas, shows, parades, drills, reviews, speeches and/or playing of musical instruments, within any park or beach, except upon first obtaining a permit from the Town Clerk. The fee for said permit shall be as set forth from time to time by resolution of the Town Board. The denial of such permit must be reasonable and necessary to protect the public welfare.
- B. Requests for permits must be made, in writing, on the letterhead of the organization at least seven days in advance. Requests should state the purpose, intent and hours of the performance, as well as the person responsible. The fee for said permit shall be as set forth from time to time by resolution of the Town Board. All permit requests will be acted upon within 24 hours. **[Amended 7-10-1996 by L.L. No. 1-1996]**

§ 137-6. Occupation prohibited during certain hours.

It shall be unlawful to occupy any beach or park area between the hours of 9:00 p.m. to 9:00 a.m.

§ 137-6.1. Age restriction for use of tot lot. [Added 9-10-1997]

It shall be unlawful for any person greater than 12 years of age to occupy that portion of the Warrensburg Recreation Field known as the "Tot Lot Creative Playground" located on Sanford Street in Warrensburg unless such person is accompanied by a child less than 13 years old.

§ 137-7. Bathing attire required for beach.

It shall be unlawful for any person to occupy or otherwise use any beach or swimming area within the Town of Warrensburg unless he be clothed in a bathing suit or similar attire.

§ 137-8. Playing of games on beach prohibited.

It shall be unlawful to play any ball game or any other game that may inhibit or disturb users of the swimming area or beach.

§ 137-9. Picnicking.

Light picnicking will be allowed in an area so designated for the same. No fires or cooking is permitted, except in the fireplaces presently provided by the town or grills. No picnicking is allowed on any town property unless the area is designated as such.

§ 137-10. Firearms and other weapons.

No person shall have in his possession or control any rifle, shotgun, pistol or other firearm, slingshot, pellet gun, air rifle, fireworks, explosives, knife, bludgeon or other dangerous weapon within the boundaries of any park or beach, provided that this rule shall not apply to any law enforcement officer.

§ 137-11. Swimming, bathing and wading requirements.

- A. Swimming, bathing and wading are permitted only in those areas designated for that purpose.
- B. No person shall swim, dive or enter the water of any bathing beach while wearing or carrying air or gas tanks for the purpose of underwater breathing in the activity commonly known as "skin or scuba diving."
- C. Children under the age of eight must be accompanied by an adult or responsible guardian.

D. No person shall enter the water of beaches except during open hours and when a lifeguard is on duty.

§ 137-12. Boating.

Boating shall be permitted only in designated areas. Boating in any bathing area is forbidden.

§ 137-13. Advertising.

A person shall not post, distribute, cast or leave about any bill, placard, tickets, handbill, circulars or advertisement in any form or any other matter for advertising purposes, directly in or in the immediate vicinity of any park.

§ 137-14. Alcoholic beverages and illegal drugs. [Amended 7-10-1996 by L.L. No. 1-1996]

Alcoholic beverages are prohibited within town parks, playgrounds and beaches. It shall be a violation of this article to bring into use or contribute to the use of kegs or other liquid-dispensing devices for beer or other alcoholic beverages.

§ 137-15. Defacing public property prohibited.

It shall be unlawful for any person to deface any public or private buildings, monument, bandstand, walls, fences, trees, benches or tables by the cutting, painting, scratching or removing of the same.

§ 137-16. Vending and solicitation of alms. [Amended 7-10-1996 by L.L. No. 1-1996]

A person shall not use park property or streets within park property for business or professional purposes involving the sale of any goods or the rendering of any service for a fee or for the purpose of soliciting alms or contributions without first securing necessary permits for the same as required by Chapter 141, Peddling and Soliciting.

§ 137-17. Responsibility for loss, damage or theft.

The town will not be responsible for loss, damage or theft of personal property brought into any park or beach.

§ 137-18. Enforcement.

The Warren County Sheriff or other law enforcement agency shall see to the enforcement of all ordinances and regulations related to the parks and beaches. The foregoing shall not be deemed to be exclusive, nor prohibit the town or other law enforcement agencies in their enforcement of this section.

§ 137-19. Penalties for offenses. [Amended 7-10-1996 by L.L. No. 1-1996]

Every violation of this article shall constitute an offense and shall be punishable by a fine of not more than \$250 or imprisonment for not more than 15 days, or both such fine and imprisonment.

ARTICLE II

**Echo Lake (Pond) Public Beach Rules
[Adopted 7-10-1996 by L.L. No. 1-1996]****§ 137-20. Rules and regulations.**

- A. No person is allowed in the water unless covered with a bathing suit.
- B. Nonswimmers must remain inside the first rope. A patron must be able to demonstrate that he or she can swim at least one length of the swimming area before being allowed to go into the swimming area.
- C. Artificial floating devices are not allowed in the swimmers area (beyond the first rope).
- D. It is unhealthy to expectorate (spit) in the water or on the beach area. This will not be tolerated.
- E. No person is allowed to throw debris into the swimming area or on the beach area. Patrons must use the containers provided.
- F. The drinking of intoxicating beverages anywhere on the beach is prohibited by law.
- G. No patron is allowed to splash water on spectators.
- H. No person is allowed to dunk one another under the water. It is not only a bad way to have fun, but also a dangerous one.
- I. The lifeguard tower and boat is to be occupied only by the lifeguard on duty.
- J. Proper care and use of the bathhouse is necessary in order that all who wish to use the area will find it sanitary and clean.
- K. Foul language in the water or on the beach will not be tolerated.
- L. The swimming area is marked off for safety purposes, not for climbing and jumping on. No one is allowed past the second rope.
- M. Dogs and other animals will not be allowed anywhere on the beach area.
- N. Bicycles and cars are not allowed on the beach area.
- O. Any swimmer under six years of age must be accompanied by an adult.

§ 137-21. Penalties for offenses.

Any violation or abuse of the rules above or those added to it will be grounds for dismissal from the beach for a period to be determined by the Director of the Beach.

ARTICLE III
Tobacco-Free Policy
[Adopted 11-14-2012 by Res. No. 196-12]

§ 137-22. Prohibited activities.

The Warrensburg Recreation Field and Tot Lot and Echo Lake Beach and various parks are hereby designated as nonsmoking properties. No person shall use any form of tobacco at the Warrensburg Recreation Field and Tot Lot and the Echo Lake Beach including any structures located in these recreational facilities.

§ 137-23. Notification.

- A. Appropriate signs shall be posted in the above specified areas.
- B. The community, including facility users and Town staff, will be notified of this policy.

§ 137-24. Compliance.

All individuals are expected to comply with this policy.

Chapter 141

PEDDLING AND SOLICITING

ARTICLE I Permits for Individual Sales

- § 141-1. Definitions.
- § 141-2. Exemptions.
- § 141-3. License required.
- § 141-4. Application for license.
- § 141-5. Issuance of license; expiration; revocation.
- § 141-6. License fee.
- § 141-7. Employees of licensee.
- § 141-8. Name and address on vehicle.
- § 141-9. Denial; notice of revocation.
- § 141-10. Restrictions.
- § 141-11. Orders.
- § 141-12. Recordkeeping.

ARTICLE II Major Local Events

- § 141-13. Determination of major local event; compliance mandatory.
- § 141-14. Sponsoring organization application.
- § 141-15. Hearing.
- § 141-16. Issuance of permit; fees.

- § 141-16.1. Individual participant permits.
- § 141-17. Waiver.
- § 141-18. Penalties for offenses.

ARTICLE III Transient Merchants

- § 141-19. Definitions.
- § 141-20. License required.
- § 141-21. Application for license.
- § 141-22. Investigation; issuance or denial of license; contents.
- § 141-23. Fee for license.
- § 141-24. Expiration of license.
- § 141-25. Transfer of license.
- § 141-26. Posting of license.
- § 141-27. Disposal of trash and garbage.
- § 141-28. Sanitary facilities.
- § 141-29. Loud noises prohibited.
- § 141-29.1. Signs.
- § 141-30. Revocation of license.
- § 141-31. Appeals.
- § 141-32. Enforcement; records and reports.
- § 141-33. Penalties for offenses.

[HISTORY: Adopted by the Town Board of the Town of Warrensburg 8-8-1990. Amendments noted where applicable.]

ARTICLE I Permits for Individual Sales

§ 141-1. Definitions.

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

ESTABLISHED PLACE OF BUSINESS — A building or store in which the person transacts business and deals in the goods, wares and merchandise which he hawks, peddles or solicits during regular business hours.

HAWKER AND PEDDLER — Includes, except as hereinafter expressly provided, any person, either principal or agent, who, in any public street or public place or by going from house to house or place of business to place of business, on foot or on or from any animal or vehicle standing in a street or highway, sells or barter, offers for sale or barter or carries or exposes for sale or barter any goods, wares or merchandise, except as hereinafter exempted.

INDIVIDUAL PARTICIPANT PERMIT — A permit issued to the individual participants in a major local event.

INDIVIDUAL PARTICIPANTS SELLING FOOD OR FOODSTUFFS — A permit issued to the individual participants who are selling food or foodstuffs in a major local event.

MAJOR LOCAL EVENT — An event within the Town of Warrensburg involving 11 or more vendors.

PERSON — One or more persons of either sex, natural persons, corporation, partnerships, association, joint-stock companies, societies and all other entities of any kind capable of being used.

SOLICITOR — Any person who goes from place to place or house to house or who stands in any street or public place taking or offering to take orders for goods, wares or merchandise, except as hereinafter exempted, or for services to be performed in the future or for making, manufacturing or repairing any article or thing whatsoever for future delivery.

SPONSORING ORGANIZATION — Organization sponsoring a major local event, such as the Warrensburg Chamber of Commerce.

SPONSORING ORGANIZATION PERMIT — Permit issued by the Town Board to an approved sponsoring organization of an approved event.

SPONSOR — The sponsoring organization which has been designated by the issuance of a permit.

VENDOR — Any person, either principal or agent, who, in any public street or public place or by going from house to house or place of business to place of business, on foot or on or from any animal or vehicle or while standing in or near a street or highway, sells or barter, offers for sale or barter or carries or exposes for sale or barter, to the public, any goods, wares or merchandise.

§ 141-2. Exemptions.

Nothing in this chapter shall be held to apply to any sales conducted pursuant to state or by order of any court, to any person selling personal property at wholesale to dealers in such articles, to merchants having an established place of business within the Town or their employees or to the peddling of meats, fish, fruit and similar produce by farmers or persons who produce such commodities or to dealers in milk, baked goods, heating oil and daily newspapers, to any honorably discharged member of the armed forces of the United States

who has procured a license as provided by the General Business Law of the State of New York or to persons soliciting or collecting for any bona fide charitable organization. This chapter shall also not apply so as unlawfully to interfere with interstate commerce.

§ 141-3. License required.

It shall be unlawful for any person, within the territorial limits of the Town of Warrensburg, New York, to act as a hawker, peddler or solicitor as herein defined without first having obtained and paid for and having in force and effect a license therefore.

§ 141-4. Application for license.

Every applicant for a license as herein provided shall submit to the Town Clerk a written application, under affidavit, setting forth the following information:

- A. That he is a citizen of the United States.
- B. That he has never been convicted of a felony or misdemeanor (or if so, giving the details).
- C. A detailed statement of the particular business, trade or occupation for which the license is requested.
- D. The number and kind of vehicles, if any, to be used by the applicant in carrying on the business for which the license is requested.
- E. The kind of goods, wares and merchandise he desires to sell or the kind of service he desires to render.
- F. The name, address and age of the applicant.
- G. The name and address of the person, firm or corporation he represents.
- H. The names and addresses of all partners, if a partnership, and the names and addresses of all principal officers, if a corporation, and the names and addresses of a person upon whom a legal notice may be served.
- I. Such other information as may be required by the Town Clerk.

§ 141-5. Issuance of license; expiration; revocation.

Upon the filing of the application, as provided in the precedent section, the Town Clerk shall, upon his/her approval of such application, issue to the applicant a license as provided in § 141-3, signed by the Town Clerk. Except as hereinafter provided, no license shall be refused except for a specific reason and for the protection of public safety, health, morals or general welfare. A license shall not be assignable. Any holder of such license who permits it to be used by any other person and any person who uses such license granted to any other person shall be guilty of a violation of this chapter. Such license shall automatically expire on January 1 following the date of issuance of such license, but such license may be provided

with an earlier expiration date. No license shall be granted to a person under 18 years of age. No applicant to whom a license has been refused or who has had a license which has been revoked shall make further application until a period of at least six months shall have elapsed since the last previous rejection or revocation, unless he can show that the reason for such rejection or revocation no longer arises. Every licensee, while exercising his license, shall carry the license with him and shall exhibit the same upon demand to any police officer or citizen.

§ 141-6. License fee. [Amended 7-10-1996 by L.L. No. 1-1996]

The license fee for hawkers, peddlers or solicitors shall be as set forth from time to time by resolution of the Town Board.¹

§ 141-7. Employees of licensee.

Any licensee using a horse and wagon or motor vehicle may employ not more than two persons to assist in selling and delivering the wares, but such persons shall so act only while accompanying a licensed peddler, hawker or solicitor.

§ 141-8. Name and address on vehicle.

Every vehicle used by a licensed hawker, peddler or solicitor in or about his business shall have the name of the licensee and his address plainly, distinctly and legibly painted in letters and figures at least two inches in height in a conspicuous place on the outside of each side of every such vehicle, and such name and address shall be kept so painted plainly and distinctly at all times while such vehicle is in use during the continuance of the license.

§ 141-9. Denial; notice of revocation.

Upon the refusal of the Town Clerk to issue a license to any applicant or upon the determination of the Town Board that any license shall be revoked, the procedure prescribed in § 137 of the Town Law shall be complied with. When a license shall be revoked, no refund of any unearned portion of the license fee shall be made. Notice of such revocation and the reason therefore, in writing, shall be served by the Town Clerk upon the person named in the application or by mailing the same to the address given in the application, and a copy of such notice shall be filed with the Town Clerk.

§ 141-10. Restrictions.

A licensed hawker, peddler or solicitor shall:

- A. Not falsely or fraudulently misrepresent the quantity or quality of any article offered for sale; or offer for sale any unwholesome, tainted or diseased provisions or merchandise.

1. Editor's Note: A fee schedule is on file at the office of the Town Clerk.

- B. Keep the vehicles and receptacles used by him in a clean and sanitary condition and the food stuff and edibles offered for sale well covered and protected from dirt, dust and insects.
- C. Not stand or permit the vehicles used by him to stand in one place in any public place or street for more than 10 minutes or in front of any premises for any time if the owner or any lessee of the premises objects.
- D. Not sell any confectionery or ice cream within 250 feet of any school between the hours of 8:00 a.m. and 4:00 p.m. on school days.
- E. Not permit any vehicle used by him to stop or remain on any crosswalk.
- F. Not create or maintain any booth or stand or place any barrels, boxes, crates or other obstructions upon any street or public place for the purpose of selling or exposing for sale any goods, wares or merchandise.
- G. Not blow a horn, ring a bell or use any other noisy device to attract public attention to his wares or shout or cry out his wares.
- H. Not solicit business between the hours of 9:00 p.m. in the evening and 9:00 a.m. in the following morning.

§ 141-11. Orders.

All orders taken by licensed solicitors who demand, accept or receive payment or deposits of money in advance of final delivery shall be in writing, in duplicate, stating the terms thereof and the amount paid in advance, and one copy shall be given to the purchaser at the time the deposit of money is paid to the solicitor.

§ 141-12. Recordkeeping.

It shall be the duty of the Town Clerk to keep a record of all applications and of all licenses granted under the provisions of this chapter, giving the number and date of each license, the name and residence of the person licensed, the amount of the license fee paid and also the date of revocation of all licenses revoked.²

ARTICLE II Major Local Events [Amended 8-8-1990]

§ 141-13. Determination of major local event; compliance mandatory.

No activity otherwise permissible pursuant the provisions of Article I, pertaining to the issuance of permits for individual sales not involved with a major local event, shall be permitted for any event involving more than 10 vendors. Any event involving 11 or more

2. Editor's Note: Former Section 13, Penalty, which immediately followed this section, was repealed 7-10-1996 by L.L. No. 1-1996.

vendors shall be designated as a major local event and the provisions of this Article II, pertaining to the issuance of permits for sales involved with a major local event, shall be applicable. No permit shall be issued to any participant in a major local event, unless the provisions of this Article II have been complied with.

§ 141-14. Sponsoring organization application.

No organization shall be permitted to sponsor a major local event unless it has complied with all of the provisions of this section and has been issued a sponsoring organization permit as follows:

- A. Application by the sponsoring organization must be submitted on forms provided by the Town Clerk, Code Enforcement Officer or other designated official. A sponsoring organization must be a local not-for-profit organization or the Chamber of Commerce or similar organization composed primarily of members from the Town of Warrensburg.
- B. Contents. The application must be submitted at least 60 days prior to the regular Town Board meeting immediately preceding the event, by a person officially designated by the sponsoring organization to submit the application. The applicant must explain the nature of the event which is being sponsored and provide the following information:
 - (1) Anticipated crowd size.
 - (2) Duration of the event.
 - (3) Number of vendors anticipated.
 - (4) Type of sales anticipated.
- C. Proposed plan. As a part of the application, the sponsoring organization must also submit a proposed plan for the event, which includes adequate provisions for sanitary facilities for the anticipated crowd; traffic control and routing; trash receptacles and removal; food and water; emergency vehicle routing; and adequate personnel necessary to provide emergency services, including police, ambulance and fire. The Town Board may request written statements from providers of services demonstrating that the service to be provided are adequate to protect the public health, safety and general welfare.
- D. Other information. An environmental impact statement, together with such other information and accommodations as are deemed necessary by the Town Board, may also be requested by the Town Board.

§ 141-15. Hearing.

The Town Board may hold a hearing or hearings to review the application and accompanying materials as follows:

- A. Purpose of hearing. The purpose of the hearing is to determine whether or not the health, safety and general welfare of the public will be adequately protected during the proposed event as explained in the application.

- B. Conduct of hearing. The hearing shall be conducted by the Town Board before the public and the applicant and all interested parties may be heard. The applicant must demonstrate to the Town Board that the health, safety and general welfare of the public will be adequately protected during the event.
- C. Additional requirements. Appropriate statements and letters from the providers of necessary services, including, but not limited to, police agencies, providers of sanitary facilities, local emergency and fire departments, etc., may be requested by the Town Board. The Town Board may require additional proof from the applicant and may also request certificates of insurance showing adequate insurance protection and coverage and naming the Town of Warrensburg. The Town Board may require the posting of a bond or bonds to ensure adequate performance by the sponsoring organization.
- D. Findings; amending of application.
- (1) After all parties have been heard during the hearing or hearings to review the application and accompanying materials, the Town Board shall prepare a written statement of findings as follows:
- (a) If the health, safety and general welfare of the public will be adequately protected during the proposed event as explained in the application, then a sponsoring organization permit shall be recommended, and the Town Board shall approve and authorize the issuance of a sponsoring organization permit by the Town Clerk.
- (b) If the health, safety and general welfare of the public will not be adequately protected during the proposed event as explained in the application, then the Board conducting the hearing shall so find, in writing, stating its reasons, and no sponsoring organization permit shall be issued.
- (2) The sponsoring organization may amend its application during the course of the review process and hearing to comply with the provisions of this chapter. The application, as amended, may be approved by the Town Board and the authorization given to the Town Clerk to issue the sponsoring organization permit.

§ 141-16. Issuance of permit; fees. [Amended 9-2-1992]

- A. The Town Clerk shall issue a permit to the approved sponsoring organization which shall be valid for the duration of the major event as stated in the application or for such other time as is specifically authorized by the Town Board following a hearing.
- B. Sponsoring organization permit. The sponsoring organization shall be issued a sponsoring organization permit which shall authorize it to conduct the major local event as stated in the plan approved by the Town Board. There shall be a fee, in an amount as set forth from time to time by resolution of the Town Board, for each sponsoring organization permit.³ [Amended 7-10-1996 by L.L. No. 1-1996]

3. Editor's Note: A fee schedule is on file at the office of the Town Clerk.

- C. Assignment of permits. No permit may be assigned or reissued, except as specifically provided herein.
- D. Validity of permits. No permit shall be valid after the major local event has been completed, nor shall any permit be valid for more than six months in any event.

§ 141-16.1. Individual participant permits. [Added 4-13-2005 by L.L. No. 2-2005; amended 4-19-2006 by L.L. No. 5-2006]

- A. It shall be unlawful for any person to act as a hawker, peddler or solicitor at or in connection with a major local event without first having obtained and paid for and having in effect an individual participant permit thereof.
- B. Every applicant for an individual participant permit shall submit to the Town Clerk a written application, under affidavit, setting forth the information required by Town Code § 141-4 together with the name of the sponsor of the event and the date that it will occur.
- C. The fee for an individual participant permit shall be as set forth from time to time by resolution of the Town Board and posted in the office of the Town Clerk.
- D. An individual participant permit shall be valid only for the duration of the major event as stated in the application or for such other time as may be specifically authorized by the Town Board. If the holder of an individual participant permit wishes to continue to hawk/peddle/solicit beyond the date of the major event, then he/she/it must comply with the provisions of Article III of this Chapter 141 and obtain a transient merchant license pursuant thereto.
- E. The provisions of Article I of this Chapter 141 shall be applicable to individual participant permits to the extent that they are not inconsistent with the provisions of Article II. In the event of any inconsistency, the provisions of Article II shall be applicable.
- F. The following additional restrictions shall be applicable to the holder of an individual participant permit: **[Added 6-8-2011 by L.L. No. 3-2011]**
 - (1) The holder must stay within his/her/its rented space.
 - (2) No wastewater or grease may be dumped except in specifically designated receptacles.
 - (3) The holder must clean his/her/its space(s), remove all garbage and discard in designated receptacles.
 - (4) The vending of any of the following is prohibited:
 - (a) Alcoholic beverages.
 - (b) Animals, including but not limited to, mammals, birds, reptiles or amphibians of any kind.
 - (c) Pornographic material.

- (d) Drug paraphernalia.
- (e) Tobacco products.
- (f) Firearms, knives or other weapons, whether new, used or antique.
- (g) Smoke bombs or fireworks.
- (h) Raffle tickets of any kind unless prior written permission has been granted by the sponsoring organization.

§ 141-17. Waiver.

The Town Board of the Town of Warrensburg may waive all or any portion of this Article II, including the application requirements, if it determines that the public interest, health, safety and welfare is not best served by the strict application of the chapter.

§ 141-18. Penalties for offenses. [Amended 7-10-1996 by L.L. No. 1-1996]

Any person, either individually or as an officer of an organization, or any person who by his agent or employee violates any provision of this chapter without a license shall, upon conviction, be punishable by a fine of not more than \$250 or imprisonment for not more than 15 days, or both such fine and imprisonment. Each day that a violation continues shall constitute a separate offense.

ARTICLE III

Transient Merchants

[Added 4-13-2005 by L.L. No. 3-2005]

§ 141-19. Definitions.

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

TRANSIENT MERCHANT — A retail or wholesale business conducted in a building, temporary structure or tent; from a truck, van or trailer; on a parking lot or vacant parcel of land; on a part of a public right-of-way; or in any other place for a temporary period of time. The type of merchandise being offered for sale will have no bearing on the designation.

TRANSIENT MERCHANT MARKET — Any gathering or group of three or more transient merchants or peddlers/solicitors upon any lands, structures or facilities within the Town of Warrensburg.

§ 141-20. License required.

It shall be unlawful for a transient merchant to engage in such business within the Town without first obtaining a license therefor in compliance with the provisions of this article,

§ 141-21. Application for license.

Each applicant for a license under this article shall file a written, sworn application, signed by the applicant if an individual, by a partnership and by the president if a corporation, or by an authorized agent, with the Town Clerk showing:

- A. The names of the persons having the management or supervision of applicant's business during the time that it is proposed that it will be carried on in the Town; the local addresses of such persons while engaged in such business; the permanent addresses of such persons; the capacity in which such persons will act (that is, whether as proprietor, agent or otherwise); the name and address of the person on whose account the business will be carried on, if any; and if a corporation, under the laws of what state the name is incorporated.
- B. Evidence of his or her fitness to carry on the business for which the license is sought.
- C. ⁴ The places in the Town where it is proposed to carry on the applicant's business, and the length of time during which it is proposed that such business shall be conducted.
- D. The places, other than the permanent place of business of the applicant, where the applicant, within the six months preceding the date of such application, conducted a transient business, stating the nature thereof and giving the post office and street address of any building or office in which such business was conducted.
- E. A statement of the nature, character and quality of the goods, wares or merchandise to be sold or offered for sale by the applicant in the Town.
- F. A brief statement of the nature and character of the advertising done or proposed to be done in order to attract customers; copies of all such advertising, whether by handbills, circular, newspaper advertising or otherwise, shall be attached to such application as exhibits thereto. If the applicant proposes to use any signs and/or banners, the proposed size, location, type of sign and/or banner shall be described. **[Amended 4-11-2007 by L.L. No. 1-2007]**
- G. Whether or not the persons having the management or supervision of the applicant's business have been convicted of a crime, misdemeanor or the violation of any municipal ordinance, the nature of such offense and the punishment assessed therefor.
- H. Authorization from the person for which the applicant proposes to do business, authorizing the applicant to act as such representative ("Authorization to act as agent for" form).
- I. Such other reasonable information as to the identity or character of the persons having the management or supervision of the applicant's business or the method or plan of doing such business as the Town Clerk may deem proper to fulfill the purposes of this article in the protection of the public health, safety and welfare.

4. Editor's Note: Former Subsection C, regarding liability insurance and compliance with state Worker's Compensation Law, was repealed 4-22-2009 by L.L. No. 1-2009. This local law also redesignated former Subsections D through J as Subsections C through I, respectively.

- B. Conduct of hearing. The hearing shall be conducted by the Town Board before the public and the applicant and all interested parties may be heard. The applicant must demonstrate to the Town Board that the health, safety and general welfare of the public will be adequately protected during the event.
- C. Additional requirements. Appropriate statements and letters from the providers of necessary services, including, but not limited to, police agencies, providers of sanitary facilities, local emergency and fire departments, etc., may be requested by the Town Board. The Town Board may require additional proof from the applicant and may also request certificates of insurance showing adequate insurance protection and coverage and naming the Town of Warrensburg. The Town Board may require the posting of a bond or bonds to ensure adequate performance by the sponsoring organization.
- D. Findings; amending of application.
- (1) After all parties have been heard during the hearing or hearings to review the application and accompanying materials, the Town Board shall prepare a written statement of findings as follows:
- (a) If the health, safety and general welfare of the public will be adequately protected during the proposed event as explained in the application, then a sponsoring organization permit shall be recommended, and the Town Board shall approve and authorize the issuance of a sponsoring organization permit by the Town Clerk.
- (b) If the health, safety and general welfare of the public will not be adequately protected during the proposed event as explained in the application, then the Board conducting the hearing shall so find, in writing, stating its reasons, and no sponsoring organization permit shall be issued.
- (2) The sponsoring organization may amend its application during the course of the review process and hearing to comply with the provisions of this chapter. The application, as amended, may be approved by the Town Board and the authorization given to the Town Clerk to issue the sponsoring organization permit.

§ 141-16. Issuance of permit; fees. [Amended 9-2-1992]

- A. The Town Clerk shall issue a permit to the approved sponsoring organization which shall be valid for the duration of the major event as stated in the application or for such other time as is specifically authorized by the Town Board following a hearing.
- B. Sponsoring organization permit. The sponsoring organization shall be issued a sponsoring organization permit which shall authorize it to conduct the major local event as stated in the plan approved by the Town Board. There shall be a fee, in an amount as set forth from time to time by resolution of the Town Board, for each sponsoring organization permit.³ [Amended 7-10-1996 by L.L. No. 1-1996]

3. Editor's Note: A fee schedule is on file at the office of the Town Clerk.

- C. Assignment of permits. No permit may be assigned or reissued, except as specifically provided herein.
- D. Validity of permits. No permit shall be valid after the major local event has been completed, nor shall any permit be valid for more than six months in any event.

§ 141-16.1. Individual participant permits. [Added 4-13-2005 by L.L. No. 2-2005; amended 4-19-2006 by L.L. No. 5-2006]

- A. It shall be unlawful for any person to act as a hawker, peddler or solicitor at or in connection with a major local event without first having obtained and paid for and having in effect an individual participant permit thereof.
- B. Every applicant for an individual participant permit ("IPP") for a major event as defined in Article I, § 14-1, and Article II, § 141-13, shall submit to the Town Clerk a sworn application setting forth the information required on an application form approved by the Town Board. The IPP shall restrict the seller/vendor to the stated major event, and mandate that the IPP may not be used in lieu of a permit or license issued under Article I of this chapter. **[Amended 4-10-2019 by L.L. No. 3-2019]**
- C. The fee for an individual participant permit shall be as set forth from time to time by resolution of the Town Board and posted in the office of the Town Clerk.
- D. An individual participant permit shall be valid only for the duration of the major event as stated in the application or for such other time as may be specifically authorized by the Town Board. If the holder of an individual participant permit wishes to continue to hawk/peddle/solicit beyond the date of the major event, then he/she/it must comply with the provisions of Article III of this Chapter 141 and obtain a transient merchant license pursuant thereto.
- E. The provisions of Article I of this Chapter 141 shall be applicable to individual participant permits to the extent that they are not inconsistent with the provisions of Article II. In the event of any inconsistency, the provisions of Article II shall be applicable.
- F. The following additional restrictions shall be applicable to the holder of an individual participant permit: **[Added 6-8-2011 by L.L. No. 3-2011]**
 - (1) The holder must stay within his/her/its rented space.
 - (2) No wastewater or grease may be dumped except in specifically designated receptacles.
 - (3) The holder must clean his/her/its space(s), remove all garbage and discard in designated receptacles.
 - (4) The vending of the following is prohibited: **[Amended 9-12-2018 by L.L. No. 4-2018]**
 - (a) Alcoholic beverages (except by New York State licensed retailers of alcoholic beverages and in an area approved by the event's sponsoring body).

- (b) Animals of any kind.
- (c) Pornographic materials.
- (d) Fireworks and/or sparkling devices.
- (e) Firearms (unless sold under all state and federal laws by a licensed dealer).
- (f) Knives prohibited by Section 265.00 of the Penal Laws of New York State (currently switchblades, gravity, pilum ballistic, metal knuckle, automatic knives and cane swords), as that law may from time to time be amended.
- (g) Tobacco product sales, unless sold by a retail dealer of cigarettes or tobacco registered with the New York State Department of Taxation and Finance, which sales adhere to Article 13-F of the New York Public Health Law, the Adolescent Tobacco Use Prevention Act (ATUPA), as that law may from time to time be amended.
- (h) Drug Paraphernalia as defined under New York State Penal Law Section 220.50.
- (i) Sale of merchandise. Merchandise shall not be sold to the public before or after the hours stated on the event permit application. Violation revokes vendors permit for the event.

§ 141-17. Waiver.

The Town Board of the Town of Warrensburg may waive all or any portion of this Article II, including the application requirements, if it determines that the public interest, health, safety and welfare is not best served by the strict application of the chapter.

§ 141-18. Penalties for offenses. [Amended 7-10-1996 by L.L. No. 1-1996]

Any person, either individually or as an officer of an organization, or any person who by his agent or employee violates any provision of this chapter without a license shall, upon conviction, be punishable by a fine of not more than \$250 or imprisonment for not more than 15 days, or both such fine and imprisonment. Each day that a violation continues shall constitute a separate offense.

ARTICLE III

Transient Merchants

[Added 4-13-2005 by L.L. No. 3-2005]

§ 141-19. Definitions.

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

TRANSIENT MERCHANT — A retail or wholesale business conducted in a building, temporary structure or tent; from a truck, van or trailer; on a parking lot or vacant parcel of

land; on a part of a public right-of-way; or in any other place for a temporary period of time. The type of merchandise being offered for sale will have no bearing on the designation.

TRANSIENT MERCHANT MARKET — Any gathering or group of three or more transient merchants or peddlers/solicitors upon any lands, structures or facilities within the Town of Warrensburg.

§ 141-20. License required.

It shall be unlawful for a transient merchant to engage in such business within the Town without first obtaining a license therefor in compliance with the provisions of this article,

§ 141-21. Application for license.

Each applicant for a license under this article shall file a written, sworn application, signed by the applicant if an individual, by a partnership and by the president if a corporation, or by an authorized agent, with the Town Clerk showing:

- A. The names of the persons having the management or supervision of applicant's business during the time that it is proposed that it will be carried on in the Town; the local addresses of such persons while engaged in such business; the permanent addresses of such persons; the capacity in which such persons will act (that is, whether as proprietor, agent or otherwise); the name and address of the person on whose account the business will be carried on, if any; and if a corporation, under the laws of what state the name is incorporated.
- B. Evidence of his or her fitness to carry on the business for which the license is sought.
- C. The places in the Town where it is proposed to carry on the applicant's business, and the length of time during which it is proposed that such business shall be conducted.
- D. The places, other than the permanent place of business of the applicant, where the applicant, within the six months preceding the date of such application, conducted a transient business, stating the nature thereof and giving the post office and street address of any building or office in which such business was conducted.
- E. A statement of the nature, character and quality of the goods, wares or merchandise to be sold or offered for sale by the applicant in the Town.
- F. A brief statement of the nature and character of the advertising done or proposed to be done in order to attract customers; copies of all such advertising, whether by handbills, circular, newspaper advertising or otherwise, shall be attached to such application as exhibits thereto. If the applicant proposes to use any signs and/or banners, the proposed size, location, type of sign and/or banner shall be described. [Amended 4-11-2007 by L.L. No. 1-2007]

4. Editor's Note: Former Subsection C, regarding liability insurance and compliance with state Worker's Compensation Law, was repealed 4-22-2009 by L.L. No. 1-2009. This local law also redesignated former Subsections D through J as Subsections C through I, respectively.

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§ 141-22. Investigation; issuance or denial of license; contents. [Amended 4-11-2007 by L.L. No. 1-2007]

- A. Upon receipt of an application for a license under this article, the Town Clerk shall review the applications. If she finds that the application fails to meet any of the requirements of this article or the applicant has been convicted within the past five years of a crime or ordinance which relates to his fitness to carry on the proposed business, the application shall be denied. Otherwise, the license shall be issued. Such license shall contain the number of the license, the date the same is issued, the nature of the business authorized to be carried on, the amount of the license fee paid, the expiration date of such license, the place where such business may be carried on under the license and the names of the persons authorized to carry on the same.
- B. If the applicant proposes any sign, the Town Clerk shall review the provisions of § 211-30. For each sign approved, a sticker shall be issued to be affixed to the sign indicating approval under a transient merchant license. Only one A-frame sign and one additional sign or banner shall be approved for each transient merchant.

§ 141-23. Fee for license.

The license fee which shall be charged by the Town Clerk for a license to do business under this article shall be as set forth by resolution of the Town Board in the fee schedule.⁵

§ 141-24. Expiration of license.

All annual licenses under the provisions of this article shall expire on December 31 in the year when issued. Licenses other than annual licenses shall expire on the date specified in the license.

§ 141-25. Transfer of license.

No license issued pursuant to this article shall in any case be transferred or assigned.

§ 141-26. Posting of license.

The license issued under this article shall be posted conspicuously in the place of business named therein. In the event that such person applying for the license shall desire to do business in more than one place within the Town, separate licenses may be issued for each place of business, and shall be posted conspicuously in each place of business.

§ 141-27. Disposal of trash and garbage.

It shall be the responsibility of the applicant and/or the owner of the land upon which business is conducted to dispose of all generated garbage, refuse, waste goods, and such other materials

5. Editor's Note: The fee schedule is on file in the Town Offices.

as may be lawfully deposited in a transfer station pursuant to the terms of Chapter 170 of the Warrensburg Town Code.

§ 141-28. Sanitary facilities.

It shall be the responsibility of the applicant and/or owner of the land upon which business is conducted to provide sufficient facilities for use by merchants and customers at their place of business.

§ 141-29. Loud noises prohibited.

No licensee under this article, nor anyone in his behalf, shall shout, make any outcry, blow a horn, ring a bell or use any other sound device, including any loud-speaking radio or amplifying system, upon any of the streets, alleys, parks or other public places of the Town or upon any private premises in the Town where sound of sufficient volume is emitted or produced therefrom capable of being plainly heard upon the streets, alleys or parks or other public places, for the purpose of attracting attention to any goods, wares or merchandise which such licensee proposes to sell.

§ 141-29.1. Signs. [Added 4-11-2007 by L.L. No. 1-2007]

Each transient merchant may be allowed up to two temporary signs as defined by § 211-30. Such temporary signs may be displayed only during the event for which the transient merchant license is issued. No sign permit shall be required for a sign approved as part of a transient merchant license.

§ 141-30. Revocation of license.

- A. A license issued pursuant to this article may be revoked by the Town Board, after notice and hearing, for any of the following causes:
- (1) Any fraud, misrepresentation or false statement contained in the application for the license.
 - (2) Any fraud, misrepresentation or false statement made in connection with the selling of goods, wares or merchandise.
 - (3) Any violation of this article.
 - (4) Failure to maintain insurance.
 - (5) Conviction of the licensee of any felony or of a misdemeanor which could relate to any aspect of conducting the business.
 - (6) Conducting the business licensed under this article in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety or general welfare of the public.

- B. Notice of hearing for revocation of a license shall be given in writing, setting forth specifically the grounds of the complaint and the time and place of the hearing. Such notice shall be mailed, postage prepaid, to the licensee at his last known address, at least five days prior to the date set for the hearing.
- C. If the Supervisor, Town Clerk, Code Enforcement Officer or Police Chief observes a violation and wishes to seek immediate termination, the Supervisor, Town Clerk, Code Enforcement Officer or Police Chief may issue a notice of violation which shall immediately suspend the license pending the revocation hearing.

§ 141-31. Appeals.

Any person aggrieved by the decision of the Town Clerk in regard to the denial of application for license as provided for in this article shall have the right to appeal to the Town Board. Such appeal shall be taken by filing with the Board, within 14 days after notice of the decision by the Town Clerk has been mailed to the person's last known address, a written statement setting forth the grounds for the appeal. The Board shall set the time and place for a hearing on such appeal, and notice of such hearing shall be given to such person. The order of the Town Board on such appeal shall be final.

§ 141-32. Enforcement; records and reports.

- A. It shall be the duty of the police officer of the Town to examine all places of business and persons in their respective territories subject to the provisions of this article, to determine if this article has been complied with and to enforce the provisions of this article against any person found to be violating same.
- B. The Police Department shall keep a record of any fingerprints taken of a licensee under this article, together with a license number, and any complaints against any person licensed under the provisions of this article.

§ 141-33. Penalties for offenses.

Any person, either individually or as an officer of an organization, or any person who by his agent or employee violates any provision of this article or who operates as a transient merchant without a license shall, upon conviction, be punishable by a fine of not more than \$250 or imprisonment for not more than five days. Each day that a violation continues shall constitute a separate offense.

Chapter 145

PROPERTY MAINTENANCE

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| § 145-1. Purpose and intent. | § 145-7. Enforcement. |
| § 145-2. Definitions. | § 145-8. Penalties for offenses. |
| § 145-3. Vacant property. | § 145-9. Service of notice of violation. |
| § 145-4. Exterior maintenance. | § 145-10. Emergencies. |
| § 145-5. Rubbish and garbage. | § 145-11. Action upon noncompliance. |
| § 145-6. Responsibilities of owners and occupants. | |

[HISTORY: Adopted by the Town Board of the Town of Warrensburg 10-10-2012 by L.L. No. 3-2012. Amendments noted where applicable.]

GENERAL REFERENCES

Unsafe buildings — See Ch. 95.
Solid waste — See Ch. 170.

Trees — See Ch. 189.

§ 145-1. Purpose and intent.

This chapter provides for the administration and maintenance of vacant structures and parcels of land, multifamily premises, commercial premises and single-family residences located in the Town of Warrensburg in conformity with the provisions of this chapter so as to establish reasonable safeguards for the safety, health and welfare of the occupants and users thereof and of the general public.

§ 145-2. Definitions.

For the purposes of this chapter, the following terms shall have the meanings indicated:

COMMERCIAL PREMISES — A building, structure or land used for any purpose other than for single-family or multifamily purposes, including premises used for retail purposes, business purposes or industrial purposes.

EXTERMINATION — The control and elimination of insects, rats or other pests by eliminating their harborage places; by removing or making inaccessible materials that serve as their food; by poison spraying, fumigating, trapping or by any other approved pest-elimination methods.

GARBAGE — The animal or vegetable waste resulting from the handling, preparation, cooking and consumption of food.

INFESTATION — The presence, within or contiguous to, a structure or premises of insects, rats, vermin or other pests.

MULTIFAMILY PREMISES — Any building which is used as a home or residence, other than a single-family residence, together with any garage or other accessory building and the lot upon which such building or buildings are constructed.

PREMISES — A lot, plot or parcel of land, easement or public way, including any structures thereon.

RUBBISH — Combustible and noncombustible waste materials, except garbage; the term shall include the residue from the burning of wood, coal, coke and other combustible materials, paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass, crockery and dust and other similar materials; this term shall also include discarded, abandoned or stored refrigerators.

SINGLE-FAMILY RESIDENCE — A building which is occupied exclusively as the home or residence of a single family, together with any garage or other accessory building and the lot upon which such building or buildings are constructed.

STRUCTURE — That which is built or constructed or a portion thereof.

VACANT PARCEL — A parcel of land with no buildings or structures located on same.

VACANT STRUCTURE — A building or structure, or a portion thereof, shall be deemed vacant if it has not been used or occupied for 12 consecutive months, or, if in a lesser period of time, there is a manifestation of a clear intent on the part of the owner to abandon the building or structure.

§ 145-3. Vacant property.

All vacant structures and premises or vacant land shall be maintained in a clean, safe, secure and sanitary condition as provided herein so as not to cause a blighting problem or adversely affect the public health or safety.

§ 145-4. Exterior maintenance.

- A. The exterior of a structure shall be maintained in good repair, structurally sound and sanitary so as not to pose a threat to the public health, safety or welfare.
- B. Surface and subsurface water shall be drained to prevent damage to buildings and structures and to prevent development of stagnant water. In no case shall the water from any rain or sump pump leader be allowed to flow over the sidewalk.
- C. Heavy undergrowth and accumulation of plant growth which are unsightly, noxious or detrimental to health shall be eliminated or removed. Grass shall not be permitted to exceed ten inches in height.
- D. The owner shall keep all and every part of the premises which he owns, including the steps, walks, driveways and parking areas in a clean, sanitary and safe condition and free from items such as but not limited to litter, debris, paper, dirt, garbage and junk and, except for public improvements, in good repair.

- E. No owner or occupant of a premises shall store, place or allow to accumulate items such as but not limited to refuse, garbage, rubbish, litter, debris or other material of any kind or nature which may serve as food for rats, rodents, pigeons, wild animals or other pests or provide harborage for rats, rodents, pigeons, wild animals or other pests in or upon said property.
- F. No owner or occupant shall allow the condition of the parcel or lot of any real property (or portion thereof) or any buildings, sheds or other structure located thereon, whether closed or open, to attain a condition that would attract rats, rodents, pigeons, wild animals or other pests to congregate, occupy, breed or live upon or be attracted to said property.

§ 145-5. Rubbish and garbage.

- A. Accumulation of rubbish or garbage. All exterior property and premises, and the interior of every structure, shall be free from any accumulation of rubbish, garbage or yard waste.
- B. Disposal of rubbish. Every occupant of a structure shall dispose of all rubbish in a clean and sanitary manner by placing such rubbish in approved containers.
- C. Rubbish storage facilities. The owner of every occupied premises shall supply approved covered containers for rubbish, and the owner of the premises shall be responsible for the removal of rubbish.
- D. Disposal of garbage. Every occupant of a structure shall dispose of his garbage in a clean and sanitary manner by placing such garbage in an approved garbage disposal facility or approved garbage containers.
- E. Garbage facilities. The owner of every dwelling shall supply an approved leakproof, covered, outside garbage container and covered recyclable container.
- F. Containers. The operator of every establishment producing garbage shall provide at all times, and shall cause to be utilized, approved leakproof containers provided with close-fitting covers for the storage of such materials until removed from the premises for proper disposal.

§ 145-6. Responsibilities of owners and occupants.

- A. Owners of premises and other persons, as defined in § 145-8B, shall be responsible for compliance with this chapter.
- B. In addition, tenants and occupants of multifamily and commercial premises shall be responsible for compliance with respect to the following:
 - (1) Maintaining all and every part of the commercial premises which they rent, occupy or control, including the steps, walks, driveways and parking areas in a clean, sanitary and safe condition and free from such items as but not limited to litter, debris, paper, dirt, garbage and junk.

- (2) Exterminating insects, rodents or other pests within that part of the premises which they occupy.

§ 145-7. Enforcement.

- A. The Enforcement Officer and other duly appointed law enforcement officers of the Town of Warrensburg shall be charged with the duty of administering and enforcing this chapter.
- B. It shall be the duty of the Enforcement Officer to issue a notice of violation or to order, in writing, the correction of all conditions found to exist in or on any premises which violate the provisions of this chapter.
- C. The Enforcement Officer shall cause an inspection to be made of any building, structure or open land when the Enforcement Officer has a reasonable basis to believe that the building, structure or open land is not free from infestation by rats, rodents, pigeons, wild animals or other pests. In the event that a building, structure or other property is found to be infested, the Enforcement Officer shall serve upon the owner and the occupant of the property a notice to correct the condition which caused the infestation. The owner and the occupant placed on notice that the infestation exists shall take immediate and necessary action to remedy the condition that caused the infestation.

§ 145-8. Penalties for offenses.

- A. A violation of this chapter, as determined by the court, is hereby declared to be an offense punishable by a fine not more than \$250 for each and every day the violation exists after proper written notice is given, or imprisonment for a period not to exceed six months, or both, for conviction of a first offense. Conviction of a second offense, both of which were committed within a period of five years, is punishable by a fine of not more than \$500 for each and every day the violation exists, or imprisonment for a period not to exceed six months, or both. Conviction for a third or subsequent offense, all of which were committed within a period of five years, is punishable by a fine of not more than \$750 for each and every day the violation exists, or imprisonment for a period not to exceed six months, or both.
- B. The term "person" shall include the owner, tenant, occupant, mortgagee or vendee in possession, assignee of rents, receiver, executor, trustee, lessee, sublessee, agent or any other person, firm or corporation directly or indirectly in control of any premises, building or part thereof.

§ 145-9. Service of notice of violation.

- A. A notice of violation issued by the Enforcement Officer relative to a premises shall be served either personally upon the person or by posting the violation notice in a conspicuous place upon the premises affected. If a notice of violation is served by posting it upon the premises, a copy thereof shall be mailed to the person to whom it is directed.

- B. A notice of violation shall state that unless, within 10 days from service of the notice, a written request is made for a hearing before the Enforcement Officer, such notice shall, at the expiration of such ten-day period, be deemed an order to cease and desist from and to abate the described violation; such notice shall prescribe a reasonable time within which such person shall be required to cease and desist from and abate such violation. The notice may also contain an outline of remedial action which, if taken, will effect compliance with this chapter.
- C. If a hearing is requested, it shall be commenced not later than 10 days after the request is made, provided that for good cause, the Enforcement Officer may postpone such hearing for a reasonable time. If, after the hearing, the Enforcement Officer finds that no violation exists, or that unusual, extraordinary or undue hardship shall occur as a result of the physical dimension and proportion of the property, he shall withdraw the notice. If he finds that a violation does exist, he shall forthwith issue an order requiring the abatement of the same within a prescribed reasonable time. The proceedings at such hearing, which shall be informal in all respects, shall be summarized in a report reduced to writing and entered as a matter of public record in the office of the Town Clerk.
- D. Any party aggrieved by the decision of the Enforcement Officer may, within 10 days of the decision of the Enforcement Officer, appeal said decision to the Town Board of the Town of Warrensburg by filing a letter describing the situation.
- E. The provisions of §§ 145-7B and 145-9A notwithstanding, it shall not be necessary for the Enforcement Officer to issue a notice of violation or to order in writing the correction of a condition in the instance of a second or any subsequent offense within a twelve-month period, and in the case of a second or subsequent offense, the person in violation may immediately be served with an appearance ticket or summons.

§ 145-10. Emergencies.

Whenever the Enforcement Officer or enforcement official finds that an emergency exists which requires immediate attention to protect the public health or safety, he may, without notice or hearing, issue an order reciting the existence of such emergency and requiring that such action be taken as he deems necessary to meet the emergency. Notwithstanding any other provisions of this chapter, such order shall take effect immediately. Any person to whom such order is directed shall comply therewith immediately but, upon petition to the Enforcement Officer or the local Justice Court, shall be afforded a hearing as soon as possible. After such hearing, the Enforcement Officer or court shall continue such order in effect or shall modify or withdraw it.

§ 145-11. Action upon noncompliance.

- A. Upon the failure, neglect or refusal of any owner, person or agent so notified to properly comply with this chapter within 30 days, or in the case § 145-4G, 15 days after the service of notice as provided herein, the Enforcement Officer is hereby authorized and empowered to pay for the correction of such violation, subject to the approval of the Town Board of the Town of Warrensburg.

- B. When the Town, due to failure, neglect or refusal of the property owner or tenant to properly comply with § 145-4G of this chapter, has contracted for trimming of grass or removal of other plant growth, such contracted maintenance will continue until the property owner notifies the Town Board of the Town of Warrensburg, in writing, that the property owner has made arrangements to comply with § 145-4G of the Code.
- C. In addition to any other remedies or penalties that may be imposed, a violation of this chapter shall entitle the Town Board to remedy or repair the conditions constituting the violation, at the premises owner's expense, in order to bring the premises into conformity and compliance with this chapter. The disbursements and expenses shall become a charge and a lien upon the premises and the same shall be added to the premises' next annual Town tax bill, to be collected in accordance with the provisions of law and the procedure for the payment of Town taxes with interest, as may be provided by law. This provision shall be in addition to any other provisions, penalties or powers available to the Town for enforcement of this chapter.

Chapter 153

RECORDS

ARTICLE I

Retention and Disposition

- § 153-1. Adoption of schedule.
- § 153-2. Disposition requirements.

ARTICLE II

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- § 153-14. Public notice.

[HISTORY: Adopted by the Town Board of the Town of Warrensburg as indicated in article histories. Amendments noted where applicable.]

ARTICLE I

Retention and Disposition

[Adopted 3-8-1989]

§ 153-1. Adoption of schedule.

The Town Board of the Town of Warrensburg hereby adopts Records Retention and Disposition Schedule MU-1, issued pursuant to Article 57-A of the Arts and Cultural Affairs Law, and containing legal minimum retention periods for municipal government records, for use by all municipal officers in disposing of municipal government records listed therein.

§ 153-2. Disposition requirements.

In accordance with Article 57-A:

- A. Only those records will be disposed of that are described in Records Retention and Disposition Schedule MU-1 after they have met minimum retention period prescribed therein.
- B. Only those records will be disposed of that do not have sufficient administrative, fiscal, legal, or historical value to merit retention beyond established time periods.

ARTICLE II
Public Access and Management
[Adopted 7-10-1996 by L.L. No. 1-1996]

§ 153-3. Purpose and scope.

- A. The people's right to know the process of government decision-making and the documents and statistics leading to determinations is basic to our society. Access to such information should not be thwarted by shrouding it with the cloak of secrecy or confidentiality.
- B. These regulations provide information concerning the procedures by which records may be obtained.
- C. Personnel shall furnish to the public the information and records required by the Freedom of Information Law (§ 84 et seq. of the Public Officers Law), as well as records otherwise available by law.
- D. Any conflict among laws governing public access to records shall be construed in favor of the widest possible availability of public records.

§ 153-4. Records access officer.

- A. The Town Board of the Town of Warrensburg is responsible for ensuring compliance with the regulations herein and designates the Town Clerk and, in his or her absence, the Deputy Town Clerk as records access officer, who shall be responsible for ensuring appropriate agency response to public requests for access to records. The designation of a records access officer shall not be construed to prohibit officials who have in the past been authorized to make records or information available to the public from continuing to do so.
- B. The records access officer shall ensure that personnel:
 - (1) Maintain an up-to-date subject matter list.
 - (2) Assist the requester in identifying requested records, if necessary.
 - (3) Upon locating the records, take one of the following actions:
 - (a) Make records available for inspection.
 - (b) Deny access to the records in whole or in part and explain, in writing, the reasons therefor.
 - (4) Upon request for copies of records:
 - (a) Make a copy available upon payment or offer to pay established fees, if any, in accordance with § 43-10; or
 - (b) Permit the requester to copy those records.
 - (5) Upon request, certify that a record is a true copy.

- (6) Upon failure to locate records, certify that:
- (a) The Town of Warrensburg is not the custodian for such records; or
 - (b) The records of which the Town of Warrensburg is a custodian cannot be found after diligent search.

§ 153-5. Records Advisory Board.

There shall be a Records Advisory Board designated to work closely with and provide advice to the Records access officer. The Board shall consist of five members, suggested but not limited to the following areas: Town Historian, a department head, a Council person, a library representative, an attorney and a member of the community. Appointments are to be made by the Supervisor. The Records Advisory Board shall meet periodically and have the following duties:

- A. To provide advice to the Records access officer on the development of the records management program.
- B. To review the performance of the program on an ongoing basis and propose changes and improvements.
- C. To review any changes in retention periods proposed by the Records access officer for records not covered by the state archive schedules.
- D. To provide advice on the appraisal of records for archival value and to be the final sign-off entity as to what is or is not archival.

§ 153-6. Custody and control of records.

- A. Active records. The originating department has full custody (legal and physical) over records still in active use.
- B. Inactive records. The originating department is the legal custodian of its records and shall retain the power to retrieve and use records deposited in inactive storage in the Records Center. The Records access officer will have physical custody of inactive records and will determine the method and design of storage.
- C. Archival records. Records transferred to or acquired by the archives shall be under the full custody (legal and physical) of the archives, as directed by the Records access officer, rather than the department which created or held them immediately prior to being transferred to the archives.
 - (1) Records shall be transferred to the archives upon the recommendation of the Records access officer, with the approval of the head of the department which had custody of the records and the approval of the Records Advisory Board.
 - (2) Records may be removed (temporarily or permanently) from the archives at the request of the Records access officer or the head of the department which had

custody of the records immediately prior to the transfer of those records to the archives, subject to the approval of the Records Advisory Board.

§ 153-7. Recovery of records.

The legal department may take steps to recover local government records which have been alienated from proper custody, and may, when necessary, institute actions of replevin. For the purposes of this section, "replevin" shall mean the recovery by a person of goods claimed to be his, on his promise to test the matter in court and give the goods up again if defeated.

§ 153-8. Location of records.

Records shall be available for public inspection and copying at the office of the Town Clerk, 98 Main Street, Warrensburg, New York.

§ 153-9. Hours for inspection.

Requests for public access to record shall be accepted and records produced from 2:00 p.m. to 4:00 p.m. on days that the Town Clerk's office is regularly open for business.

§ 153-10. Requests for access.

- A. A written request may be required, but oral requests may be accepted.
- B. A response shall be given regarding any request reasonably describing the record or records sought within five business days of receipt of the request.
- C. A request shall reasonably describe the record or records sought. Wherever possible, a person requesting records should supply information regarding dates, file designations or other information that may help to describe the records sought.
- D. If the records access officer does not provide or deny access to the records sought within five business days of receipt of a request, he or she shall furnish a written acknowledgment of receipt of the request and a statement of the approximate date when the request will be granted or denied. If access to records is neither granted nor denied within 10 business days after the date of acknowledgment of receipt of a request, the request may be construed as a denial of access that may be appealed.

§ 153-11. Subject matter list.

- A. The records access officer shall maintain a reasonably detailed current list by subject matter of all records in his or her possession, whether or not records are available pursuant to Subdivision 2 of § 87 of the Public Officers Law.
- B. The subject matter list shall be sufficiently detailed to permit identification of the category of the record sought.

- C. The subject matter list shall be updated not less than twice per year. The most recent update shall appear on the first page of the subject matter list.

§ 153-12. Denial of access; appeals.

- A. Denial of access to records shall be in writing, stating the reason therefor and advising the requester of the right to appeal to the individual or body established to hear appeals.
- B. If requested records are not provided promptly, as required in § 153-10D of this article, such failure shall also be deemed a denial of access.
- C. The Town Board shall hear appeals for denial of access to records under the Freedom of Information Law. Such appeals shall be made within 30 days of a denial.
- D. The time for deciding an appeal by the body designated to hear appeals shall commence upon receipt of a written appeal identifying:
- (1) The date of the appeal.
 - (2) The date and location of the request for records.
 - (3) The records to which the requester was denied access.
 - (4) Whether the denial of access was in writing or due to failure to provide records promptly as required by § 153-10D.
 - (5) The name and return address of the requester.
- E. The body designated to hear appeals shall transmit to the Committee on Open Government copies of all appeals upon receipt of appeals. Such copies shall be addressed to the Committee on Open Government, Department of State, 162 Washington Avenue, Albany, New York 12231.
- F. The Town Board shall inform the appellant and the Committee on Open Government of its determination, in writing, within 10 business days of receipt of an appeal. The determination shall be transmitted to the Committee on Open Government in the same manner as set forth in Subsection E of this section.

§ 153-13. Fees.

- A. There shall be no fee charged for:
- (1) Inspection of records.
 - (2) Search for records.
 - (3) Any certification pursuant to this article.
- B. The fee for photocopies not exceeding 8 1/2 inches by 14 inches is \$0.25 per page.

- C. The fee for copies of records not covered by Subsections A and B of this section shall not exceed the actual reproduction cost (which is the average unit cost for copying a record, excluding fixed costs of the town, such as operator salaries).

§ 153-14. Public notice.

A notice containing the title or name and business address of the records access officer and appeals body and the location where records can be seen or copied shall be posted in a conspicuous location wherever records are kept and/or published in a local newspaper of general circulation.

Chapter 157

SEWERS

Part 1 Sanitary Code

ARTICLE I Sanitary Sewage Disposal

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- § 157-2. Applicability.
- § 157-3. Authority.
- § 157-4. Purpose.
- § 157-5. Prohibited acts.
- § 157-6. Definitions.
- § 157-7. General requirements.
- § 157-8. General standards.
- § 157-9. Special standards.
- § 157-10. Fill systems.
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- § 157-42. Moratorium.
- § 157-43. Basis of sewer use requirements.
- § 157-44. Public sewer unavailable.
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- § 157-47. Maintenance of private disposal system.
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- § 157-50. Additional requirements.
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- § 157-52. New sewers subject to approval; inspection; charges.
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- § 157-54. Sewer pipe requirements.
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ARTICLE IV

Repairs to Private System of Sewers

- § 157-170. Responsibility for repairs of sewer line breaks on existing mains.

[HISTORY: Adopted by the Town Board of the Town of Warrensburg as indicated in part histories. Amendments noted where applicable.]

GENERAL REFERENCES

Solid waste — See Ch. 170.
 Subdivision of land — See Ch. 178.

Water — See Ch. 204.
 Zoning — See Ch. 211.

**Part 1
 Sanitary Code**

[Adopted 10-2-1985; amended in its entirety 7-13-1988]

**ARTICLE I
 Sanitary Sewage Disposal**

§ 157-1. Title.

This Part 1 shall be known as the "Town of Warrensburg On-Site Sewage Disposal Ordinance." The Town of Warrensburg is hereinafter referred to as the "Town."

§ 157-2. Applicability.

This Part 1 shall govern the disposal of sewage and the design of all sewage disposal systems within the Town, except that this order shall not govern the design or installation of or disposal of sewage by means of a community or public sewer, except as outlined in § 157-7C.

§ 157-3. Authority.

Enactment of this Part 1 is pursuant to Article 16 of the Town Law, Article 3 of the New York Public Health Law and Article 27 of the Executive Law of the State of New York. The New York Public Health Law § 308 gives local Boards of Health authority to enact ordinances and regulations to the protection of public health.

§ 157-4. Purpose.

The purpose of this Part 1 is to promote the health, safety and general welfare of the community by ensuring, through the location, construction and use of properly designed facilities, that sewage and other wastes are disposed of in a manner that will not create a health hazard, adversely affect the environment or impair the enjoyment or use of property.

§ 157-5. Prohibited acts.

Except as hereinafter provided, the following shall apply:

- A. Unlawful acts. It shall be unlawful for any person to construct, alter, repair or extend any facility or part of such facility intended or used for the discharge of sewage.
- B. System must be approved. It shall be unlawful for any person to cause to be discharged within the Town any sewage, except by systems designed, installed and approved in accordance with the requirements of this Part 1, except that holding tank wastes shall be disposed of in designated areas approved by New York State Department of Environmental Conservation.
- C. Unsafe or polluting systems. It shall be unlawful for any person to use or maintain any individual sewage disposal system that is unsafe, is a source of pollution to any of the surface or groundwaters of the Town, permits seepage of sewage to ground surface or interferes with the enjoyment or use of property.
- D. Fill vacant systems. It shall be unlawful for any person to vacate, other than on a seasonal basis, the property upon which a septic tank or seepage pit is located, unless, at the time of such vacating, the septic tank or seepage pit is filled with clean, granular soil or inert free-flowing dense material.

§ 157-6. Definitions.

For the purposes of this Part 1, the following terms shall have the meanings indicated:

APPLICATION RATE — The rate at which septic tank effluent is applied to a subsurface absorption trench or pit, for design purposes expressed in gallons per day/feet squared.

BAFFLE — A flow-deflecting device used in septic tanks to check or inhibit the velocity of a stream of flow or the discharge of floating and suspended solids. See "sanitary tee" below.

BUILDING — A structure wholly or partially enclosed with exterior or party walls and/or a roof affording shelter to persons, animals or property.

BUILDING DRAIN — That part of the lowest piping of a drainage system which receives the discharge of soil, wastes and other drainage pipes inside the walls of the building and conveys such sidecharges to the building sewer. The "building drain" extends three feet outside the building wall.

BUILDING SEWER — That part of the drainage system which extends from the end of a building drain and conveys its discharges to an individual sewage disposal system, public sewer, private sewer or at the approved point of disposal.

CLEANOUT — An opening providing access to sewage disposal devices (house sewer, septic sewer, distribution box) which allows for the cleaning or purging of materials and obstructions.

COMBINED SEWER — A sewer receiving both surface runoff and sewage.

COMMUNITY WATER SUPPLY SYSTEMS — A public water system which serves at least five service connections used by year-round residences or regularly serves at least 25 seasonal residences.

DISPOSAL FIELD — That area to which sewage is distributed for infiltration to the soil.

DISPOSAL SYSTEM BUILDING PERMIT — The permit required before construction or repair to an on-site sewage disposal system.

DISPOSAL SYSTEM USE CERTIFICATE — That certificate required before any portions of an on-site sewage disposal system are backfilled or covered.

DISTRIBUTION BOX OR DEVICE — A device used to uniformly distribute sewage to the distribution lines.

EMERGENCY REPAIRS — Repairs designed to prevent or abate an imminent threat to the public health, safety or welfare caused or about to be caused by a sewage disposal system.

ENFORCEMENT OFFICER — The person appointed by the Warrensburg Town Board whose duty and authority is to administer and enforce the provisions of this Part 1, with assistance from the Zoning Administrator, if a Zoning Administrator has been appointed.

EXISTING GRADE — The natural topography of land prior to construction activity.

FILL SYSTEM — Any sewage disposal system involving earthfill above natural existing ground level and designed according to the provisions of Article I.

FINAL GRADE — The elevation that ground will have at the conclusion of cutting, filling or other site work.

GARBAGE — Organic solid wastes from domestic and commercial preparation, cooking or dispensing of food or from the handling, storage and sale of produce.

GRADE — The slope of a line of pipe, trench bottom or ground surface in reference to a horizontal surface.

GRAVEL — A mixture of mineral sill particle whose individual diameters range from 1/4 inch to three inches.

GROUNDWATER — Soil moistures occupying a zone of saturated soil which has a thickness of at least six inches for a two-week period during the average water year.

IMPERVIOUS SOIL — Material with a percolation rate of slower than 60 minutes per inch.

INDIVIDUAL SEWAGE DISPOSAL SYSTEM — A complete system of piping, tanks or other facilities for the on-site collection, treatment and/or disposal of sewage not connected to a community or public sewer system.

INDUSTRIAL WASTES — Any waste substance in a liquid, gaseous or solid state or a combination thereof.

IN EXISTENCE — With respect to individual sewage disposal systems, that such structure has been substantially commenced or completed.

INVERT — The bottommost point of an open conduit or the bottommost point on the inside of a closed conduit.

LEACHING FACILITY — Any structure that is designed to distribute sewage into the soil. See "seepage pit" or "tile field."

LOCAL BOARD OF HEALTH — The Town Board acting pursuant to the authority found in Article 3 of the Public Health Law.

MAJOR ALTERATION — The same meaning as "major repair."

MAJOR REPAIR — Anything not a minor repair or alteration.

MEAN HIGH-WATER MARK — The average annual high-water level.

MINOR ALTERATION — The same meaning as "minor repair."

MINOR REPAIR — To clean and pump an existing system without replacement of any of the component parts of that system.

PERCOLATION — The movement of water downward through the pores of a soil or other porous medium following infiltration through the soil surface.

PERCOLATION TEST — A standard procedure for testing soil permeability to determine the sewage application rate. See Appendix VII¹ for proper procedure for such a test.

PERMANENT REPAIR — Any repair which is not temporary.

1. Editor's Note: Said Appendix VII is on file at the office of the Town Clerk.

PREEXISTING INDIVIDUAL SEWAGE DISPOSAL SYSTEM — Any individual disposal system serving four or less connections that was in existence prior to the date of enactment of this Part 1.

PREEXISTING PRIVATE COMMUNITY SEWER SYSTEM — A private community sewer system which serves at least five service connections that was in existence prior to the date of enactment of this Part 1.

PRIVATE COMMUNITY SEWER SYSTEM — A sewer system which serves at least five service connections.

PRIVY — A building fixed to a vault or pit equipped with seating to allow for excretion of body wastes.

PUBLIC SEWER SYSTEM — A sewer system which is a part of a duly created municipal sewer district regularly maintained by a public authority.

SANITARY TEE — A pipe fitting used in septic tank to reduce the flow velocities so as to increase solids settling in the tank and prevent the carry over of solids. See "baffle."

SEEPAGE PIT — A covered, underground pit with a permeable lining that permits the infiltration of treated sewage to the surrounding soil.

SEWAGE — The combination of human and household waste with water which is discharged from the home plumbing system; the waste from a flush toilet, bath, sink lavatory, dishwashing machine or laundry machine; or the water carried from any other fixture or equipment or machine.

SUBSURFACE ABSORPTION SYSTEM — Seepage pits or tile fields.

SURFACE WATER BODY — Any lake, pond, river, stream, intermittent stream or wetland.

TEMPORARY REPAIR — A repair performed to abate an imminent threat to the public health, safety or welfare caused or about to be caused by a sewage disposal system, which repair will permit inspection of the system to ensure compliance with the provisions of this Part 1.

TOILET WASTES — Human excretion and toilet flushing fluid.

USABLE SOIL — All soil with a percolation rate faster than one inch in 60 minutes.

ZONING ADMINISTRATOR — Individual or individuals charged with administration of Chapter 211, Zoning, if one has been appointed, otherwise, the Code Enforcement Officer of the Town of Warrensburg shall perform the duties of the Zoning Administrator as defined herein.

§ 157-7. General requirements.

- A. Individual systems. Individual sewage disposal systems shall comply with the standard of this article and with the most recent editions of the Waste Treatment Handbook-Individual Household Systems New York State Department of Health and Institutional And Commercial Sewage Facilities, New York State Department of

Environmental Conservation. In the case of conflicts among these standards, the most restrictive shall apply.

- B. Alternative systems. Alternative systems (as defined in the Waste Treatment Handbook-Individual Household Systems), excepting fill systems which are permissible under § 157-10 of this Part 1, may be permitted by application to the New York State Department of Health or, if applicable, the New York State Department of Environmental Conservation.
- C. No connection to surface system. After the adoption of this Part 1, there shall be no new connections allowed to any system in the Town of Warrensburg that empties into the Schroon or Hudson Rivers or any other ponds, lakes, streams or rivers.

§ 157-8. General standards.

- A. Sewage only. Only sewage may be discharged into the individual sewage disposal system. Surface and subsurface water, including roof, cellar, foundation and storm drainage, shall be excluded from such systems and shall be disposed of so they will in no way affect the system.
- B. Heavy surface load. No component of a leaching facility shall be located under driveways, roads, parking areas or areas subject to heavy loading, unless such leaching facility is specifically designed to handle such loading and is approvable for the same by the agencies having jurisdiction.
- C. Small lot municipal water. No individual sewage disposal system, except a sanitary privy or system employing a holding tank as sole receptacle for sewage, may be in place on a lot not served by a community water supply if such lot is less than 20,000 square feet in area.
- D. Minimum distance from surface water. With reference to the one-hundred-foot minimum setback distance required between water bodies and a leaching facility, in no case shall any disposal field, seepage pit or other leaching facility be located closer than 100 feet from the mean high-water mark of any lake, pond, river, permanent or intermittent stream.

§ 157-9. Special standards.

- A. Usable soil. The natural ground intended for the leaching facility must have a minimum depth of four feet of usable soil above bedrock or impervious material and two feet above maximum high seasonal groundwater. When fractured bedrock is encountered, the usable soil depth must be not less than four feet. See Appendix A² for high groundwater determination and percolation test procedure.
- B. Distance to surface waters. No leaching facility will be permitted within 200 feet of the mean high-water mark of a lake, pond, river, permanent or intermittent stream if the percolation rate is zero to three minutes.

2. Editor's Note: Appendix A is on file at the office of the Town Clerk.

- C. Minimum septic tank capacities. Minimum septic tank capacities shall be pursuant to the provisions set forth in Table 1, Appendix B.³
- D. Horizontal separation distances from wastewater sources. Horizontal separation distances from wastewater sources shall be pursuant to the provisions set forth in Table II, Appendix B.

§ 157-10. Fill systems.

- A. Raised fill systems. In those cases where tests for high groundwater determination and soil percolation, as provided for in Appendix A, indicate that the quality and depth of natural soil is inadequate for an installation, a raised fill system may be utilized, provided that the following specifications are met. Final approval of fill systems shall not be granted until the fill is in place and the system evaluated according to the administrative provisions of this Part 1.
- B. Specifications. The design and installations of a fill system shall comply with the following specifications:
 - (1) There must be at least two feet of naturally occurring soil over an impervious layer.
 - (2) The maximum allowable existing natural ground surface slope for built-up systems shall be 10%.
 - (3) When placing fill on top of existing grade, organic debris, including leaves, roots and other plant forms, shall be removed prior to placement of the fill and the natural soil plowed or scarified.
 - (4) The soil used for fill shall be well-graded loamy sand or well-graded loamy sandy gravels and should contain a minimum of 12% silts or clays containing no organic debris or no solid object larger than three inches in diameter, and the fill shall be allowed to stabilize naturally for at least six months.
 - (5) Sufficient fill must be installed to ensure a minimum of three feet between any trench bottom and maximum high seasonal groundwater.
 - (6) Only absorption fields shall be used as the leaching facility in fill systems.
 - (7) A channel or diversion system shall be placed about the fill system in the up-slope direction and of sufficient length to divert surface and sheet water runoff around the fill system.
 - (8) The top of fill over the leaching facility shall be crowned or sloped to allow natural surface runoff and seeded.
 - (9) Side sloped of fill shall be graded to a slope not steeper than one vertical on three horizontal.

3. Editor's Note: Appendix B is on file at the office of the Town Clerk.

§ 157-11. Continuation of preexisting systems.

- A. Individual systems. Other provisions of this Part 1 to the contrary notwithstanding, the use of a properly functioning preexisting individual sewage disposal system may be continued, except that it shall be unlawful to alter, enlarge, perform any major repair or extend any such system except in conformity with the provisions of this Part 1 pertaining to systems created after the adoption of this Part 1. Sections 157-11 and 157-12 shall not be construed to permit any unsafe use or structure nor to permit such structure or its use when such structure or use constitutes a threat to public health, safety or welfare.
- B. Preexisting private community sewer system. Other provisions of this Part 1 to the contrary notwithstanding, a preexisting private community sewer system may be continued, except that it shall be unlawful to alter, enlarge, perform any major repair or extend any such system except in conformity with the provisions of this Part 1 pertaining to systems created after the adoption of this Part 1. Sections 157-11 and 157-12 shall not be construed to permit any unsafe use or structure nor to permit such structure or its use when such structure or use constitutes a threat to public health, safety or welfare.

§ 157-12. Changes to system.

- A. Emergency repairs. Other provisions of this Part 1 to the contrary notwithstanding, emergency repairs shall be permitted without a disposal system building permit, provided that they are temporary in nature. Any person performing such temporary emergency repairs may be required by the enforcement officer to obtain a disposal system building permit before the completion of the temporary repair if, in the opinion of the Enforcement Officer, the repairs are not designed to prevent or abate an imminent threat to the public health, safety or welfare caused or about to be caused by an individual sewage disposal system. A disposal system building permit shall be required before the completion of any permanent repair. All emergency repairs performed without a disposal system building permit shall be performed so that the system and work may be inspected to ensure compliance with the provisions of this Part 1. Within four days after the completion of any emergency repair, the owner or his agent shall obtain a disposal system building permit from the Enforcement Officer and the work shall be subject to inspection by the Enforcement Officer before completion of any permanent repairs.
- B. Preexisting private community sewer system. It shall be unlawful to perform any major repair, alter, enlarge or extend any preexisting private community sewer system, except in conformity with the provisions of this Part 1 pertaining to systems created after the adoption of this Part 1 and the provisions of other ordinances, rules, regulations and local laws adopted by the Town of Warrensburg and in conformity with the provisions of the laws of the State of New York and the rules and regulations promulgated by the New York State Department of Environmental Conservation.
- C. Preexisting individual sewage disposal system. It shall be unlawful to perform any major repair, alteration, enlargement or extension of a preexisting individual sewage disposal system, except in conformity with the provisions of this Part 1 pertaining to systems created after the enactment of this Part 1.

- D. Use unlawful unless disposal system use certificate issued. It shall be unlawful to use any system that has been extended or has undergone major repairs or major alterations, unless a disposal system use certificate has been issued pursuant to §§ 157-13 through 157-23 of this Part 1.

§ 157-13. Enforcement officers; powers and duties.

- A. Duties. It shall be the duty of the Enforcement Officer(s) to administer and enforce the provisions of this Part 1.
- B. Appointment. The Town Board of Warrensburg shall appoint the Enforcement Officer(s).
- C. Duty of Zoning Administrator. It shall be the duty of the Zoning Administrator to inspect all facilities falling under the jurisdiction of this Part 1, and he is hereby authorized to enter any parcel of property within the Town of Warrensburg pursuant to this authority. The Zoning Administrator shall report his findings to the Enforcement Officer(s).

§ 157-14. Required records.

The original or a certified copy of all decisions, rulings and findings of any board under this and of all permits and certificates issued pursuant to this order shall be retained in the files of the Enforcement Officer as a permanent public record. A copy shall be retained in the files of the Zoning Administrator for the Town of Warrensburg (it is recommended that owners also retain a copy of the plan of the disposal system.)

§ 157-15. Disposal system building permits; fees.

- A. Unlawful activity. It shall be unlawful for any person to construct, alter, repair or extend an individual sewage disposal system within the Town unless a disposal system building permit has been issued.
- B. Applications. Applications for disposal system building permits may be made only by the owner or lessee of the lot for which the system is proposed or his duly authorized agent or assigns, and shall be in writing, signed by the applicant in such form as determined by the Enforcement Officer. Applications shall be submitted to the Enforcement Officer or the Zoning Administrator and include such information as the New York State Board of Health and Enforcement Officer shall require, including the following:
- (1) The name and address of the applicant.
 - (2) Specific location of the property on which the construction, alteration, repair or extension is proposed.
 - (3) A plan of the proposed disposal system with substantiating data attesting to compliance with the minimum standards set forth in this order.
 - (4) A sketch of the property showing the location of the proposed construction, alteration, repair or extension and including delineation of the property lines and sources of water supply for the property and adjoining properties.

- (5) Evidence to demonstrate to the satisfaction of the Enforcement Officer that there is no public sewer available into which the sewage can be discharged from plumbing facilities on the proposed building site or that it is impracticable to discharge sewage from on-site plumbing facilities into a sanitary sewer system.
 - (6) A percolation test, which is required for the site of a proposed facility. The percolation rate shall be determined by the methods described in the Waste Treatment Handbook-Individual Household Systems, New York State Department of Health.
 - (a) The Enforcement Officer may verify the results of such percolation tests and require all such information from the applicant necessary for such review; alternatively, the Enforcement Officer shall indicate the individual designated by the Board of Health to conduct this test.
 - (b) See Appendix A⁴ for suggested percolation testing techniques and a sample application.
 - (7) Site data which might affect or be affected by, the proposed system, including, but not limited to, specifications regarding soil type, topography, depth to impervious material, depth to bedrock, depth to seasonal high groundwater and/or distance to surface bodies of water. The determination of depth to seasonal high groundwater shall be made in the months of March, April, May or June within six weeks of the time that the frost leaves the ground. If such determination is made at other than such times, the seasonal high groundwater shall be evaluated and certified by the Warren County Soil Conservation District or another qualified service. All determinations shall be accompanied by a detailed statement of the testing methods used, as well as the basis for the determination. The Enforcement Officer shall determine whether or not an application is complete. (See Appendix A⁵ for techniques for determination of seasonal high groundwater).
- C. In only those cases where an existing sewage disposal system, which is not being enlarged to accommodate a new, greater or different use, requires repair or replacement, the Enforcement Officer may waive the percolation tests when he finds that such tests cannot be adequately conducted because of a lack of sufficient available space.
- D. As-built plan; grounds for waiver.
- (1) In those cases where an existing sewage disposal system requires repair or replacement, the Enforcement Officer may waive the preliminary filing of a plan and sketch, provided that:
 - (a) He has completed a preliminary inspection of the premises.
 - (b) He has been given a description of the proposed installation which he has transcribed to his field book in a written memorandum which has been signed by himself and the applicant.

4. Editor's Note: Appendix A is on file at the office of the Town Clerk.

5. Editor's Note: Appendix A is on file at the office of the Town Clerk.

- (c) He has found that the proposed installation shall be in compliance with not less than the minimum requirements of the code.
 - (2) The repair or replacement work shall be inspected by the Enforcement Officer pursuant to the provisions of this Part 1. An as-built plan and sketch shall be completed and filed within 10 days following the completion of the repair or replacement work.
- E. Verification and access. The Enforcement Officer may conduct such investigations, examinations, tests and site evaluations as he deems necessary to verify information contained in an application for a sewage disposal building permit, and the applicant or owner of land on which the system is proposed shall grant the administrator or his agents permission to enter on his land for these purposes. The Enforcement Officer shall have the authority to require certification or retesting to verify information submitted as part of the application.
- F. Temporary special use permit. Enforcement Officer may issue a temporary special use permit subject to revocation or modification by the Town Board of Health authorizing the repair or replacement of an existing system, which is not being enlarged to accommodate a new, greater or different use, after he has found an unnecessary hardship exists that would deprive the owner of the reasonable use of the land involved. Such temporary special use permit may be issued where no new construction is required. The temporary special use permit may authorize the applicant to vary or adapt the specific application of any of the requirements of this Part 1, provided that it does not compromise the health, safety and general welfare of the community.
- (1) Prior to granting a temporary special use permit, the Enforcement Officer must find and document the following:
 - (a) That there are special circumstances or conditions fully described in the findings of the Enforcement Officer applying to such land and that such circumstances or conditions are such that strict application of the provisions of this Part 1 would deprive the applicant of the reasonable use of such land.
 - (b) That the temporary special use permit would not be materially detrimental to the purposes and objectives of this Part 1 or to other adjoining properties or otherwise conflict with the purpose or objectives of any plan or policy of the Town.
 - (c) That, for reasons fully set forth in the findings of the Enforcement Officer, the granting of the temporary special use permit is necessary for the reasonable use of the land and that the temporary special use permit as granted by the Enforcement Officer is the minimum variance which would alleviate the specific unnecessary hardship found by the Enforcement Officer to affect the applicant.
 - (2) In granting any temporary special use permit, subject to revocation or modification by the Town Board of Health, the Enforcement Officer must prescribe and attach any reasonable conditions that he deems to be necessary or desirable.

- G. Within 30 days following the issuance of each temporary special use permit, the Enforcement Officer shall provide the Town Board of Health with a copy of the permit and application, together with all documentation and findings supporting the issuance of the permit.
- H. The Town Board of Health shall, within 60 days following the date the temporary special use permit was issued by the Enforcement Officer, review the application, documentation and findings of the Enforcement Officer. After such review is completed, the Board shall determine whether the Enforcement Officer has complied with the provisions of this Part 1 or not, and approve the permit, approve the permit with conditions or disapprove the permit. In the event that the temporary special use permit is disapproved by the Town Board of Health, the permit shall be revoked and the project shall have 60 days following the decision of the Town Board of Health to comply with the other provisions of this Part 1, or it shall be in violation.
- I. The temporary special use permit which has been approved or approved subject to conditions, which have been complied with, shall be valid for a period of one year from the date of issuance. At least 60 days prior to the expiration of the one-year period, the owner of the premises shall apply for any extensions. The criteria for the granting of any extension shall be the same as those outlined herein above pertaining to the issuance of a temporary special use permit. Any system which was originally authorized and installed pursuant to the provisions of a temporary special use permit which has not been extended or which has not been installed pursuant to the conditions imposed by the permit shall be illegal.
- J. Compliance and permit issuance. The Enforcement Officer shall not issue a disposal building permit unless all pertinent site data has been submitted, verified and certified as required by this Part 1, all permit fees have been paid and the Enforcement Officer has determined that the alteration, repair or construction as proposed in the application complies with all the specifications contained in this Part 1.
- K. Disapproval. The Enforcement Officer may disapprove an application for a disposal system building permit if he determines:
- (1) That the individual sewage disposal system, as proposed, will not conform to the requirements or specifications of this Part 1.
 - (2) That the applicant has failed to supply all data necessary to make a determination as to whether or not such individual sewage disposal systems conforms to the requirements or specifications of this Part 1 and has failed to supply such information for 60 days after a written request for such information has been mailed.
 - (3) The applicant has failed to pay all necessary fees and has failed to make such payment within 60 days after notice of such nonpayment has been mailed by the Enforcement Officer, by certified mail, return receipt requested.
- L. Fees. Each application for a sewage system disposal building permit shall be accompanied by the appropriate fee as set forth from time to time by resolution of the Town Board. **[Amended 7-10-1996 by L.L. No. 1-1996]**

- M. Stop-work order. The Enforcement Officer may, by written notice, order all further work stopped on any individual sewage disposal system which is being constructed or installed in violation of this Part 1.

§ 157-16. Disposal system use certificates.

- A. Unlawful act. It shall be unlawful for any unauthorized person to cover or utilize any individual sewage disposal system unless a disposal system use certificate has been issued therefor.
- B. Inspection. It shall be the duty of the holder of the disposal system building permit to notify the Enforcement Officer when the installation is ready for inspection. The inspection shall be made as soon thereafter as practical by the Enforcement Officer. The Enforcement Officer may also make inspections during construction to ensure that the system is being installed in accordance with the application and this Part 1. Any part of any installation which has been covered prior to final approval shall be uncovered upon order of the Enforcement Officer.
- C. Compliance and certification. A disposal system use certificate shall not be granted until the Enforcement Officer has determined that the individual sewage disposal system has been installed in compliance with the application and this Part 1. The Enforcement Officer may make such a determination only after he has made an on-site investigation of the system or received a certification from the individual designing and installing the system, that the system conforms to the specifications as set forth in the application and this Part 1. The Enforcement Officer may withhold a determination until after an on-site investigation has been completed, notwithstanding that the system has been certified as properly installed and designed.

§ 157-17. Variances.

- A. The local Board of Health may vary or adapt the strict application of any of the requirements of this Part 1 in the case whereby such strict application would result in unnecessary hardship that would derive the owner of the reasonable use of the land involved. No variance in the strict application of any provision of this Part 1 shall be granted by the local Board of Health unless it shall find all of the following:
- (1) Deprivation of reasonable use. That there are special circumstances or conditions, fully described in the findings of the local Board of Health, applying to such land and that such circumstances or conditions are such that strict application of the provisions of this Part 1 would deprive the applicant of the reasonable use of such land.
 - (2) Not materially detrimental. That the variance would not be materially detrimental to the purposes and objectives of this Part 1, or to other adjoining properties, or otherwise conflict with the purpose or objectives of any plan or policy of the Town.

- (3) Necessary minimum variance. That, for reasons fully set forth in the findings of the local Board of Health, the granting of the variance is necessary for the reasonable use of the land and that the variance as granted by the local Board of Health is the minimum variance which would alleviate the specific unnecessary hardship found by the local Board of Health to affect the applicant.
- B. Reasonable conditions. In granting any variance, the local Board of Health shall prescribe and attach any reasonable conditions that it deems to be necessary or desirable.

§ 157-18. Application for variance.

Variances may be instituted by filing an application with the local Board of Health using forms supplied by the local Board of Health, which shall include all information reasonably considered by the Board as necessary to make its findings pursuant to the provisions of this Part 1 pertaining to variances, including, among other things, the legal description of property for which the variance is sought, a map showing the property and all properties within a radius of 500 feet of the exterior boundaries thereof, plans and elevations necessary to fully describe the conditions for which a variance is sought and all other information reasonable considered necessary by the local Board of Health for an understanding of the conditions of the property for which the variance is sought and the relationship thereof to surrounding properties.

§ 157-19. Variance notice; hearing; decision.

- A. Notice and public hearing. Within 30 days of receipt by the local Board of Health of a completed application for a variance from the strict application of the provisions of this Part 1, the local Board of Health shall give notice by publication in an official newspaper of the Town of a public hearing to be held on the variance application, which public hearing shall be held not less than five days nor more than 30 days after the publication of said notice. In addition to the publication of the notice of public hearing, at least 10 days prior to said public hearing the Enforcement Officer shall mail notices of said public hearing to all owners of properties located within 250 feet of the property for which the variance is sought. For purposes of said notice by mail, the owners of properties within 250 feet shall be determined from the latest completed assessment roll of the Town of Warrensburg and the notices shall be mailed to said owners at the addresses set forth on said roll. The applicant shall present a list of said owners and their mailing addresses to the Enforcement Officer with its application. If the list properly complies with the provisions of this Part 1, the Enforcement Officer shall note his approval on the list and the applicant shall provide the Enforcement Officer with properly stamped addressed envelopes complete with a return address showing the Enforcement Officer at his official Town address together with said notices in form approved by the Enforcement Officer.
- B. Decision. Within 30 days following the closing of the public hearing, the local Board of Health shall grant, grant with condition or deny the variance applied for. The decision of the local Board of Health shall be in writing and shall contain each of the findings specified in § 157-17 of this Part 1 pertaining to required findings.

- C. Notice to Adirondack Park Agency. The Enforcement Officer shall notify the Agency within five business days following his receipt of any application for a variance concerning new construction. He shall also notify the Adirondack Park Agency, by certified mail, return receipt requested, of any determination granting a variance involving lands located within the Adirondack Park. Any variance granted or granted with conditions shall not be effective until 30 days after such notice to the Adirondack Park Agency. If within such thirty-day period the Agency determines that such action involves the provisions of the Land Use and Development Plan as approved in the Local Land Use Program, including any shoreline restriction, and that such was not predicated upon an appropriate statutory basis of unnecessary hardship, the Agency may reverse the determination of the local Board of Health in granting the variance. The Enforcement Officer shall also notify the Agency of the issuance of any temporary special use permit for an existing system repair or replacement.
- D. The Enforcement Officer shall notify the Adirondack Park Agency, by mail, of appeal actions. Any application approved with conditions shall not be effective until 30 days after such notice to the Agency. If, within such thirty-day period, the Agency determines that such action involves the provisions of the Land Use and Development Plan, as approved in the Local Land Use Program, including any shoreline restriction, and was not based upon the appropriate statutory basis, the Agency may reverse the Enforcement Officer's action.
- E. As part of any decision, the Board shall direct the Enforcement Officer to issue any appropriate permit in conformity with its ruling and shall state a time by which the permit will be issued, in conformity with this Part 1.
- F. Issuance of permit. As part of any determination granting a variance involving lands within the Adirondack Park, the local Board of Health shall direct the Enforcement Officer to issue any appropriate permit in conformity with its determination and shall state a time by which the permit shall be issued in conformity with this Part 1 and the terms and conditions of the variance granted.

§ 157-20. Appeals.

- A. Appeal to Board of Health. Persons adversely affected by an action, omission, decision or rule by the Enforcement Officer may appeal such actions or inactions only to the local Board of Health, which shall render a decision regarding the appeal only after holding a hearing on the matter.
- B. Forms provided by Enforcement Officer. Unless otherwise stated, all petitions, applications and appeals provided for in this Part 1 shall be made on forms prescribed by the Enforcement Officer. Completed forms shall be accompanied by whatever further information, plans or specifications as may be required by such forms.

§ 157-21. Application fees. [Amended 7-10-1996 by L.L. No. 1-1996]

Fees, as set forth by resolution of the Town Board, shall be paid upon the submission of applications provided for by the terms of this Part 1.

§ 157-22. Site inspections.

- A. The filing of an application for a disposal system building permit represents permission by the applicant for the Enforcement Officer and/or other designated person to conduct such examinations, tests and other inspections of the disposal system site. However, entrance upon the applicant's property, where practicable, shall be made only after prior notice to the applicant.
- B. The Enforcement Officer or his designee may inspect any individual sewage disposal system built after this Part 1 takes effect to ensure that it is being maintained in proper working order. It shall be unlawful for the owner or occupant of the property to deny such official or his designee access to the property at reasonable times for the purpose of making such inspections. Where practical, inspections shall be made only after reasonable notice to the owner or occupant. Where the Enforcement Officer determines that a system is not being maintained in compliance with this Part 1, he may order that use of the system cease and/or that the defects be corrected and/or misuse abated within a reasonable time. If prescribed action is not taken within the time fixed by the Enforcement Officer, he may revoke the use permit for the system.

§ 157-23. Permit expiration.

- A. Any permit issued pursuant to this Part 1 shall expire within 60 days from the date of issuance thereof, unless within such sixty-day period such permit and plans shall have been filed and duly recorded by the applicant in the Town Clerk's Office.
- B. Unless otherwise provided for in the permit, all permits shall expire within two years of issuance. Once a permit expires and the disposal system is not completed, a new permit application is required.

§ 157-24. More restrictive provisions to apply.

Where the conditions imposed by any provision of this Part 1 are less restrictive than comparable conditions imposed by any other provisions of this Part 1 or of any other statute, ordinance, local law, order, rule or regulation, the provisions which are more restrictive shall govern.

§ 157-25. Penalties for offenses.

- A. Any person owning, controlling or managing any building, structure, land or premises wherein or whereon there shall be placed on or there exists a structure or system in violation of this Part 1; or any person who shall or attempt to build, erect or construct any structure contrary to the plan or specifications submitted to the authorized official and by him certified as complying with this Part 1; and any person who shall omit, neglect or refuse to do any act required by this order shall be subject to a civil penalty of not more than \$250, to be recovered by the Town Board in any court of competent jurisdiction. Every such person shall be deemed guilty of a separate offense for each day that such violation, 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.

- B. In case of any violation or threatened violation of any of the provisions of this Part 1, in addition to other remedies herein provided, the Town Board or local Board of Health may institute any appropriate action or proceeding to prevent unlawful construction, structural alteration, repair, reconstruction, moving and/or use; to restrain, correct or abate such violation; to prevent the use of the individual sewer disposal system; or to prevent any illegal act, conduct, business or use regarding such disposal system.

§ 157-26. Misrepresentation.

Any permit or approval granted under this Part 1 which is based upon or is granted in reliance upon any material representation 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 affect the remedies available to the Town Board under the foregoing provisions of §§ 157-25 and 157-26 contained within those sections pertaining to penalties and alternative remedies.

§ 157-26.1. Service for out-of-district properties. [Added 7-10-1996]

- A. The Town of Warrensburg adopted a Sewer Use Ordinance on October 2, 1985, which, as amended, allowed property located out of the sewer district to purchase sewer service which would increase the number of properties contributing to the expenses of the sewer district.
- B. Said provision was adopted to prevent unsanitary discharge of raw sewage, on a temporary basis, until such time as the sewer district could be expanded to include the out of district properties.
- C. It has been proposed that the opportunity to receive sewer service by out-of-district property owners be regulated to protect the district from uncontrolled expansion.
- D. The proposal entails promulgation of an amendment to the Sewer Ordinance requiring out-of-district users to enter into a written agreement with the Town of Warrensburg at the time of permit issuance and tap fee payment, establishing the landowner's obligations for the installation and maintenance of such sewer pipe.
- E. Such agreement shall also establish the landowner's obligation to maintain his or her sewer connection, the power of the Town to record a lien against the property if it is not promptly and properly repaired, the prohibition of allowing other landowners other than the permittee to join without the permission of the Town of Warrensburg, the requirement of payment for sewer service and the preparation and filing of as-built drawings depicting the location of the said sewer.
- F. An earlier resolution was rescinded which required out-of-district users to sign a written agreement but which did not require filing the agreement.
- G. The written agreement should be filed with the Town of Warrensburg and with the Warren County Clerk to inform and obligate future buyers of said out-of-district

properties of their rights and obligations. All costs associated with such filings should be paid by the property owners.

- H. The Town adopts the said Sewer Ordinance amendments regulating out of district sewer service, including a provision that the written agreements be filed with the Town and Warren County Clerk.

Part 2
General Usage
[Adopted 4-25-1992]

ARTICLE II
Sewer Use

§ 157-27. Title.

For brevity and ease of communication, this Part 2 may be cited as the "Warrensburg Sewer Use Law."

§ 157-28. General purpose.

The general purpose of this Part 2 is to provide for efficient, economic, environmentally safe and legal operation of the Warrensburg publicly owned treatment works.

§ 157-29. Specific purposes.

The specific purposes of this Part 2 are as follows:

- A. To prevent the introduction of substances into the publicly owned treatment works that will:
- (1) Interfere with the publicly owned treatment works in any way.
 - (2) Pass through the publicly owned treatment works to the state's waters and cause contravention of standards for those waters or cause violation of the publicly owned treatment works' State Pollutant Discharge Elimination System permit.
 - (3) Increase the cost or otherwise hamper the disposal of publicly owned treatment works' sludge and/or residuals.
 - (4) Endanger municipal employees.
 - (5) Cause air pollution or groundwater pollution, directly or indirectly.
 - (6) Cause, directly or indirectly, any public nuisance condition.
- B. To prevent new sources of infiltration and inflow and, as much as possible, eliminate existing sources of infiltration and inflow.

- C. To assure that new sewers and connections are properly constructed.
- D. To provide for equitable distribution to all users of the publicly owned treatment works of all costs, associated with sewage transmission, treatment and residuals disposal and to provide for the collection of such costs.

§ 157-30. Definitions; word usage.

- A. When not inconsistent with the context, the present tense shall include the future, and words used in the plural shall include the singular and vice versa. Furthermore, a masculine pronoun shall include the feminine. "Shall" is mandatory; may is "permissive."
- B. Unless otherwise stated in the section, where the term is used in this Part 2, the meaning of terms used in this Part 2 shall be as stated below:

ABNORMAL SEWAGE — Sewage whose concentration of one or more characteristics of normal sewage exceeds the maximum concentrations of the characteristics of normal sewage. See "normal sewage."

ACT or THE ACT — The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. § 1251, et seq., as may be amended.

ADMINISTRATOR — The Regional Administrator of the United States Environmental Protection Agency (USEPA), Region 2.

AMMONIA — The result obtained, using an approved laboratory procedure, to determine the quantity of ammonia in a sample, expressed as milligrams of nitrogen per liter.

APPLICANT — That person who makes application for any permit. The applicant may be an owner, new or old, or his agent.

APPROVAL AUTHORITY — The United States Environmental Protection Agency (USEPA) or the New York State Department of Environmental Conservation (NYSDEC), in the event that the NYSDEC is delegated approval authority responsibility by the USEPA.

APPROVED LABORATORY PROCEDURE — The procedures defined as standard methods in this article or other procedures approved by the Superintendent for flow measurement or determination of the concentration of pollutants or their surrogates in waters, wastewaters and/or sludges.

ASTM (denoting American Society for Testing and Materials) — The latest edition of any American Society for Testing and Materials (ASTM) specification, when stipulated in this law.

AUTHORIZED REPRESENTATIVE OF THE INDUSTRIAL USER — An authorized representative of the industrial user may be:

- (1) A principal executive officer of at least the level of Vice President, if the industrial user is a corporation.

- (2) A general partner or proprietor, if the industrial user is a partnership or proprietorship, respectively.
- (3) A duly authorized representative of the individual designated above, if such representative is responsible for the overall operation of the facilities from which the indirect discharge originates.

BOD (denoting biochemical oxygen demand) — The result obtained when using an approved laboratory procedure to determine the quantity of oxygen utilized in the aerobic biochemical oxidation of organic matter or in a sample, expressed in milligrams per liter.

BUILDER — Any person who undertakes to construct a building or any part of a building, either under contract or for resale.

BUILDING DRAIN — That part of the lowest horizontal piping of a building drainage system which receives the discharge from soil, waste and other drainage pipes inside the building walls and conveys it to the building lateral, which begins five feet outside the inner face of the building wall.

CHLORINE DEMAND — The result obtained when using an approved laboratory procedure to determine the difference between the amount of chlorine added to a sample and the amount of chlorine remaining in the sample at the end of a specified contact time at room temperature, expressed in milligrams per liter.

COD (denoting chemical oxygen demand) — The result obtained when using an approved laboratory procedure to measure the oxygen requirement of that portion of matter, in a sample, that is susceptible to oxidation, by a specific chemical oxidant, expressed in milligrams per liter.

COLOR — The optical density at the visual wave length of maximum absorption, relative to distilled water. One hundred percent transmittance is equivalent to 0.0 optical density.

COMPOSITE SAMPLE — The sample resulting from the combination of individual samples of wastewater taken at selected intervals, for a specified time period. The individual samples may have equal volumes or the individual volumes may be proportioned to the flow at the time of sampling.

CONNECTION — Attachment of one user to a sewer. (See "extension.")

CONNECTION CHARGE (TAP FEE) — The one-time application fee to offset Town expenses to process an application for a connection of a building/street lateral to the public sewer. The fee also covers plan review, permit issuance, street repair cost and inspection costs. The fee may be scaled to the amount of work involved or to the size of the public sewer involved.

CONTROL AUTHORITY — The term shall refer to the approval authority or to the Superintendent when the Town of Warrensburg has an approved pretreatment program under the provisions of 40 CFR 403.11.

CONTROL MANHOLE — A manhole accessible to the control authority in or upstream of the street lateral, such that samples collected from the manhole represent the discharge to the publicly owned treatment works.

CONVENTIONAL POLLUTANT — A pollutant that the publicly owned treatment works treatment plant was designed to treat, defined in accordance with the Act.

COOLING WATER — The water discharged from any system of condensation, air conditioning, refrigeration or other sources. It shall contain no polluting substances which would produce chemical oxygen demand (COD) or suspended solids in excess of five milligrams per liter or toxic substances as limited elsewhere in this Part 2.

COUNTY — Warren County.⁶

DEVELOPER — Any person who subdivides land for the purpose of constructing or causing to be constructed buildings for which wastewater disposal facilities are required.

DIRECT DISCHARGE — The discharge of treated or untreated wastewater directly to the waters of the State of New York. (For reference, see "indirect discharge.")

DOMESTIC WASTE — See "sewage, domestic."

DRY SEWERS — The sanitary sewer installed in anticipation of future connection to a publicly owned treatment works but which is not used, in the meantime, for transport of storm or sanitary sewage.

END OF PIPE — For the purpose of determining compliance with limitations prescribed by this article, the control manhole, provided that the samples collected from the control manhole are representative of the discharge to the publicly owned treatment works.

END-OF-PIPE CONCENTRATION — The concentration of a substance in a sample of wastewater at end of pipe.

END-OF-PROCESS CONCENTRATION — See "National Categorical Pretreatment Standard."

EASEMENT — An acquired legal right for the specific use of land owned by others.

EPA, USEPA or UNITED STATES ENVIRONMENTAL PROTECTION AGENCY — The agency of the federal government charged with the administration and enforcement of federal environmental laws, rules and regulations. Also may be used as a designation for the Administrator or other duly authorized official of this agency.

EXTENSION — Attachment of a sewer line, with more than one user, to an existing sewer line.

FLOATABLE OIL — Oil, grease or fat in a physical state such that it will separate, by gravity, from wastewater by treatment in a wastewater treatment facility.

6. Editor's Note: The former definition of CVT, which immediately followed this definition, was deleted 7-10-1996 by L.L. No. 1-1996.

FLOW RATE — The quantity of liquid or waste that flows in a certain period of time.

GARBAGE — The solid wastes from the preparation, cooking and dispensing of food, from the handling, storage and sale of produce and from the packaging and canning of food.

GRAB SAMPLE — A single sample of wastewater representing the physical, chemical and biological characteristics of the wastewater at one point and time.

INDUSTRIAL CHEMICAL SURVEY (ICS) FORM — The form used by the New York State Department of Environmental Conservation to survey industries to perform and update the industrial chemical survey.

INDIRECT DISCHARGE — The introduction of wastewater into a publicly owned treatment works for treatment and ultimate discharge of the treated effluent to the state's waters. (For reference, see "direct discharge.").

INDUSTRIAL — Meaning or pertaining to industry, manufacturing, commerce, trade, business or institutions, and is distinguished from domestic or residential.

INDUSTRIAL CHEMICAL SURVEY (ICS) — The survey of industries in New York State, initiated by the New York State Department of Environmental Conservation (NYSDEC) to determine chemical usage and storage by those industries.

INDUSTRIAL USER — See "user, industrial."

INDUSTRIAL WASTES — The liquid or liquid-carried solids or liquid and/or gaseous wastes from industrial manufacturing processes, trades, services, utilities or businesses, as distinct from sanitary sewage.

INFILTRATION — Water, other than wastewater, that enters a sewer system (excluding building drains) from the ground through such means as defective pipes, pipe joints, connections or manholes. "Infiltration" does not include and is distinguished from inflow. "Infiltration" is inadvertent, that is, not purposely designed or built into the sewer or drain.

INFLOW — Water, other than wastewater, that enters a sewer system (including building drains) from sources such as, but not limited to, roof leaders, cellar drains, area drains, drains from springs and swampy areas, manhole covers, cross-connections between storm sewers and sanitary sewers, catch basins, cooling towers, stormwaters, foundation drains, swimming pools, surface runoff, street wash waters or drainage. "Inflow" does not include and is distinguished from infiltration. Accommodations for "inflow" are purposely designed and/or built into the sewer or drain.

INTERFERENCE — A discharge which, alone or in conjunction with discharges by other sources, inhibits or disrupts the publicly owned treatment works, its treatment processes or operations or its sludge processes, use or disposal, and therefore is a cause of a violation of any requirement of the Town's publicly owned treatment works' State Pollutant Discharge Elimination System permit (including an increase in the magnitude or duration of a violation) or of the prevention of sewage sludge use or disposal by the

publicly owned treatment works in accordance with the following statutory provisions and regulations or permits issued thereunder (or more stringent state or local regulations):

- (1) Section 405 of the Clean Water Act.
- (2) The Solid Waste Disposal Act (SWDA) [including Title II, more commonly referred to as the "Resource Conservation and Recovery Act (RCRA)"], and including state regulations contained in any state sludge management plan prepared pursuant to Subtitle D or the SWDA.
- (3) The Clean Air Act.
- (4) The Toxic Substance Control Act and the Marine Protection Research and Sanctuaries Act.

LATERAL, BUILDING — The sewer extension from the building drain to the street lateral or other place of wastewater disposal.

LATERAL, STREET — The sewer extension from the public sewer to the property line.

NATIONAL CATEGORICAL PRETREATMENT STANDARD or CATEGORICAL STANDARD — Any regulation containing pollutant discharge limits promulgated by the Environmental Protection Agency in accordance with § 307(B) and (C) of the Act (22 U.S.C. § 1347) which applies to a specific category of industrial users. These standards apply at the end of the categorical process (end of process).

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) PERMIT — A permit issued pursuant to § 402 of the Act (33 U.S.C. § 1342).

NATIONAL PROHIBITIVE DISCHARGE STANDARD or PROHIBITIVE DISCHARGE STANDARD — Any regulation developed under the authority of § 307(B) of the Act and 40 CFR 403.5.

NATURAL OUTLET — Any outlet, including storm sewers and combined sewer overflows, to state's waters.

NEW OWNER — That individual or entity who purchased property within the service area of the Town of Warrensburg after the effective date of this Part 2.

NEW SOURCE — Any source, the construction of which is commenced after the publication of the proposed regulation prescribing a Categorical Pretreatment Standard [§ 307(C) (33 U.S.C. § 1317)] which will be applicable to such source, if such standard is thereafter promulgated.

NEW USER — A discharger to the publicly owned treatment works who commences discharge after the effective date of this Part 2.

NORMAL SEWAGE — See "sewage, normal."

NUISANCE — The use or lack of use of the publicly owned treatment works in such a manner so as to endanger life or health, give offense to the senses or obstruct or

otherwise interfere with the reasonable use or maintenance of the publicly owned treatment works.

OIL AND GREASE — The result obtained when using an approved laboratory procedure to determine the quantity of fats, wax, grease and oil in a sample, expressed in milligrams per liter.

OLD OWNER — That individual or entity who owns or owned a property within the service area of the publicly owned treatment works, purchased prior to the effective date of this Part 2, or who inherited the property at any time and intends to sell the property or has sold the property to a new owner; also the agent of the "old owner."

OTHER WASTES — Garbage (shredded or unshredded), refuse, wood, egg shells, coffee grounds, sawdust, shavings, bark, sand, lime, ashes and all other discarded matter not normally present in sewage or industrial wastes. Also, the discarded matter not normally present in sewage or industrial waste.

PASS-THROUGH — The discharge which exits the Town's publicly owned treatment works into waters of the state in quantities which, alone or in conjunction with discharges from other sources, is a cause of a violation of any requirement of the publicly owned treatment works' State Pollutant Discharge Elimination System permit (including an increase in the magnitude or duration of a violation).

PERMIT — A temporary revocable written document allowing use of the publicly owned treatment works for specified wastes over a limited period of time, containing sampling locations and reporting frequencies, and requiring other actions as authorized by this Part 2.

PERSON — Any individual, public or private corporation, political subdivision, federal, state or local agency or entity, association, trust, estate or any other legal entity whatsoever.

pH — The logarithm (base 10) of the reciprocal of the weight of hydrogen ions, in gram moles per liter of solution. A pH value of 7.0, the pH scale midpoint, represents neutrality; above 7.0 represents acid conditions.

PHOSPHORUS, TOTAL — See total phosphorus.

POLLUTANT — Any material placed into or onto the state's waters, lands and/or airs which interferes with the beneficial use of that water, land and/or air by any living thing at any time.

POLLUTION — The man-made or man-induced alteration of the chemical, physical, biological and/or radiological integrity of the state's waters, lands and/or airs resulting from the introduction of a pollutants into these media.

PRETREATMENT (TREATMENT) — The reduction of the amount of pollutants, the elimination of pollutants or the alteration of the nature of pollutant properties in wastewater to a less harmful state prior to or in lieu of discharging or otherwise introducing such pollutants into a publicly owned treatment works. The reduction or

alteration can be achieved by physical, chemical or biological process; process changes or by other means, except as prohibited by 40 CFR 403.6(D).

PRETREATMENT REQUIREMENTS — Any substantive or procedural requirement related to pretreatment, other than a National Pretreatment Standard imposed on an industrial user.

PRETREATMENT STANDARD OR NATIONAL PRETREATMENT STANDARD — Any Categorical Pretreatment or Prohibitive Discharge Standard.

PRIORITY POLLUTANTS — The most recently revised or updated list developed by the Environmental Protection Agency, in accordance with the Act.

PROHIBITIVE DISCHARGE STANDARD — See "National Prohibitive Discharge Standard."

PROPERLY SHREDDED GARBAGE — The wastes from the preparation, cooking and dispensing of food that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, and with no particle having a dimension greater than one-half (1/2) inch in any dimension.

PUBLICLY OWNED TREATMENT WORKS (POTW) — A treatment works, as defined by § 212 of the Act (33 U.S.C. § 1292), which is owned, in this instance, by the Town of Warrensburg. This definition includes any sewers and appurtenances that transport wastewater to the publicly owned treatment works treatment plant, but does not include pipes, sewers or other conveyances not connected directly or indirectly to a facility providing treatment.

PUBLICLY OWNED TREATMENT WORKS (POTW) TREATMENT PLANT — That portion of the publicly owned treatment works designed to provide treatment to wastewater and to treat sludge and residuals derived from such treatment.

RECEIVING WATERS — A natural watercourse or body of water (usually waters of the state) into which treated or untreated sewer is discharged.

ROOF DRAIN — A drain installed to receive water collecting on the surface of a roof for disposal.

SEPTAGE — All liquids and solids in and removed from septic tanks, holding tanks, cesspools or approved types of chemical toilets, including, but not limited to, those serving private residences, commercial establishments, institutions and industries, also sludge from small sewage treatment plants. "Septage" shall not have been contaminated with substances of concern or priority pollutants.

SEPTIC TANK — A private domestic sewage treatment system consisting of an underground tank (with suitable baffling) constructed in accordance with any and/or all local and state requirements.

SERVICE AREA OF THE PUBLICLY OWNED TREATMENT WORKS — The legally defined bounds of real property from which wastewater may be discharged into

the publicly owned treatment works. The bounds shall be established, altered, changed, modified, reduced, enlarged, combined or consolidated by action of the Town Board.

SEWAGE — A combination of the water-carried wastes from residences, business buildings, institutions and industrial establishments and such groundwater, surface water and stormwater as may be inadvertently present. The admixture of sewage, as defined above, with industrial wastes and other wastes shall also be considered "sewage" within the meaning of this definition.

SEWAGE, DOMESTIC (DOMESTIC WASTES) — Liquid wastes from the noncommercial preparation, cooking and handling of food, liquid wastes containing human excrement and similar matter from the sanitary conveniences in dwellings, commercial buildings, industrial buildings and institutions or liquid wastes from clothes washing and/or floor/wall washing. Therefore, "domestic sewage" includes both black water and gray water. (See "sewage, sanitary.")

SEWAGE, NORMAL —

- (1) Sewage, industrial wastes or other wastes which show, by analysis, the following characteristics per each 1,000,000 gallons:
 - (a) BOD (five-day): 2,090 pounds (250 milligrams per liter) or less.
 - (b) Suspended solids: 2,500 pounds (300 milligrams per liter) or less.
 - (c) Phosphorus: 125 pounds (15 milligrams per liter) or less.
 - (d) Ammonia: 250 pounds (30 milligrams per liter) or less.
 - (e) Total Kjeldahl nitrogen: 417 pounds (50 milligrams per liter) or less.
 - (f) Chlorine demand: 209 pounds (25 milligrams per liter) or less.
 - (g) COD: 2920 pounds (350 milligrams per liter) or less.
 - (h) Oil and grease: 830 pounds (100 milligrams per liter) or less.
- (2) In spite of satisfying one or more of these characteristics, if the sewage also contains substances of concern, it may not be considered "normal sewage."

SEWAGE, SANITARY — Liquid wastes from the sanitary conveniences of dwellings (including apartment houses and hotels), office buildings, factories or institutions and free from stormwater, surface water, industrial and other wastes. (See "domestic wastes.")

SEWAGE TREATMENT PLANT (WATER POLLUTION CONTROL PLANT) — See "publicly owned treatment works treatment plant."

SEWAGE, UNUSUAL STRENGTH OR CHARACTER — Sewage which has characteristics greater than those of normal sewage and/or which contains substances of concern.

SEWER — A pipe or conduit for carrying or transporting sewage.

SEWERAGE SURCHARGE — The demand payment for the use of a public sewer and/or sewage treatment plant for the handling of any sewage, industrial wastes or other wastes accepted for admission thereto in which the characteristics thereof exceed the maximum values of such characteristics in normal sewage. (See "volume charge.")

SEWERAGE SYSTEM — All facilities for collecting, regulating, pumping and transporting wastewater to and away from the publicly owned treatment works treatment plant. See also "publicly owned treatment works (POTW)."

SEWER, COMBINED — A sewer designed to receive and transport both surface runoff and sewage.

SEWER, PUBLIC — A sewer in which all abutting property owners have equal rights and the use of which is controlled by the Town of Warrensburg.

SEWER, SANITARY — A sewer which carries sewage and to which stormwater, surface water and groundwater are not intentionally admitted.

SEWER, STORM (STORM DRAIN) — A sewer which carries storm- and surface waters and drainage, but excludes sewage and industrial wastewaters, other than cooling waters and other unpolluted waters.

SIGNIFICANT INDUSTRIAL USER — See "user, significant industrial."

SIGNIFICANT NONCOMPLIANCE (SNC) — A user is in "significant noncompliance" if its violation(s) meet(s) one or more of the following criteria:

- (1) The chronic violations of wastewater discharge limits, defined here as those, in 66% or more of all of the measurements taken during a six-month period, which exceed (by any magnitude) the daily maximum limit or average limit for the same pollutant parameter.
- (2) Technical review criteria (TRC) violations, defined here as those in which 33% or more of all of the measurements for each pollutant parameter taken during a six-month period equal or exceed the product of the daily maximum limits multiplied by the applicable TRC (TRC equals 1.4 of BOD, total suspended solids, fats, oil and grease; TRC equals 1.2 for all other pollutants).
- (3) Any other violation of a pretreatment effluent limit (daily maximum or long-term average) that the Superintendent determines has caused, alone or in combination with other discharges, interference or pass-through (including endangering the health of personnel or the general public).
- (4) Any discharge of a pollutant that has caused imminent endangerment to human health, welfare or to the environment or has resulted in the Superintendent's exercise of his emergency authority under Article III of this Part 2.
- (5) The failure to meet, within 90 days after the schedule date, a compliance schedule milestone contained in a local control mechanism or enforcement order for starting construction, completing construction or attaining final compliance.

- (6) The failure to provide, within 30 days after the due date, required reports, such as baseline monitoring reports, ninety-day compliance reports, periodic self-monitoring reports and reports on compliance with compliance schedules.
- (7) The failure to report accurately any noncompliance.
- (8) Any other violation which the Superintendent determines will adversely affect the implementation or operation of the local pretreatment program.

SLUG — A substantial deviation from normal rates of discharge or constituent concentration (see normal sewage) sufficient to cause interference. In any event, a discharge which, in concentration of any constituent or in quantity of flow, that exceeds for any period of duration longer than 15 minutes more than five times the average twenty-four-hour concentration or flow during normal user operations shall constitute a "slug."

STANDARD INDUSTRIAL CLASSIFICATION — A classification pursuant to the Standard Industrial Classification Manual issued by the Executive Office of the President, Office of Management and Budget, 1972, and subsequent revisions.

STANDARD METHODS — Procedures contained in the latest edition of Standard Methods for the Examination of Water and Wastewater, published by the American Public Health Association; procedures established by the Administrator, pursuant to § 304(G) of the Act and contained in 40 CFR 136, and amendments thereto. (If 40 CFR 136 does not include a sampling or analytical technique for the pollutant in question, then procedures set forth in the Environmental Protection Agency publication, Sampling and Analysis Procedures for Screening of Industrial Effluents for Priority Pollutants, April 1977, and amendments thereto, shall be used), any other procedure approved by the Administrator or any other procedure approved by the Superintendent, whichever is the most conservative.

STATE — State of New York.

STATE'S WATERS — See "waters of the state."

STORMWATER — Any flow occurring during or following any form of natural precipitation; also the flow resulting therefrom.

SUBSTANCES OF CONCERN — Those compounds which the New York State Department of Environmental Conservation has determined may be harmful to man or the environment.

SUMP PUMP — A mechanism used for removing water from a sump or wet well.

SUPERINTENDENT — That individual appointed by the Town Board, as the Superintendent of Water. Such an individual shall be qualified to oversee water treatment and distribution and publicly owned treatment works operations. This definition shall also include his authorized deputy, agent or representative.

SUSPENDED SOLIDS — The result obtained, using an approved laboratory procedure, to determine the dry weight of solids, in a sample, that either float on the surface of or

are in suspension or are settleable and can be removed from the sample by filtration, expressed in milligrams per liter.

TOTAL KLELDAHL NITROGEN (TKN) — The result obtained, using an approved laboratory procedure, to determine the quantity of ammonia in a sample and released during the acid digestion of organic nitrogen compounds, expressed as milligrams of nitrogen per liter.

TOTAL PHOSPHORUS — The result obtained, using an approved laboratory procedure, to determine the total quantity of orthophosphate in a sample of wastewater following the hydrolysis of phosphorus compounds, expressed as milligrams of phosphorus per liter of sample.

TOWN — The Town of Warrensburg.

TOXIC SUBSTANCES — Any substance, whether gaseous, liquid or solid, that, when discharged to a public sewer in sufficient quantities may be hazardous to publicly owned treatment works operation and maintenance personnel, tends to interfere with any biological sewage treatment process or constitutes a hazard to recreation in the receiving waters due to the effluent from a sewage treatment plant or overflow point. Any pollutant or combination of pollutants listed as toxic in regulations promulgated by the Environmental Protection Agency under provisions of § 307(A) of the Clean Water Act or other Acts.

USER — Any person who contributes, causes or permits the contribution of wastewater into the publicly owned treatment works.

USER, EXISTING — A discharger to the publicly owned treatment works who is discharging on or before the effective date of this Part 2.

USER, INDUSTRIAL — A discharger to the publicly owned treatment works who discharges nondomestic wastewaters.

USER, NEW — A discharger to the publicly owned treatment works who initiates discharge after the effective date of this Part 2.

USER, SIGNIFICANT INDUSTRIAL (SIU) —

- (1) An industrial user of the Town of Warrensburg publicly owned treatment works who is:
 - (a) Subject to National Categorical Pretreatment Standards promulgated by the Environmental Protection Agency.
 - (b) Having substantial impact, either singly or in combination with other industries, on the operation of the treatment works.
 - (c) Using, on an annual basis, more than 10,000 pounds or 1,000 gallons of raw material containing priority pollutants and/or substances of concern and discharging a measurable quantity of these pollutants to the sewer system.

- (d) Discharging more than 5% of the flow or load of conventional pollutants received by the publicly owned treatment works treatment plant.
- (2) A user discharging a measurable quantity of a pollutant may be classified as nonsignificant if, in the influent to the publicly owned treatment works treatment plant, the pollutant is not detectable.

USER UNIT — The basic charge for sewer service based upon a typical residential (2.3 persons) average flow of approximately 260 gallons per day, taking into consideration all pertinent factors that may affect the overall operation of the sewer system, including water consumption, number and kind of plumbing fixtures and appliances served by the sewer system, the number of persons and volume and character of the sewage.

VOLUME CHARGE (USER CHARGE) — The demand sewer use charge which based, in part or wholly, on the volume of normal sewage discharged into the public owned treatment works (there may be surcharges, as provided for in Article III). The volume charge shall be based on a specific cost per 100 cubic feet or per 1,000 gallons. The specific charge shall be subject to approval by the Town Board. The moneys so obtained shall be used for current operation and maintenance, for retirement of bonded indebtedness and for funding of capital projects of the publicly owned treatment works. The basis of volume charge calculations shall be made available to the public, on demand, as provided in Article III. The volume charge shall be recalculated annually, as well as the surcharge rates.

WASTEWATER — The liquid and water-carried industrial or domestic wastewaters from dwellings, commercial establishments, industrial facilities and institutions, together with any ground-, surface and storm water that may be present, whether treated or untreated, which is contributed into or permitted to enter the publicly owned treatment works.

WASTEWATER DISCHARGE PERMIT — A permit as set forth in Article II of this Part 2.

WASTEWATER, UNUSUAL STRENGTH OR CHARACTER — See "sewage, unusual strength or character."

WATERS OF THE STATE (STATE'S WATERS) — All streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through or border upon the state or any portion thereof.

§ 157-31. Abbreviations.

The following abbreviations shall have the designated meanings:

ANSI	-	American National Standards Institute
ASTM	-	American Society for Testing and Materials
AWWA	-	American Water Works Association

BOD	- Biochemical oxygen demand
CFR	- Code of Federal Regulations
CPLR	- Code of Public Law and Rules
COD	- Chemical oxygen demand
EPA	- Environmental Protection Agency
l	- Liter
mg	- Milligram
mg/l	- Milligrams per liter
NCPI	- National Clay Pipe Institute
NPDES	- National Pollutant Discharge Elimination System
NYSDEC	- New York State Department of Environmental Conservation
NYSDOH	- New York State Department of Health
NYSDOT	- New York State Department of Transportation
p	- Total phosphorus
psi	- Pounds per square inch
POTW	- Publicly owned treatment works
ppm	- Parts per million, weight basis
SIC	- Standard Industrial classification
SPDES	- State Pollutant Discharge Elimination System
SWDA	- Solid Waste Disposal Act, 42 U.S.C. § 690 L, et seq.
U.S.C.	- United State Code of Laws
USEPA	- United States Environmental Protection Agency
TSS	- Total suspended solids

§ 157-32. Undefined terms.

Terms not defined in this article or terms found to be ambiguous or improperly defined in this article shall be defined by the Act or regulations pursuant thereto.

§ 157-33. Waste disposal unlawful.

It shall be unlawful for any person to place, deposit or permit to be deposited in any unsanitary manner on public or private property within the Town of Warrensburg or in any area under the jurisdiction of the said municipality any human or animal excrement, garbage or objectionable waste. Also, no person shall discharge domestic sewage onto the surface of the ground or discharge it in a way that permits it to come to the surface of the ground.

§ 157-34. Connecting private sewage system to storm sewer unlawful.

No person shall connect a private sewage system so that sewage flows into a storm sewer or into a drain intended exclusively for stormwater after January 1, 1994.

§ 157-35. Discharge into well prohibited.

No person shall discharge sewage into a well.

§ 157-36. Wastewater discharge unlawful.

It shall be unlawful to discharge to any natural outlet within the Town of Warrensburg or in any area under the jurisdiction of the said municipality any wastewater or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this Part 2.

§ 157-37. Sanitary facilities for new structures.

No property owner, builder or developer shall be issued a building permit for a new dwelling or structure requiring sanitary facilities unless a suitable and approved method of wastewater disposal, conforming to this Part 2, is available. All housing construction or building development which takes place after this Part 2 is enacted shall provide for an approved system of sanitary sewers.

§ 157-38. Private wastewater disposal unlawful.

Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, cesspool, septic tank or other facility intended or used for disposal of wastewater.

§ 157-39. Connection to public sewer required; fee.

- A. The owner(s) of all houses, buildings or properties used for human occupancy, employment, recreation or other purposes, situated within the Town and abutting on any street, alley or right-of-way in which there is now located or may in the future be located a public sewer, are hereby required, at the owner's expense, to install suitable sanitary facilities therein and to connect such facilities directly with the proper public sewer, except as set forth in § 157-49 herein. Such connection shall be made in accordance with the provisions of this Part 2 within 90 days after official notice to do so, provided that said public sewer is within 100 feet (30.5 meters) of the property line.
- B. A fee, as set forth from time to time by resolution of the Town Board, shall be charged for each connection to the sewer. However, said fee shall be waived for those connections which are made during the initial construction phase of the sewer and prior to the expiration of said ninety-day notice. [Amended 7-10-1996 by L.L. No. 1-1996]

§ 157-40. Limitation on use of public sewers.

The use of the Town public sewers shall be strictly limited and restricted, except as provided in § 157-39, to receive and accept the discharge of sewage and other wastes, including industrial wastes generated on or discharged from real property within the bounds of the service area of the POTW.

§ 157-41. Wastewater from outside publicly owned treatment works service area.

The Town Board, on the recommendation of the Superintendent, shall have the authority to enter into agreements to accept sewage and other wastes, including industrial wastes, generated by or discharged from persons outside the service area of the POTW. If the person is a municipality, that municipality shall have enacted a sewer use law as restrictive on the discharge of sewage and other wastes as the restrictions contained in this Part 2. If the person is not a municipality, the discharge shall be made only with the expressed written consent of the Superintendent (the issuance of a permit) setting forth the terms and conditions of such a discharge.

§ 157-42. Moratorium.

- A. Moratorium of service shall commence upon recommendation of the Superintendent, who determines that:
- (1) One or more segments of the POTW is exceeding its hydraulic capacity at any time.
 - (2) Any specific purpose of this Part 2 is being violated.
- B. The Town board shall have the authority to limit or deny new connections to the POTW until the conditions leading to the moratorium are corrected. Such correction may be by:
- (1) Construction of new facilities.
 - (2) Enlarging existing facilities.
 - (3) Correction of inflow and infiltration.
 - (4) Cleaning and repairing of existing facilities.

§ 157-43. Basis of sewer use requirements.

All requirements, directives and orders calling for mandatory use of the sewers within the service area of the POTW for the proper discharge of sewage and other wastes, including industrial wastes, shall be established and given by the Town Board, NYSDEC, USEPA and/or other such state or federal agencies which have enforcement powers.

§ 157-44. Public sewer unavailable. [Amended 7-10-1996 by L.L. No. 1-1996]

Where a public sewer is not available, under the provisions of § 157-39, the building lateral shall be connected to a private wastewater disposal system complying with the provisions of Part 1, Sanitary Code, with the more stringent standards to apply.

§ 157-45. Construction permit.

A written construction permit shall be obtained from the Superintendent before construction commencement. The Superintendent or his designated representative shall be permitted to inspect the construction work at any stage without prior notice.

§ 157-46. Repair of private disposal system; responsibility for charges.

When the liquid or liquid-borne effluent from a private wastewater disposal system enters any watercourse, ditch, storm sewer or water supply system located in the Town of Warrensburg in such a manner, volume and concentration so as to create a hazardous, offensive or objectionable condition in the opinion of the County Health Department or the New York State Department of Health (NYSDOH), the owner of the premises upon which such wastewater disposal system is located, upon receiving written notice from the Superintendent to do so, shall, within 90 days after receipt of such notice, repair, rebuild or relocate such wastewater disposal system for the purpose of eliminating such hazardous, offensive or objectionable conditions. The repair, rebuilding or relocation of the system shall be accomplished in accordance with the rules and regulations of the NYSDOH and Part 1, Sanitary Code, at the owner's expense.

§ 157-47. Maintenance of private disposal system.

The owner shall operate and maintain the private wastewater disposal system in a satisfactory manner at all times, at the owner's expense.

§ 157-48. Septage removal.

Where a private wastewater disposal system utilizes a cesspool or a septic tank, septage shall be removed from the cesspool or septic tank by an experienced hauler of trucked and hauled wastes, at three-year intervals or more frequently, at the owner's expense.

§ 157-49. Connection to new public sewers required; benefit tax; expiration.

- A. At such time that the public sewer becomes available to a property, a direct connection shall be made to the public sewer in compliance with this Part 2, except as set forth below, and any cesspool, septic tank and similar wastewater disposal facilities shall be cleaned of septage by a licensed septage hauler and finally either filled with clean sand, bank-run gravel or dirt or removed and properly disposed. When the connection is made to the public sewer, the connection to the private wastewater disposal facility shall be broken and both ends of the break shall be plugged, as appropriate. Alternatively, the septic tank effluent may be piped or pumped to the sewer; the owner shall provide easement to the septic tank for septage removal.
- B. If, at the time the public sewer becomes available, a privately owned waste water disposal facility meets all of the then current rules, regulations and standards, after inspection by the Code Enforcement Officer of the Town, the owner shall have the option of continuing to use such facility for a period of three years from the date of the

inspection, provided that the owner thereof agrees, in writing, to pay a benefit assessment tax. Such tax shall be calculated yearly as the amount of the capital cost and interest per user unit, excluding all charges or assessments for operation or maintenance. The owner may renew this agreement for additional three-year periods up to a maximum of 12 years, provided that the wastewater system continues to meet all the applicable rules, regulations and standards and that the benefit assessment taxes are not in arrears. This provision will expire, in any event, on January 1, 2005, at which time a direct connection shall be made to an available public sewer. [Amended 7-13-1994; 2-8-1995]

§ 157-50. Additional requirements.

No statement in this article shall be construed to prevent or interfere with any additional requirements that may be deemed necessary by the Superintendent to protect public health and public welfare.

§ 157-51. Design of new sewers or extensions.

New sanitary sewers and all extensions to sanitary sewers owned and operated by the Town of Warrensburg shall be designed by a professional licensed to practice sewer design in the state in accordance with the Recommended Standards for Sewage Works, as adopted by the Great Lakes-Upper Mississippi River Board of State Sanitary Engineers (Ten State Standards), and in strict conformance with all requirements of the NYSDEC. Plans and specifications shall be submitted to and written approval shall be obtained from the Superintendent, the Warren County Health Department and the NYSDEC before initiating any construction. The design shall anticipate and allow for flows from all possible future extensions or developments within the immediate drainage area.

§ 157-52. New sewers subject to approval; inspection; charges.

- A. When a property owner, builder or developer proposes to construct sanitary sewers or extensions to sanitary sewers in an area proposed for subdivision, the plans, specifications and method of installation shall be subject to the approval of the Superintendent and the Warren County Health Department, in accordance with § 157-51. Said property owner, builder or developer shall pay for the entire installation, including a proportionate share of the treatment plant, intercepting or trunk sewers, pumping stations, force mains and all other Town expenses incidental thereto. Each street lateral shall be installed and inspected pursuant to Article II, and inspection fees shall be paid by the applicant prior to initiating construction.
- B. Design and installation of sewers shall be as specified in § 157-54, and in conformance with Paragraphs 3 through 6 of ASTM Specification C-12. The installation of the sewer shall be subject to periodic inspection by the Superintendent, without prior notice. The Superintendent shall determine whether the work is proceeding in accordance with the approved plans and specifications and whether the completed work will conform with the approved plans and specifications. The sewer, as constructed, must pass the infiltration test (or the exfiltration test, with prior approval), required in § 157-58, before any building lateral is connected thereto. The Superintendent shall be notified 30 days in

advance of the start of any construction actions so that such inspection frequencies and procedures, as may be necessary or required, may be established. No new sanitary sewers will be accepted by the Town Board until such construction inspections have been made so as to assure the Town Board of compliance with this Part 2 and any amendments or additions thereto. The Superintendent has the authority to require such excavation as necessary to inspect any installed facilities, if the facilities were covered or otherwise backfilled before they were inspected, so as to permit inspection of the construction. The Superintendent shall report all findings of inspections and tests to the Town Board.

§ 157-53. Submission of plans and pipe test results required.

Plans, specifications and methods of installation shall conform to the requirements of these §§ 157-51 through 157-68. Components and materials of wastewater facilities not covered in this Part 2, such as pumping stations, lift stations or force mains, shall be designed in accordance with § 157-51 and shall be clearly shown and detailed on the plans and specifications submitted for approval. Force main details are covered in §§ 157-65 and 157-66. When requested, the applicant shall submit to the Superintendent and to the Warren County Health Department all design calculations and other pertinent data to supplement review of the plans and specifications. Results of manufacturer's tests on each lot of pipe delivered to the job site shall also be furnished, upon request.

§ 157-54. Sewer pipe requirements.

A. Sewer pipe material shall be as follows:

- (1) Concrete pipe. Reinforced concrete pipe (note that nonreinforced concrete pipe shall not be used) shall be used. Portland cement shall conform to ASTM C-150 Type II. The pipe and specials shall conform to ASTM Specification C-76. The reinforcing wire cage shall conform to ASTM Specification A-15, A-82 or A-185, as appropriate. Entrained air shall be 5.0% to 9.0% by ASTM C-890. Water absorption and three-edge bearing tests shall conform to ASTM Specification C-497. Gaskets shall conform to Sections 3.3 and 3.4 of AWWA Specification C-302.
- (2) Cast-iron pipe. Extra-heavy cast-iron pipe shall be used. Pipe, fittings and specials shall conform to the requirements of ASTM Specification A-74 or ANSI A-21.11. Gaskets shall conform to ASTM Specification C-564.
- (3) Polyvinyl chloride (PVC) pipe. Heavy wall polyvinyl chloride (PVC) pipe shall be used. Pipe shall be made from Class 12454-B materials or better, in accordance with ANSI/ASTM Specification D-1784. Pipe and accessories shall conform to the requirements of the following, with a minimum pipe stiffness of 46 pounds per square inch at a maximum deflection of 5%: ANSI/ASTM D-3034 [four to fifteen (4 - 15) inch]; ASTM F-G79 Type I [eighteen to twenty-seven (18 - 27) inch].
- (4) Ductile iron pipe. Pipe, fittings and specials shall be manufactured in accordance with ASTM Specification A-746. Pipe shall have a minimum thickness of Class 50. Fittings shall conform to ANSI Specification A-21.11 and have a minimum

pressure class rating of 150 PSI. All pipe and fittings shall be cement mortar lined in accordance with ANSI Specification A-21.4 at twice the specified thickness and have an internal and external bituminous seal coating. Closure pieces shall be jointed by means of a mechanical coupling of the cast sleeve-type.

- (5) Clay pipe. Extra-strength vitrified clay pipe shall be used (note that standard-strength vitrified clay pipe shall not be used). Pipe shall conform to the current requirements of NCPI Specification ER-3300-67 and meet the requirements of ASTM Specification C-700.
 - (6) Acrylonitrile/butadiene/styrene (ABS) pipe. Pipe and fittings shall conform to the requirements of ASTM Specification D-2661.
 - (7) Other pipe materials. Other pipe materials require prior written approval of the Superintendent before being installed.
- B. The minimum internal pipe diameter shall be eight inches.
- C. Joints for the selected pipe shall be designed and manufactured such that O-ring gaskets of the snap-on type are used.
- D. Gaskets shall be continuous, solid natural or synthetic rubber and shall provide a positive compression seal in the assembled joint, such that the requirements of §§ 157-58 through 157-64 are met.
- E. Joint preparation and assembly shall be in accordance with the manufacturer's recommendations.
- F. Y-branch fittings shall be installed for connection of street laterals, in accordance with §§ 157-78 through 157-80.

§ 157-55. Design requirements for safety.

- A. Selection of pipe class shall be predicated on the following criteria:
- (1) Safety factor: 1.5.
 - (2) Load factor: 1.7.
 - (3) Weight of soil: 120 pounds per cubic foot.
 - (4) Wheel loading: 16,000 pounds.
- B. Utilizing the foregoing information, design shall be made as outlined in Chapter IX of the Water Pollution Control Federation Manual of Practice No. 9, latest edition, Design and Construction of Sanitary and Storm Sewers, and the pipe shall have sufficient structural strength to support all loads to be placed on the pipe, with a safety factor as specified above.
- C. Polyvinyl chloride (PVC) pipe shall not be encased in concrete due to their different coefficients of linear thermal expansion.

§ 157-56. Sewer pipe installation.

- A. Local utilities shall be contacted to verify construction plans and to make arrangements to disconnect all utility services, where required to undertake the construction work. The utility services shall later be reconnected. The work shall be scheduled so that there is minimum inconvenience to local residents. Residents shall be provided proper and timely notice regarding disconnection of utilities.
- B. The construction rights-of-way shall be cleared only to the extent needed for construction. Clearing consists of removal of trees which interfere with construction; removal of underbrush, logs and stumps and other organic matter; removal of refuse, garbage and trash; removal of ice and snow; and removal of telephone and power poles and posts. Any tree which will not hinder construction shall not be removed and shall be protected from damage by any construction equipment. Debris shall not be burned, but hauled for disposal in an approved manner.
- C. The public shall be protected from personal and property damage as a result of the construction work.
- D. Traffic shall be maintained at all times in accordance with applicable highway permits. Where no highway permits are required, at least 1/2 of a street shall be kept open for traffic flow.
- E. Erosion control shall be performed throughout the project to minimize the erosion of soils onto lands or into waters adjacent to or affected by the work. Erosion control can be effected by limiting the amount of clearing and grubbing prior to trenching, proper scheduling of the pipe installation work, minimizing time of open trench, prompt grading and seeding and filtration of drainage.
- F. The trench shall be excavated only wide enough for proper installation of the sewer pipe, manholes and appurtenances. Allowances may be made for sheeting, dewatering and other similar actions to complete the work. Roads, sidewalks and curbs shall be cut by sawing before trench excavation is initiated.
- G. Under ordinary conditions, excavation shall be by open cut from the ground surface. However, tunneling or boring under structures other than buildings may be permitted. Such structures include crosswalks, curbs, gutters, pavements, trees, driveways and railroad tracks.
- H. Open trenches shall be protected at all hours of the day with barricades, as required.
- I. Trenches shall not be open for more than 30 feet in advance of pipe installation, nor left unfilled for more than 30 feet in the rear of the installed pipe, when the work is in progress, without permission of the Superintendent. When work is not in progress, including overnight, weekends and holidays, the trench shall be backfilled to ground surface.
- J. The trench shall be excavated approximately six inches deeper than the final pipe grade. When unsuitable soils are encountered, these shall be excavated and replaced with select materials.

- K. Ledge rock, boulders and large stones shall be removed from the trench sides and bottom. The trench shall be over-excavated at least 12 inches for five feet at the transition from rock bottom to earth bottom, centered on the transition.
- L. Maintenance of grade, elevation and alignment shall be done by some suitable method or combination of methods.
- M. No structure shall be undercut unless specifically approved by the Superintendent.
- N. Proper devices shall be provided and maintained operational at all times to remove all water from the trench as it enters. At no time shall the sewer line be used for removal of water from the trench.
- O. To protect workers and to prevent caving, shoring and sheeting shall be used, as needed. Caving shall not be used to backfill the trench. Sheeting shall not be removed, but cut off no lower than one foot above the pipe crown nor no higher than one foot below final grade and left in the trench during backfill operations.
- P. The pipe barrel shall be supported along its entire length on a minimum of six inches of crusher-run maximum one-half-inch stone, free of organic material. This foundation shall be firmly tamped in the excavation.
- Q. Bell holes shall be hand excavated, as appropriate.
- R. Pipe shall be laid from low elevation to high elevation. The pipe bell shall be up-gradient; the pipe spigot shall be down-gradient.
- S. The joints shall be made and the grade and alignment checked and made correct.
- T. The pipe shall be in straight alignment.
- U. When a smaller sewer joins a larger one, the invert of the larger sewer shall be lowered sufficiently to maintain the same hydraulic gradient. An approximate method which may be used for securing this result is to place the eight-tenths depth of both sewers at the same elevation.
- V. Crushed stone shall be placed over the laid pipe to a depth of at least six inches. The embedding of thermoplastic pipe shall be in accordance with ASTM D-2321, using Class 1-A or 1-B backfill materials. Care shall be exercised so that stone is packed under the pipe haunches. Care shall be exercised so that the pipe is not moved during placement of the crushed stone.
- W. The migration of fines from surrounding backfill or native soils shall be restricted by gradation of embedment materials or by use of suitable filter fabric.
- X. The remaining portion of the trench above the pipe embedment shall be backfilled in foot lifts which shall be firmly compacted. Compaction near/under roadways, driveways, sidewalks and other structures shall be to 95% of the maximum moisture-density relationship, as determined by ASTM Specification D-698, Method D. Ice, snow or frozen material shall not be used for backfill.

§ 157-57. Manholes.

- A. Design of all manholes shall be submitted to the Superintendent and shall receive approval prior to placement.
- B. Manholes shall be placed where there is a change in slope or alignment and at intervals not exceeding 400 linear feet.
- C. Manhole bases shall be constructed or placed on a minimum of six inches of crusher-run, maximum one-half-inch stone, free of organic materials.
- D. Manhole bases shall be constructed of four-thousand-pounds-per-square-inch (twenty-eight-day) concrete, eight inches thick, or shall be precast bases properly bedded in the excavation. Field constructed bases shall be monolithic, properly reinforced, and extend at least six inches beyond the outside walls of lower manhole sections. Precast manhole bases shall extend at least six inches beyond the outside walls of lower manhole sections.
- E. Manhole construction.
 - (1) Manholes shall be constructed using precast, minimum four foot diameter concrete manhole barrel sections and an eccentric top section conforming to ASTM Specification C-478, with the following exceptions on wall thickness:

Manhole Diameter (feet)	Wall Thickness (inches)
4	5
5	6
6	7
6 1/2	7 1/2
7	8
8	9

- (2) All sections shall be cast solid, without lifting holes. Flattop slabs shall be a minimum of eight inches thick and shall be capable of supporting an H-20 loading.
- F. All joints between sections shall be sealed with an O-ring rubber gaskets, meeting the same specifications as pipe joint gaskets, or butyl joint sealant completely filling the joint.
- G. All joints shall be sealed against infiltration. All metal parts shall be thickly coated with bitumastic or elastomeric compound to prevent corrosion.
- H. No steps or ladder rungs shall be installed in the inside or outside manhole walls at any time.
- I. No holes shall be cut into the manhole sections closer than six inches from the joint surfaces.

- J. Manholes which extend above grade shall not have an eccentric top section. The top plate shall be large enough to accommodate the cover lifting device and the cover.
- K. The elevation of the top section shall be such that the cover-frame top elevation is 0.5 feet above the one-hundred-year-flood elevation (in a field), 0.5 feet above a lawn elevation or at finished road or sidewalk grade.
- L. When located in a traveled area (road or sidewalk), the manhole frame and cover shall be heavy-duty cast-iron. When located in a lawn or in a field, the manhole frame and cover may be light-duty cast-iron. The cover shall be 36 inches in diameter. The minimum combined weight of the heavy duty frame and the cover shall be 735 pounds, plus or minus five percent (+/- 5%). The minimum combined weight of the light-duty frame and the cover shall be 420 pounds, plus or minus five percent (+/- 5%). The mating surfaces shall be machined and painted with tar pitch varnish. The cover shall not rock in the frame. Infiltration between the cover and frame shall be prevented by proper design and painting. Covers shall have "Sanitary Sewer" cast into them. Covers shall have lifting holes suitable for any lifting/jacking device. The lifting holes shall be designed so that infiltration is prevented.
- M. A drop of at least 0.1 feet shall be provided between incoming and outgoing sewers on all junction manholes and on manholes with bends greater than 45°.
- N. Inverts and shelves/benches shall be placed after testing the manholes and sewers.
- O. Benches shall be level and slope to the flow channel at about one inch per foot.
- P. The minimum depth of the flow channel shall be the nominal diameter of the smaller pipe. The channel shall have a steel trowel finish. The flow channel shall have a smooth curvature from inlet to outlet.
- Q. Manhole frames, installed at grade, shall be set in a full bed of mortar with no less than two nor more than four courses of brick underneath to allow for later elevation adjustment. In lieu of brick, grade rings may be used for elevation adjustment. Grade rings shall not exceed six inches in depth. The total number of grade rings shall not exceed 12 inches in height, however, in no event shall more than three grade rings be used.
- R. Manholes which extend above grade shall have the frames cast into the manhole top plate. The top plate shall be securely anchored to the manhole barrel by a minimum of six one-half-inch corrosion-resistant anchor bolts to prevent overturning when the cover is removed. The anchor bolts shall be electrically isolated from the manhole frame and cover.
- S. Internal drop pipes and fittings shall be PVC plastic sewer pipe in compliance with ASTM D-2241. Corrosion-resistant anchors shall be used to attach the drop pipe to the inside surface of the manhole barrel.

§ 157-58. Infiltration/exfiltration testing.

All sanitary sewers or extensions to sanitary sewers, including manholes, shall satisfy requirements of a final infiltration test before they will be approved and wastewater flow permitted by the Town of Warrensburg. The infiltration rate shall not exceed 25 gallons per 24 hours per mile per nominal diameter in inches. An exfiltration test may be substituted for the infiltration test; the same rate shall not be exceeded. The exfiltration test shall be performed by the applicant, under the supervision of the Superintendent, who shall have the responsibility for making proper and accurate measurements required. The exfiltration test consists of filling the pipe with water to provide a head of at least five feet above the top of the pipe or five feet above groundwater, whichever is higher, at the highest point under test, and then measuring the loss of water, from the pipe section under test, by the amount of water which must be added to maintain the original level. However, under no circumstances shall the head at the downstream manhole exceed 10 feet or fill to within six inches of the top of the downstream manhole. Should this condition prevail, the testing methods in § 157-63 and/or 157-64 shall be utilized. In this test, the test section must remain filled with water for at least 24 hours prior to taking any measurements. Exfiltration shall be measured by the drop of water level in a standpipe with a closed bottom end or in one of the sewer manholes serving the test section. When a standpipe and plug arrangement is used in the upper manhole in the test section, there shall be some positive method for releasing entrapped air prior to taking any measurements.

§ 157-59. Test section.

The test section shall be as ordered or as approved, but in no event longer than 1,000 feet. In the case of sewers laid on steep grades, the test length may be limited by the maximum allowable internal pressure on the pipe and joints at the lower end of the test section. For purposes of determining the leakage rate of the test section, manholes shall be considered as sections of 48 inch diameter pipe, five feet long. The maximum allowable leakage rate for such a section is 1.1 gallons per 24 hours. If leakage exceeds the allowable rate, then necessary repairs or replacements shall be made and the section retested.

§ 157-60. Test period.

The test period, during which the test measurements are taken, shall not be less than two hours.

§ 157-61. Pipe lamping.

Prior to testing, the section shall be lamped. Any length of pipe out of straight alignment shall be realigned.

§ 157-62. Deflection testing.

Also prior to testing, all plastic pipe in the test section shall be tested for deflection. Deflection testing shall involve the pulling of a rigid ball or mandrel whose diameter is 95% of the pipe inside diameter through the pipe. Any length of pipe with a deflection greater than

5% shall be replaced. The test section shall be flushed just prior to deflection testing. The test shall not be performed with a mechanical pulling device.

§ 157-63. Low-pressure air testing alternative.

In lieu of hydrostatic testing (exfiltration or infiltration), low-pressure air testing may be employed. Low-pressure air tests shall conform to ASTM Specification C-828. All sections to be tested shall be cleaned and flushed and shall have been backfilled prior to testing. Air shall be added until the internal pressure of the test section is raised to approximately four (4.0) pounds per square inch gauge (psig). The air pressure test shall be based on the time measured in seconds for the air pressure to drop from 3.5 psig to 2.5 psig. Acceptance is based on limits tabulated in the Specification Time Required for a 1.0 psig Pressure Drop in the Uni-Bell PVC Pipe Association's Recommended Practice For Low-Pressure Air Testing of Installed Sewer Pipe. Before pressure is applied to the line, all connections shall be firmly plugged. Before the test period starts, the air shall be given sufficient time to cool to ambient temperature in the test section. If the test section is below groundwater, the test pressure shall be increased an amount sufficient to compensate for groundwater hydrostatic pressure; however, the test pressure shall not exceed 10 psi. The pressure test gauge shall have been recently calibrated, and a copy of the calibration results shall be made available to the Superintendent prior to testing.

§ 157-64. Vacuum testing alternative.

A. In lieu of hydrostatic testing (exfiltration or infiltration), vacuum testing may be employed for testing of sewer lines and manholes. Sewer lines and manholes shall be tested separately. All sewer lines to be tested shall be cleaned and flushed and shall have been backfilled prior to testing. The vacuum test shall be based on the time measured in seconds for the vacuum to decrease from 10 to nine inches of mercury (Hg) for manholes and from seven to six inches of mercury (Hg) for sewers. Acceptance of manholes is based on the following:

Manhole Depth (feet)	Manhole Diameter (feet)	Time to Drop 1 inch Hg (10 to 9 inches) (seconds)
10 or less	4	120
10 to 15	4	150
15 to 25	4	180

NOTES:

For a five-foot diameter manhole, add 30 seconds to the times above; for a six-foot diameter manhole, add 60 seconds to the times above.

B. If the test on the manhole fails (the time is less than that tabulated above), necessary repairs shall be made and the vacuum test repeated until the manhole passes the test.

- C. Acceptance of sewers [seven to six inches of mercury (Hg)] is based on the time tabulated in the Specification Time Required for a 0.5 psig Pressure Drop in the Uni-Bell PVC Pipe Association's Recommended Practice For Low-Pressure Air Testing of Installed Sewer Pipe.
- D. The vacuum test gauge shall have been recently calibrated, and a copy of the calibration results shall be made available to the Superintendent prior to testing.

§ 157-65. Force mains.

Force mains serving sewage lifting devices, such as grinder pumps and pump stations, shall be designed in accordance with § 157-51. Additional design requirements are as follows:

- A. Force main pipe material shall be as follows:
 - (1) Ductile iron pipe. Ductile iron pipe shall conform to ANSI A21.51. The minimum wall thickness shall be Class 52 (ANSI A21.50). The pipe shall be clearly marked with either "D" or "ductile." fittings shall conform to ANSI A21.10. Pipe and fittings shall be furnished with push-on joints conforming to ANSI A21.11. Pipe and fittings shall be cement mortar lined and have an internal and external bituminous seal coating.
 - (2) Polyvinyl chloride (PVC) plastic pipe. Pipe shall conform to ASTM D-2241. Materials used in the manufacture of PVC pipe shall meet ASTM C-1784. The minimum wall thickness shall be SDR-21. Fittings shall conform to ASTM D-2241. Joints and gaskets shall conform to ASTM D-2241, D-1869 and F-477.
 - (3) Other pipe materials. Other pipe materials require prior written approval of the Superintendent before being installed.
- B. Trenching, bedding and backfilling shall be in accordance with § 157-56.
- C. Joint preparation and assembly shall be in accordance with the manufacturer's written instructions.
- D. Anchorages, concrete blocking and/or mechanical restraint shall be provided when there is a change of direction of $7\ 1/2^\circ$ or greater.
- E. Drain valves shall be placed at low points.
- F. Automatic air-relief valves shall be placed at high points and at intervals of 400 feet on level force main runs.
- G. Air-relief and drain valves shall be suitably protected from freezing.
- H. When the daily average design detention time, in the force main, exceeds 20 minutes, the manhole and sewer line receiving the force main discharge or the sewage shall be treated so that corrosion of the manhole and the exiting lines are prevented. The corrosion is caused by sulfuric acid biochemically produced from hydrogen sulfide anaerobically produced in the force main.

- I. The force main shall terminate, in the receiving manhole at a PVC plastic sewer pipe tee. The vertical arms of the tee shall be twice the diameter of the force main. The upper arm shall be at least four feet long; the lower arm shall terminate in a ninety-degree-polyvinyl-chloride-plastic sewer pipe elbow in a flow channel directed to the manhole exit pipe. The tee and its arms shall be securely fastened to the inside surface of the manhole wall using corrosion resistant anchors.

§ 157-66. Force main testing.

All force mains shall be subjected to hydrostatic pressure of 150% of the normal operating pressure. The duration of the test, at pressure, shall be at least two hours. Before conducting the test, the pipe shall be filled with water and all air shall be expelled. During the test, water shall be added, as needed, to maintain the test pressure. The amount of water added shall be recorded so as to calculate leakage. Leakage shall not exceed 25 gallons per day per mile per inch nominal pipe diameter. During the test, the owner and the Superintendent shall walk the route of the force main and examine the exposed pipe and the ground covering any backfilled pipe to discover leaks. Leakage in excess of that specified above shall be corrected with new material, at the owner's expense, and the test repeated. Any observed leaks shall be repaired at the owner's expense.

§ 157-67. Acceptance of sewers and extensions; guaranty to Town.

All sanitary sewers and extensions to sanitary sewers constructed at the applicant's expense, after final approval and acceptance by the Superintendent and concurrence by the Town Board, shall become the property of the Town and shall thereafter be operated and maintained by the Town. No sanitary sewer shall be accepted by the Town until four copies of as-built drawings have been so filed with the Superintendent and the Superintendent has approved the submitted drawings. Said sewers, after their acceptance by the Town, shall be guaranteed against defects in materials or workmanship for one year, by the applicant. The guaranty shall be in such form and contain such provision as deemed necessary by the Town Board and secured by a surety bond or such other security as the Town Board may approve.

§ 157-68. Insurance and bonds during construction period.

- A. All contractors engaged in connecting house laterals with sanitary sewers who perform any work within the right-of-way of any highway shall file a bond in the amount of \$10,000 with the Town Clerk to indemnify the Town against loss, cost, damage or expense sustained or recovered on account of any negligence, omission or act of the applicant for such a permit or any of his or their agents, arising or resulting directly or indirectly by reason of such permit or consent or of any act, construction or excavation done, made or permitted under authority of such permit or consent. All bonds shall contain a clause that permits given by the Town Board may be revoked at any time for just cause. [Amended 7-10-1996 by L.L. No. 1-1996]
- B. Before commencing work, the above contractor shall file insurance certificates with the Town Clerk for the following:

- (1) Workmen's compensation and employer's liability insurance as required by the laws of the state covering the contractor.
 - (2) Personal injury liability having limits of not less than \$1,000,000 for each occurrence and \$1,000,000 aggregate (completed operations/products, personal injury). **[Amended 7-10-1996 by L.L. No. 1-1996]**
 - (3) Property damage liability having limits of not less than \$500,000 for all damages arising during the life of the contract; which shall include, but not be limited to, the following designated hazards:
 - (a) Premises and operations.
 - (b) Independent contractors.
 - (c) Completed operations and products.
 - (d) Property damage.
 - (e) Explosions, collapse and underground.
 - (4) Comprehensive automobile liability (including non-owned and hired automobiles) having limits of not less than the following:
 - (a) Bodily injury: **[Amended 7-10-1996 by L.L. No. 1-1996]**
 - [1] Each person: \$500,000.
 - [2] Each occurrence: \$1,000,000.
 - (b) Property damage, each occurrence: \$500,000.
 - (5) Business excess liability insurance in the amount of \$2,000,000.
- C. All insurance policies must provide for five business days' notice to the Town before cancellation and must cover all liabilities of the Town and be in a form approved by the Town Board and be in a satisfactory form approved by the Town Board.
- D. The minimum insurance limits stated above shall be subject to periodic review by the Town Board and adjustments made by resolution, as appropriate.
- E. Where it is necessary to enter upon or excavate any highway or cut any pavement, sidewalk or curbing, permission must be obtained from the Superintendent of Highways if a Town highway is involved, from the County Department of Public Works if a county highway is involved and/or the New York State Department of Transportation if a state highway is involved.

§ 157-69. Permit required for sewer connections.

No unauthorized person shall uncover or make any connection with or opening into, use, alter or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the Superintendent.

§ 157-70. Inflow/infiltration prohibited.

No person shall discharge or cause to be discharged any storm cooling water or unpolluted industrial waters to any sanitary sewer. Swimming pool drains shall not be connected to any sanitary sewer.

§ 157-71. Sewer lateral permits.

- A. There shall be two classes of sewer lateral permits as follows:
- (1) For residential, commercial and institutional service.
 - (2) For service to establishments producing industrial wastes.
- B. In either case, a permit application shall be submitted to the Superintendent. The permit application shall be supplemented by any plans, specifications or other information considered pertinent, in the judgment of the Superintendent. A fee, established by § 157-157, shall accompany the application.

§ 157-72. New building laterals.

- A. A separate and independent building lateral shall be provided for every building requiring sanitary facilities. When, however, there is a building behind a front building, the second building may use the front building's building lateral if there is no other way to provide sanitary service to the back building.
- B. New street laterals and/or building laterals shall not go under building basements. In like fashion, a building shall not be constructed over an existing lateral; the lateral shall be relocated after the Superintendent has approved plans showing the relocation. If relocation is not physically possible, then the lateral shall be:
- (1) Exposed and totally encapsulated in not less than three inches of concrete; or
 - (2) Exposed and walled and the building rooms above positively ventilated outdoors.
- C. All existing manholes in or under the basement shall be sealed airtight in a manner acceptable to the Superintendent. No new manholes shall be constructed on the portion of the lateral under the building.

§ 157-73. Laterals serving several buildings.

When building laterals are to serve multiple dwelling structures, the building lateral shall be sized in accordance with the metered water use and with sound professional engineering judgment.

§ 157-74. Laterals serving complexes.

Where a lateral sewer is to serve a complex of industrial, commercial, institutional or dwelling structures, special design of the building lateral system shall be required. Such lateral sewer

shall be connected to the public sewer through a manhole. The Superintendent shall determine if and where this connection to the public sewer is required. If required, a new manhole shall be installed in the public sewer pursuant to § 157-57 and § 157-124 and the lateral connection made and tested as directed by the Superintendent. Plans and specifications shall be prepared and submitted for approval pursuant to this Part 2.

§ 157-75. Dry sewers.

Dry sewers shall be designed and installed in accordance to this Part 2.

§ 157-76. Using existing building laterals.

Existing building laterals may be used in connection with new buildings only when they are found, on examination by the Superintendent, to meet all requirements of this Part 2.

§ 157-77. Lateral pipe materials.

A. Building and street lateral pipe materials shall be one of the following:

- (1) Tar-coated, service-grade, cast-iron soil pipe conforming to ASTM Specification A-74, Cast-iron Pipe and Fittings. All dimensions, weight and markings of the pipe shall conform to the requirements of ANSI, Designation A112.5.1, except that spigot ends shall be plain end if gasket joints are used.
- (2) Polyvinyl chloride (PVC) pipe and fittings conforming to ASTM Specification D-3034-73, SDR-35 Polyvinyl Chloride (PVC) Sewer Pipe and Fittings. All pipe shall be suitable for gravity sewer service. Provisions shall be made for contraction and expansion at each joint with a rubber ring. The bell shall consist of an integral wall section stiffened with two PVC retainer rings which securely lock the solid cross-section ring into position. Minimum pipe stiffness (F/Y) at five-percent deflection shall be 46 psi when tested in accordance with ASTM Specification D-2412.
- (3) Polyvinyl chloride (PVC) Schedule 40. Stab-type fittings and joints with locked-in rubber sealing rings meeting ASTM D-1869 or solvent welded joints.

B. Any part of the building or street lateral that is located within five feet of a water main or water service shall be constructed of cast-iron soil pipe. Cast-iron soil pipe may be required by the Superintendent where the building or street lateral is likely to be damaged by tree roots. If installed on fill or unstable ground, the building or street lateral shall be of cast-iron soil pipe, although other pipe material may be permitted if such pipe is uniformly supported on a poured concrete cradle approved by the Superintendent. The distance between consecutive joints, as measured along the center line of the installed pipe, shall not be less than 10 feet, except under abnormal circumstances, in which case this dimension may be diminished, if approved by the Superintendent. The size and slope of building and street laterals shall be subject to approval by the Superintendent, but in no event shall the internal pipe diameter be less than four inches, nor shall the pipe slope be less than 1/4 inch per foot.

§ 157-78. Street lateral to public sewer connection.

At the point of connection of a street lateral to a main sewer, a standard Y-fitting and sufficient one-eighth-bend 45° fittings shall be used. The Y-fittings shall be installed so that flow in the arm shall transition smoothly into the flow in the public sewer. No lateral connection shall be made to the public sewer which permits the flow into the public sewer from the lateral to enter at right angles.

§ 157-79. Future connection locations; as-built drawings.

The street lateral, including the Y- and one-eighth-bend fittings, shall be connected to the main sewer at the time of constructing the main sewer for each proposed lot for either immediate or future development. Laterals installed for future development shall be fitted a standard plug approved for use by the Superintendent. All sewer connections shall be via a properly installed saddle on the main sewer pipe. No portion of the lateral pipe shall protrude into the main sewer pipe. The location of all lateral connections shall be field marked with a two-by-six-inch corrosion and rot resistant board. The marker board shall extend from the depth of the lateral to a minimum of two feet above grade. The location of all lateral connections shall be indicated on a drawing, and four copies of this drawing, showing the as-built location of these connections, shall be furnished to the Superintendent. A refundable deposit shall be placed with Town of Warrensburg to assure receipt of these as-builts. The deposit shall be placed when application is made; the amount of the deposit shall be one hundred (\$100.) per sheet of plans showing locations of lateral connections. No sanitary sewer shall be accepted by the Town until four copies of this record drawing have been so filed with the Superintendent and the Superintendent has approved the submitted drawings.

§ 157-80. Special manhole requirements.

When any street lateral is to serve a school, hospital or similar institution or public housing or is to serve a complex of industrial or commercial buildings or which, in the opinion of the Superintendent, will receive wastewater or industrial wastes of such volume or character that frequent maintenance of said building or street lateral is anticipated, then such street lateral shall be connected to the public sewer through a manhole. The Superintendent shall determine if and where this type of connection to the public sewer is required. Connections to existing manholes shall be made as directed by the Superintendent. If required, a new manhole shall be installed in the public sewer pursuant to §§ 157-57 and 157-124, and the lateral connection made thereto as directed by the Superintendent.

§ 157-81. Laterals to be near buildings.

Whenever possible, the building lateral shall be brought to the building at an elevation below the basement floor. Building laterals laid parallel to a bearing wall shall not be installed closer than three feet to such wall. The building lateral shall be laid at uniform grade and in straight alignment, insofar as possible. Changes in direction shall be made only with properly curved pipe and fittings. Changes of direction of 90% or greater shall be made with a cleanout which extends to grade, terminating in a terminal box set in concrete. The ends of all building or

street laterals which are not connected to the interior plumbing of the building, for any reason, shall be sealed against infiltration by a suitable stopper, plug or by other approved means.

§ 157-82. Sewage lifting.

In all buildings in which any building drain is too low to permit gravity flow to the public sewer, wastewater carried by such drain shall be lifted by mechanical means and discharged to the building lateral, on approval of the Superintendent.

§ 157-83. Lateral pipe installation.

All excavations required for the installation of a building or street lateral shall be open trench work, unless otherwise approved by the Superintendent. Pipelaying and backfilling, regardless of pipe material used, shall be performed in general accordance with Paragraphs 3 through 6 of ASTM Specification C-12, except that trench width, measured at the top of the installed pipe, shall not exceed the outside pipe diameter plus 14 inches, and except that no backfill shall be placed until the work has been inspected. The depth of cover over the pipe shall be sufficient to afford protection from frost, but in any case such depth shall not be less than four feet.

§ 157-84. Watertight joints.

All joints and connections shall be made watertight.

§ 157-85. Cast-iron pipe poured joints.

Poured joints for cast-iron pipe shall be firmly packed with oakum or hemp, and the annulus filled with an approved compound not less than one inch deep. Said compound shall be run in with a single pouring and caulked tight, if appropriate for the compound used. No paint, varnish or other coatings shall be permitted on the jointing material until after the joint has been tested and approved. The transition joint between cast-iron pipe and other pipe materials shall be made with special adapters and jointing materials approved by the Superintendent. If such joints are hot-poured, the material shall not soften sufficiently to destroy the effectiveness of the joint when subjected to a temperature of 160° F., nor be soluble in any of the wastes carried by the lateral.

§ 157-86. Cast-iron push joints.

Premolded gaskets may be used for hub and plain-end cast-iron pipe joints and joints with fittings, if approved by the Superintendent. The gasket shall be a neoprene compression-type unit which provides a positive seal in the assembled joint. The gasket shall be a premolded one-piece unit, designed for joining the cast-iron hub and plain-end soil pipe and fittings. The assembled joint shall be sealed by compression of the gasket between the exterior surface of the spigot and the interior surface of the hub. The joint shall be assembled following the manufacturer's recommendations using acceptable lubricant and special pipe-coupling tools designed for that purpose. The plain spigot end shall be forced into the hub end of the pipe for

the full depth of the hub itself. Lubricant shall be a bland, flax-based, nontoxic material and shall not chemically attack the gasket material.

§ 157-87. PVC push joints.

Joints for PVC sewer pipe shall follow the manufacturer's recommendations, using properly designed couplings and rubber gaskets pursuant to the published information relating thereto, and conforming to the applicable ASTM specification identified in § 157-77.

§ 157-88. Building lateral to street lateral connection.

- A. The connection of the building lateral to an existing street lateral shall be made at the property line. Except as provided under §§ 157-52 and 157-53, if a street lateral has not previously been provided, the street lateral will be constructed from the existing public sewer to the property line, by an experienced plumber, at the owner's expense. The street lateral shall be installed with a properly sealed and covered clean-out to grade located at the property line. The clean-out shall terminate in a metal box imbedded in concrete.
- B. The cost of constructing the street lateral from the existing public sewer to the property line shall be at the property owner's expense; all subsequent costs and expense incidental to the installation and connection of the building lateral shall also be borne by the owner.
- C. The property owner shall indemnify the Town of Warrensburg from any loss or damage that may directly or indirectly be occasioned by the installation of the building lateral.
- D. It shall be the responsibility of the property owner to maintain, repair or replace the building lateral, as needed.
- E. The method of connection of the building lateral to the street lateral will be dependent upon the type of sewer pipe material and, in all cases, shall be approved by the Superintendent. After installation of the street lateral has been approved by the Superintendent, the new street lateral shall become the property of the Town of Warrensburg. Any subsequent repairs to the new street laterals shall be made by the Town of Warrensburg, at the Town's expense.

§ 157-89. Cleanout.

If, in the judgment of the Superintendent, it is determined that a building lateral, without a property line cleanout, needs repair or replacement, the Town may install a cleanout at the property line, at the property owner's expense, such that the street lateral can be maintained independently of the building lateral.

§ 157-90. Street lateral replacement; ownership; expenses.

Any existing street lateral which, upon examination by the Superintendent, is determined to be in need of replacement will be replaced with a new street lateral with a property line cleanout. The replacement street lateral shall be constructed by an experienced plumber. The cost of constructing the replacement street lateral and cleanout shall be at the property owner's

expense. Once the replacement street lateral and cleanout have been constructed and approved by the Superintendent, the new street lateral shall become the property of the Town of Warrensburg. Any repairs to new street laterals shall be made by the Town of Warrensburg at the Town's expense.

§ 157-91. Testing.

The street lateral, building lateral or the combined lateral shall be tested for infiltration/exfiltration by:

- A. Any full pipe method described in §§ 157-58 through 157-64; or
- B. By a suitable joint method, with the prior written approval of the Superintendent.

§ 157-92. Connection inspection.

- A. The applicant for the building lateral permit shall notify the Superintendent when the building lateral is ready for inspection and connection is to be made to the street lateral. The connection shall be made under the supervision of the Superintendent.
- B. The applicant for the street lateral permit shall notify the Superintendent when the street lateral is ready for inspection and connection is to be made to the main sewer. The connection shall be made under the supervision of the Superintendent.

§ 157-93. Trench inspections.

When trenches are excavated for the laying of building lateral pipes or for laying of street lateral pipes, such trenches shall be inspected by the Superintendent. Before the trenches are backfilled, the person performing such work shall notify the Superintendent when the laying of the building lateral is completed, and no backfilling of trenches shall begin until approval is obtained from the Superintendent.

§ 157-94. Public safety; restoration of disturbed areas; costs.

All excavations for constructing building laterals shall be adequately protected with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the Superintendent. When installation requires disturbance of paved public roads and shoulders, restoration shall involve backfilling to road grade. Shortly thereafter, the Town of Warrensburg Department of Public Works (DPW) shall complete road and shoulder restoration to the Town of Warrensburg standards. The cost for such final road and shoulder restoration by the DPW shall be included with the fees paid with the application for the permit required in § 157-71.

§ 157-95. Interior cleanout.

An interior cleanout fitting shall be provided for each building lateral at a readily accessible location, preferably just inside the basement wall. The fitting shall contain a forty-five-degree branch with removable plug or test tee, and so positioned that sewer cleaning equipment can be inserted therein to clean the building lateral. The cleanout diameter shall be no less than the building lateral diameter.

§ 157-96. Costs borne by owner; liability.

All costs associated with the provisions of this article shall be borne by the property owner unless specifically stated or agreed to be a cost borne by the Town of Warrensburg. The property owner shall indemnify the Town from any loss or damage that may be directly or indirectly occasioned by the installation of the building and street laterals and connections and appurtenances.

§ 157-97. New inflow sources prohibited.

No connections shall be made to a sanitary or to a combined sewer which connections are intended to discharge inflow. Such prohibited connections include, but are not limited to, footing drains, roof leaders, roof drains, cellar drains, sump pumps, catch basins, uncontaminated cooling water discharges or other sources of inflow.

§ 157-98. Existing inflow sources disconnected.

For properties where separate storm sewers are available within 100 feet of the property line or where, in the judgment of the Superintendent, sufficient natural drainage is available, connections which contribute inflow to the sanitary sewers must be disconnected in a fashion approved by the Superintendent, prior to the sale of the property.

§ 157-99. Existing inflow sources disconnected when property sold.

Upon notice from the Tax Assessor, the Superintendent shall inspect any newly sold property for the purpose of determining if storm sewers or natural drainage is available, and if so, if all connections which contribute inflow have been disconnected.

§ 157-100. Reconnection of inflow source prohibited.

It shall be a willful violation of this Part 2 for any person to reconnect any inflow source which has been disconnected pursuant to §§ 157-97 through 157-101.

§ 157-101. Charges for inflow.

The Superintendent is enabled to take whatever action is necessary to determine the amount of inflow, including the requirement for installation of a control manhole. The property from which the inflow originated shall be billed for inflow according to §§ 157-33 through 157-43,

however, the Town Board may cause a surcharge at a rate not to exceed five times that for normal sewage volume charge.

§ 157-102. Licenses; fees.

- A. The discharge of trucked or hauled wastes into the Town of Warrensburg sewer system and public sewers tributary thereto will be permitted only with the written approval (license) of the Superintendent. Applicants for such license shall apply on a form provided by the Superintendent. These forms may require information such as vehicle specifications, vehicle license number, vehicle color, NYSDEC permits issued under 6 NYCRR 364, approximate annual septage volume expected, service area and any other information that the Superintendent may require to determine whether the trucked or hauled wastes could adversely impact the POTW. The application shall be accompanied by a fee prescribed by the Superintendent, not to exceed an amount as set forth from time to time by resolution of the Town Board. [Amended 7-10-1996 by L.L. No. 1-1996]
- B. The licensee of trucked or hauled wastes will also be charged a fee for each dumping, in accordance with §§ 157-33 through 157-43. The dumping fee shall be paid prior to dumping.

§ 157-103. Concurrent requirements.

The applicant for a license to truck or haul wastes shall be the owner of the vehicle or vehicles to be used for such discharge. Any false or misleading statement in any license application shall be grounds for invalidating the license. All licenses issued by the Superintendent for this purpose shall be for one year. The licensee shall also be duly permitted by the NYSDEC under 6 NYCRR 364 (364 permit). If, for any reason, said permit is revoked, lapses or becomes invalid, then the license issued under §§ 157-102 through 157-105 shall become invalid immediately. All acts performed in connection with the license shall be subject to the inspection and regulations, as established by the Superintendent, the terms and conditions of the license and all local and general laws, ordinances and regulations which are now or may come into effect, and such license may be suspended or revoked, at any time, by the Superintendent for willful, continued or persistent violation thereof.

§ 157-104. Dumping location and timing.

The Superintendent may require discharging at only certain locations within the POTW, and only at certain times, and on only certain days of the week or seasons of the year as shall be stated on said license or as may be relocated by the Superintendent, after appropriate notice. The time and conditions for permissible discharge shall be as set forth on the license or as may be revised by the Superintendent, after appropriate notice.

§ 157-105. Notification of dumping; additional charges.

Each discharge of trucked or hauled wastes shall be made only with the approval of the Superintendent. The Superintendent may require inspection, sampling and analysis of each

load prior to the discharge of a load. Any extra costs associated with such inspection, sampling and analysis shall be paid by the licensee.

§ 157-106. Pretreatment standards.

All users of the Town of Warrensburg POTW will comply with all standards and requirements of the Act and standards and requirements promulgated pursuant to the Act, including, but not limited to 40 CFR 406 through 471.

§ 157-107. Unlawful acts.

- A. No user shall contribute or cause to be contributed, in any manner or fashion, directly or indirectly, any pollutant or wastewater which will interfere with the operation or performance of the POTW. These general prohibitions apply to all such users of a POTW whether or not the user is subject to National Categorical Pretreatment Standards or any other national, state or local pretreatment standards or requirements.
- B. Without limiting the generality of the foregoing, a user may not contribute the following substances into the POTW:
- (1) Any solids, liquids or gases which, by reason of their nature or quantity, are or may be sufficient, either alone or by interaction with other substances, to cause a fire or an explosion or be injurious in any way to the POTW or to the operation of the POTW. At no time shall both of two successive readings on a flame-type explosion hazard meter at the point of discharge into the lower explosive limit (LEL) of the meter. Unless explicitly allowable by a written permit, prohibited materials include, but are not limited to, gasoline, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols, carbides, hydrides and sulfides and any other substance which the Town, the state or the EPA has determined to be a fire hazard or hazard to the POTW.
 - (2) Solid or viscous substances which may cause obstruction to the flow in a sewer or otherwise interfere with the operation of the wastewater treatment facilities. Unless explicitly allowable by a written permit, such substances include, but are not limited to, grease, garbage with particles greater than 1/2 inch in any dimension, animal guts or tissues, paunch manure, bones, hair, hides or fleshings, entrails, whole blood, feathers, ashes, cinders, sand, spent lime, stone or marble dust, metal, glass, straw, shavings, grass clippings, rags, spent grains, spent hops, waste paper, wood, plastics, gas, tar, asphalt residues, residues from refining or processing fuel or lubricating oil, mud or glass or stone grinding or polishing wastes.
 - (3) Any wastewater having a pH less than 5.0 or greater than 10.0, unless the POTW was specifically designed to manage such wastewater, or wastewater having any other corrosive property capable of causing damage or hazard to structures, equipment and/or POTW personnel.
 - (4) Any wastewater containing toxic pollutants in sufficient quantity, either singly or by interaction with other pollutants (including heat), to injure or interfere with any wastewater treatment process, constitute a hazard to humans or animals, create a

toxic effect in the receiving waters of the POTW or to exceed the limitation set forth in a Categorical Pretreatment Standard. A toxic pollutant shall include, but not be limited to, any pollutant identified pursuant to § 307(A) of the Act.

- (5) Any noxious or malodorous solids, liquids or gases which, either singly or by interactions with other wastes, are sufficient to create a public nuisance or a hazard to life or are sufficient to prevent entry into the sewers for their maintenance or repair.
- (6) Oils and grease. Any commercial, institutional or industrial wastes containing fats, waxes, grease or oils which become visible solids when the wastes are cooled to 10° C. (50° F.); any petroleum oil, nonbiodegradable cutting oil or products of mineral oil origin in excess of 100 milligrams per liter (mg/l) or in amounts that will cause interference or pass-through.
- (7) Any wastewater which will cause interference or pass-through.
- (8) Any wastewater with objectionable color which is not removed in the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions.
- (9) Any solid, liquid, vapor or gas having a temperature higher than 65° C. (150° F.); however, such materials shall not cause the POTW treatment plant influent temperature to be greater than 40° C. (104° F.). The Superintendent reserves the right, in certain instances, to prohibit or limit the discharge of wastes whose maximum temperatures are lower than 65° C.
- (10) Unusual flow rate or concentration of wastes, constituting slugs, except by industrial wastewater permit.
- (11) Any wastewater containing any radioactive wastes, except as approved by the Superintendent, and in compliance with applicable state and federal regulations.
- (12) Any wastewater which causes a hazard to human life or which creates a public nuisance, either by itself or in combination, in any way with other wastes.
- (13) Any wastewater with a closed cup flashpoint of less than 140° F. or 60° C. using the test methods specified in 40 CFR 261.21.
- (14) Any pollutants which result in the presence of toxic gases, vapors or fumes within the POTW in a quantity that may cause acute worker health and safety problems.

§ 157-108. Concentration based limitations; permit.

No person shall discharge, directly or indirectly, into the POTW, wastewater containing any of the following substances in concentrations exceeding those specified below on either a daily or an instantaneous basis, except by permit or as provided for in this section. Concentration limits are applicable to wastewater effluents at the point just prior to discharge into the POTW (end-of-pipe concentrations).

**Effluent Concentration Limit⁷
(milligrams per liter)**

Substance¹	Allowable Average Daily²	Allowable Maximum Instantaneous³
Aluminum		
Antimony		
Arsenic		
Barium		
Beryllium		
Bismuth		
Bromine		
Cadmium		
Chlorides		
Chlorine		
Chromium (hex)		
Chromium (tot)		
Cobalt		
Copper		
Cyanide (complex)		
Cyanide (free)		
Fluorides		
Gold		
Iodine		
Iron		
Lead		
Manganese		
Mercury		
Molybdenum		
Nickel		
Phenols (total)		
Selenium		
Silver		
Sulfates		
Sulfides		
Tin		
Titanium		
Vanadium		

7. Editor's Note: No additional text provided in the original copy

**Effluent Concentration Limit⁷
(milligrams per liter)**

Substance¹	Allowable Average Daily²	Allowable Maximum Instantaneous³
Zinc		

NOTES:

¹Except for chromium (hex), all concentrations listed for metallic substances shall be as "total metal," which shall be defined as the value measured in a sample acidified to a pH value of two point zero (2.0) or less, without prior filtration.

²As determined on a composite sample taken from the user's daily discharge over a typical operational and/or production day.

³As determined on a grab sample taken from the user's discharge at any time during the daily operational and/or production period.

⁴Other substances which may be limited are as follows: antibiotics; chemical compounds which, upon acidification, alkalization, oxidation or reduction in the discharge or after admixture with wastewater and its components in the POTW produce toxic, flammable or explosive compounds; pesticides, including algicides, fungicides, herbicides, insecticides and rodenticides; polyaromatic hydrocarbons; and viable pathogenic organisms from industrial processes or hospital procedures.

§ 157-109. Mass discharge based limitations.

- A. At no time shall the influent to the POTW contain quantities in excess of those specified below:

Substance	Allowable Influent Loading Average⁸ (pounds per day)
Aluminum	
Antimony	
Arsenic	
Barium	
Beryllium	
Cadmium	
Chromium (hex)	
Chromium (total)	
Cobalt	
Copper	

8. Editor's Note: No text for the following as per the original copy.

Allowable Influent Loading**Average⁸
(pounds per day)****Substance**

Cyanide (complex)
Cyanide (free)
Gold
Iron
Lead
Mercury
Nickel
Phenols (total)
Selenium
Silver
Tin
Zinc

- B. To assure that none of the above noted limitations are violated, the Superintendent shall issue permits to significant industrial users limiting the discharge of the substances noted above. Each permit shall restrict the discharge from each significant industrial user to a portion of the total allowable influent loading. In determining what portion of the total of each substance that each significant industrial user shall be allowed to discharge, the Superintendent shall consider the following:
- (1) The quantities of each substance that are uncontrollable because they occur naturally in wastewater.
 - (2) The quantities of each substance that are anthropogenic but are nonetheless uncontrollable.
 - (3) The historical discharge trends.
 - (4) Past pollution control efforts of each significant industrial user as compared to other significant industrial dischargers of the same substance.
 - (5) The potential for growth in the POTW service area.
 - (6) The potential for more restrictive regulatory requirements to be placed on the POTW discharge or sludge disposal or sludge reuse method.
 - (7) The treatability of the substance.
- C. The Superintendent shall apply a minimum fifteen-percent safety factor to be protective of the POTW.
- D. Permits issued in accordance with this section may allow for discharges in excess of limitations set forth under § 157-107.

§ 157-110. Modification of limitations.

- A. Limitations on wastewater strength or mass discharge contained in this Part 2 may be supplemented with more stringent limitations when, in the opinion of the Superintendent:
- (1) The limitations in this Part 2 are not sufficient to protect the POTW;
 - (2) The limitations in this Part 2 are not sufficient to enable the POTW treatment plant to comply with applicable water quality standards or the effluent limitations specified in the POTW's State Pollutant Discharge Elimination System permit;
 - (3) The POTW sludge will be rendered unacceptable for disposal or reuse as the Town desires as a result of discharge of wastewaters at the above prescribed concentration limitations;
 - (4) Municipal employees or the public will be endangered; or
 - (5) Air pollution and/or groundwater pollution will be caused.
- B. The limitations on wastewater strength or mass discharge shall be recalculated not less frequently than once every five years. The results of these calculations shall be reported to the Town Board. This Part 2 shall then be amended appropriately. Any issued industrial wastewater discharge permits which have limitations based directly on any limitations which were changed shall be revised and amended, as appropriate.

§ 157-111. Dilution.

Except where expressly authorized to do so by an applicable pretreatment standard, no user shall ever increase the use of process water or, in any other way, attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with a pretreatment standard. Dilution flow shall be considered to be inflow.

§ 157-112. Grease, oil and sand interceptors.

Grease, oil and sand interceptors shall be provided when, in the opinion of the Superintendent, they are necessary for the proper handling of wastewater containing excessive amounts of grease, flammable substances, sand or other harmful substances, except that such interceptors shall not be required for private living quarters or living units. All interceptors shall be of type and capacity approved by the Superintendent and shall be so located to be easily accessible for cleaning and inspection. Such interceptors shall be inspected, cleaned and repaired regularly as needed by the owner, at his expense.

§ 157-113. Wastewater discharge reports.

As a means of determining compliance with this Part 2, with applicable State Pollutant Discharge Elimination System permit conditions and with applicable state and federal law, each industrial user shall be required to notify the Superintendent of any new or existing discharges to the POTW by submitting a completed industrial chemical survey (ICS) form and a completed industrial wastewater survey (IWS) form to the Superintendent. The

Superintendent may require any user discharging wastewater into the POTW to file wastewater discharge reports and to supplement such reports as the Superintendent deems necessary. All information shall be furnished by the user in complete cooperation with the Superintendent.

§ 157-114. Notification to industrial users; wastewater discharge permits.

- A. The Superintendent shall, from time to time, notify each industrial user of applicable pretreatment standards and of other applicable requirements under §§ 204 (B) and 405 of the Clean Water Act and Subtitles C and D of RCRA.
- B. Wastewater discharges. No significant industrial user shall discharge wastewater to the POTW without having a valid wastewater discharge permit, issued by the Superintendent. Significant industrial users shall comply fully with the terms and condition of their permits in addition to the provisions of this Part 2. Violation of a permit term or condition is deemed a violation of this Part 2.
- C. Wastewater discharge permits required for significant industrial users. All significant industrial users proposing to connect to or to discharge to the POTW shall obtain a wastewater discharge permit before connecting to or discharging to the POTW. Existing significant industrial users shall make application for a wastewater discharge permit within 30 days after the effective date of this Part 2, and shall obtain such a permit within 90 days after making application.
- D. Other industrial users. The Superintendent may issue wastewater discharge permits to other industrial users of the POTW.
- E. Discharge permits to storm sewers not authorized. The Town of Warrensburg does not have the authority to issue permits for the discharge of any wastewater to a storm sewer. This authority rests with the NYSDEC.
- F. Application for wastewater discharge permits. Industrial users required to obtain a wastewater discharge permit shall complete and file with the Superintendent an application in the form prescribed by the Town of Warrensburg. The application shall be accompanied by a fee as set forth in § 157-158.⁹ In support of any application, the industrial user shall submit, in units and terms appropriate for evaluation, the following information:
 - (1) The name, address and location (if different from the address).
 - (2) The standard industrial classification code of both the industry and any categorical processes.
 - (3) The wastewater constituents and characteristics, including, but not limited to, those mentioned in §§ 157-113 through 157-135 of this Part 2 and which are limited in the appropriate categorical standard, as determined by a reliable analytical laboratory approved by the NYSDOH. Sampling and analysis shall be preformed in accordance with standard methods.

9. Editor's Note: As per original copy.

- (4) The time and duration of the discharge.
 - (5) The average daily peak wastewater flow rates, including daily, monthly and seasonal variations, if any.
 - (6) Site plans, floor plans, mechanical and plumbing plans and details to show all sewers, sewer connections and appurtenances.
 - (7) A description of activities, facilities and plant processes on the premises, including all materials which are or could be discharged to the POTW.
 - (8) Each product produced by type, amount, process or processes, and the rate of production.
 - (9) The type and amount of raw materials processed (average and maximum per day).
 - (10) The number and type of employees and hours of operation and proposed or actual hours of operation of the pretreatment system.
 - (11) The nature and concentration of any pollutants in the discharge which are limited by any county, state or federal standards and a statement whether or not the standards are being met on a consistent basis and, if not, whether additional operation and maintenance (O & M) and/or additional pretreatment is required for the user to meet all applicable standards.
 - (12) Any other information as may deemed by the Superintendent to be necessary to evaluate the permit application.
- G. If additional pretreatment and/or O & M will be required to meet the standards, then the industrial user shall provide the shortest schedule to accomplish such additional treatment and/or O & M. The completion date in this schedule shall not be longer than the compliance date established for the applicable pretreatment standard. The following conditions shall apply to this schedule:
- (1) The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards (such events include hiring an engineer, completing preliminary plans, completing final plans, executing contracts for major components, commencing construction, completing construction, beginning operation and beginning routine operation).
 - (2) No increment referred to in Subsection B(1) above shall exceed nine months, nor shall the total compliance period exceed 18 months.
 - (3) No later than 14 calendar days following each date in the schedule and the final date for compliance, the user shall submit a progress report to the Superintendent, including, as a minimum, whether or not it complied with the increment of progress to be met on such date and, if not, the date on which it expects to comply with this increment of progress, the reason for delay and the steps being taken by

the user to return to the established schedule. In no event shall more than nine months elapse between such progress reports to the Superintendent.

- H. The Superintendent will evaluate the data furnished by the industrial user and may require additional information. After evaluation and acceptance of the data furnished, the Town may issue a wastewater discharge permit, subject to terms and conditions provided herein.

§ 157-115. Permit modifications.

- A. Wastewater discharge permits may be modified by the Superintendent, upon 30 days' notice to the permittee, for just cause. Just cause shall include, but not be limited to:
- (1) The promulgation of an applicable National Categorical Pretreatment Standard.
 - (2) Revision of or a grant of a variance from such categorical standards pursuant to 40 CFR 403.13.
 - (3) Changes in general discharge prohibitions and local limits as per § 157-108 of this Part 2.
 - (4) Changes in processes used by the permittee or changes in design or capability of any part of the POTW.
 - (5) Discovery that the permitted discharge causes or contributes to pass-through or interference.
 - (6) Changes in the nature and character of the sewage in the POTW as a result of other permitted discharges.
- B. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance as set forth in § 157-114G(1).

§ 157-116. Permit conditions.

Wastewater discharge permits shall be expressly subject to all the provisions of this Part 2 and all other applicable regulations, user charges and fees established by the Town of Warrensburg. Permits may contain the following:

- A. Limits on the average and maximum rate and time of discharge or requirements for flow regulation and equalization.
- B. Limits on the average and maximum wastewater constituents and characteristics, including concentration or mass discharge limits.
- C. The unit charge or schedule of user charges and fees for the management of the wastewater discharged to the POTW.
- D. Requirements for installation and maintenance (in safe condition) of inspection and sampling facilities.

- E. Specifications for monitoring programs, which may include sampling locations, frequency of sampling, number, types, and standards for tests and reporting schedules.
- F. Compliance schedules.
- G. Requirements for submission of technical reports or discharge reports.
- H. Requirements for maintaining and retaining plant records relating to wastewater discharge, as specified by the Town and affording the Superintendent access thereto.
- I. Requirements for notification of the Town of any new introduction of wastewater constituents or of any substantial change in the volume or character of the wastewater constituents being introduced into the POTW.
- J. Requirements for the notification of the Town of any changes in the manufacturing and/or pretreatment process used by the permittee.
- K. Requirements for notification of excessive, accidental, or slug discharges.
- L. Other conditions as deemed appropriate by the Town to ensure compliance with this Part 2, and state and federal laws, rules and regulations.

§ 157-117. Permit duration.

Permits shall be issued for a specified time period not to exceed five years. A permit may be issued for a period less than five years.

§ 157-118. Permit reissuance.

The user shall apply for permit reissuance a minimum of 180 days prior to the expiration of the user's existing permit. The terms and conditions of the permit may be subject to modification, by the Superintendent, during the term of the permit, as limitations or requirements, as identified in § 157-115, or other just cause exists. The user shall be informed of any proposed changes in his permit at least 30 days prior to the effective date of the change. Any changes or new conditions in the reissued permit shall include a reasonable time schedule for compliance as established in § 157-114G(1).

§ 157-119. Permit transfer.

Wastewater discharge permits are issued to a specific user for a specific operation or discharge at a specific location. A wastewater discharge permit shall not be reassigned, transferred or sold to a new owner, new user, different premises or a new or changed operation.

§ 157-120. Permit revocation.

Wastewater discharge permits may be revoked for the following reasons:

- A. Falsifying self-monitoring reports.
- B. Tampering with monitoring equipment.
- C. Refusing to allow the Superintendent timely access to the industrial premises.
- D. Failure to meet effluent limitations.
- E. Failure to pay fines.
- F. Failure to pay user charges.
- G. Failure to meet compliance schedules.

§ 157-121. Public notification.

The Town of Warrensburg will publish in the Town's official daily newspaper(s) an informal notice of intent to issue a wastewater discharge permit at least 14 days prior to issuance.

§ 157-122. Reporting requirements for permittee.

The reports or documents required to be submitted or maintained under this section shall be subject to:

- A. The provisions of 18 U.S.C. § 1001 relating to fraud and false statements.
- B. The provisions of § 309(c)(4) of the Act, as amended, governing false statements, representation or certification.
- C. The provisions of § 309(c)(6) of the Act, as amended, regarding corporate officers as follows:
 - (1) Baseline monitoring report. Within 180 days after promulgation of an applicable Federal Categorical Pretreatment Standard, a user subject to that standard shall submit, to the Superintendent, the information required by Subsections A(8) and (9) of § 157-114.
 - (2) Ninety-day compliance report. Within 90 days following the date for final compliance with applicable pretreatment standards or, in the case of a new source, following commencement of the introduction of wastewater into the POTW, any user subject to pretreatment standards and requirements shall submit, to the Superintendent, a report indicating the nature and concentration of all pollutants in the discharge from the regulated process which are limited by pretreatment standards and requirements and the average and maximum daily flow for these process units in the user's facility which are limited by such pretreatment standards and requirements. The report shall state whether the applicable pretreatment standards and requirements are being met on a consistent basis and, if not, what additional O & M and/or pretreatment is necessary to bring the user into compliance with the applicable pretreatment standards or requirements. This

statement shall be signed by an authorized representative of the industrial user and certified to by a qualified professional.

- (3) Periodic compliance reports. Periodic compliance reports shall be required as follows:
 - (a) Any user subject to a pretreatment standard, after the compliance date of such Pretreatment Standard or, in the case of a New source, after commencement of the discharge into the POTW, shall submit to the Superintendent during the months of June and December, unless required more frequently in the pretreatment standard or by the Superintendent, a report indicating the nature and concentration of pollutants in the effluent which are limited by such pretreatment standards. In addition, this report shall include a record of all daily flows which, during the reporting period, exceeded the average daily flow reported in § 157-114. At the discretion of the Superintendent and in consideration of such factors as local high or low flow rates, holidays, budget cycles, etc., the Superintendent may agree to alter the months during which the above reports are to be submitted, however, no fewer than two reports shall be submitted per year.
 - (b) The Superintendent may impose mass limitations on users which are using dilution to meet applicable pretreatment standards or requirements or in other cases where the imposition of mass limitations are appropriate. In such cases, the report required by § 157-122C(3)(a) shall indicate the mass of pollutants regulated by pretreatment standards in the effluent of the user. These reports shall contain the results of discharge sampling and analysis, including the flow and the nature and concentration or production and mass, where requested by the Superintendent, of pollutants contained therein, which are limited by the applicable pretreatment standard. All analyses shall be performed in accordance with standard methods, by a laboratory certified by NYSDOH to perform the analyses.
- (4) Violation report. If sampling performed by the user indicates a violation of this Part 2 and/or the user's discharge permit, the user shall notify the Superintendent within 24 hours of becoming aware of the violation. The user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the Superintendent within 30 days after becoming aware of the violation. The user is not required to resample if the POTW performs monitoring of the user's discharge at least once a month for the parameter which was violated or if the POTW performs sampling, for the parameter which was violated, between the user's initial sampling and when the user receives the results of this sampling.
- (5) Other reports. The Superintendent may impose reporting requirements equivalent to the requirements imposed by § 157-122C(3) for users not subject to pretreatment standards.

§ 157-123. Flow equalization.

No person shall cause the discharge of slugs to the POTW. Each person discharging into the POTW greater than 100,000 gallons per day or greater than 5% of the average daily flow in the POTW, whichever is lesser, shall install and maintain on his property and at his expense a suitable storage and flow control facility to ensure equalization of flow over a twenty-four-hour period. The facility shall have a capacity for at least 50% of the daily discharge volume and shall be equipped with alarms and a rate of discharge controller, the regulation of which shall be directed by the Superintendent. A wastewater discharge permit may be issued solely for flow equalization.

§ 157-124. Monitoring stations (control manholes).

- A. All significant industrial users and other industrial users whose industrial waste discharge has caused or may cause interference or pass-through shall install and maintain a suitable monitoring station on their premises at their expense to facilitate the observation, sampling and measurement of their industrial wastewater discharge.
- B. If there is more than one street lateral serving an industrial user, the Superintendent may require the installation of a control manhole on each lateral.
- C. The Superintendent may require that such monitoring station(s) include equipment for the continuous measurement and recording of wastewater flow rate and for the sampling of the wastewater. Such station (s) shall be accessibly and safely located, and the industrial user shall allow immediate access, without prior notice, to the station by the Superintendent or his designated representative.

§ 157-125. Design and maintenance of facilities; costs.

Preliminary treatment and flow equalization facilities or monitoring stations, if provided for any wastewater, shall be constructed and maintained continuously clean, safe and continuously operational by the owner at his expense. Where an industrial user has such treatment, equalization or monitoring facilities at the time this Part 2 is enacted, the Superintendent may approve or disapprove the adequacy of such facilities. Where the Superintendent disapproves of such facilities and construction of new or upgraded facilities for treatment, equalization or monitoring are required, plans and specifications for such facilities shall be prepared by a licensed professional engineer and submitted to the Superintendent. Construction of new or upgraded facilities shall not commence until written approval of the Superintendent has been obtained.

§ 157-126. Tampering with measuring devices.

No unauthorized person shall negligently break, damage, destroy, uncover, deface, tamper with, prevent access to or render inaccurate or cause or permit the negligent breaking, damaging, destroying, uncovering or defacing of, tampering with, preventing access to or rendering inaccurate any structure, appurtenance or equipment which is a part of the Town POTW or any measuring, sampling and/or testing device or mechanism installed pursuant to any requirement under this Part 2, except as approved by the Superintendent.

§ 157-127. Sampling; analysis.

- A. Sampling shall be performed so that a representative portion of the wastewater is obtained for analysis.
- B. All measurements, tests and analyses of the characteristics of waters and wastes required in any section of this Part 2 shall be carried out in accordance with standard methods by a laboratory certified by NYSDOH to perform the analyses. Such samples shall be taken at the approved monitoring stations described in § 157-124, if such a station exists. If an approved monitoring station is not required, then samples shall be taken from another location on the industrial sewer lateral before discharge to the public sewer. Unless specifically requested otherwise or unless specifically not allowed in federal regulation, samples shall be gathered as flow proportioned (where feasible) composite samples made up of individual samples taken not less than once per hour for the period of time equal to the duration of industrial wastewater discharge during daily operations (including any cleanup shift).

§ 157-128. Accidental discharges; SPCC plan.

- A. Each user shall provide for protection from accidental or slug discharges of prohibited materials or discharges of materials in volume or concentration exceeding limitations of this Part 2 or of an industrial wastewater discharge permit. Users shall immediately notify the Superintendent of the discharge of wastes in violation of this Part 2 or any permit. Such discharges may result from:
 - (1) The breakdown of pretreatment equipment.
 - (2) Accidents caused by mechanical failure or negligence.
 - (3) Other causes.
- B. Where possible, such immediate notification shall allow the Superintendent to initiate appropriate countermeasure action at the POTW. The user shall prepare a detailed written statement following any accidental or slug discharge, which describes the causes of the discharge and the measures being taken to prevent future occurrences, within five days of the occurrence, and the Superintendent shall receive a copy of such report no later than the fifth calendar day following the occurrence. Analytical results and their interpretation may be appended to the report at a date not exceeding 45 calendar days after the occurrence.
- C. When required by the Superintendent, detailed plans and procedures to prevent accidental or slug discharges shall be submitted to the Superintendent for approval as follows. These plans and procedures shall be called a "spill."
 - (1) A description of discharge practices, including nonroutine batch discharges.
 - (2) A description of stored chemicals.
 - (3) Procedures for immediately notifying the POTW of any accidental or slug discharge. Such notification must also be given for any discharge which would

violate any provision of the permit and any National Prohibitive Discharge Standard.

- (4) Procedures to prevent adverse impact from any accidental or slug discharge. Such procedures include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants (including solvents) and/or measures and equipment for emergency response.

§ 157-129. Posting notices.

In order that the industrial user's employees be informed of the Town of Warrensburg requirements, a notice shall be permanently posted on appropriate bulletin boards within the user's facility advising employees of the Town requirements and whom to call in case of an accidental discharge in violation of this Part 2.

§ 157-130. Splitting of samples.

When so requested in advance by an industrial user and when taking a sample of industrial wastewater, the Town representative(s) shall gather sufficient volume of sample so that the sample can be split into two nearly equal volumes, each of size adequate for the anticipated analytical protocols, including any quality control (QC) procedures. One of the volumes shall be given to the industry whose wastewater was sampled and the other shall be retained by the Town of Warrensburg for its own analysis.

§ 157-131. Access to information.

- A. When requested, the Superintendent shall make available to the public, for inspection and/or copying, information and data on industrial users obtained from reports, questionnaires, permit applications, permit and monitoring programs and inspections, unless the industrial user specifically requests and is able to demonstrate to the satisfaction of the Superintendent that such information, if made public, would divulge processes or methods of production entitled to protection as trade secrets of the user. Wastewater constituents and characteristics and reports of accidental discharges shall not be recognized as confidential.
- B. Confidential information shall not be made available for inspection and/or copying by the public, but shall be disclosed, upon written request, to governmental agencies for uses related to this Part 2, or the State Pollutant Discharge Elimination System permit, provided that the governmental agency making the request agrees to hold the information confidential, in accordance with state or federal laws, rules and regulations. The Superintendent shall provide written notice to the industrial user of any disclosure of confidential information to another governmental agency.

§ 157-132. Access to property.

The Superintendent and other authorized representatives of the Town, representatives of EPA, NYSDEC, NYSDOH and/or the Warren County Health Department bearing proper credentials and identification shall be permitted to enter upon all nonresidential properties at all times for the purpose of inspection, observation, sampling, flow measurement and testing in order to ascertain a user's compliance with applicable provisions of federal and state law governing use of the Town POTW and with the provisions of this Part 2. Inspections of residential properties shall be performed in proper observance of the resident's civil rights. Such representative(s) shall have the right to set up on the user's property or property rented/leased by the user such devices as are necessary to conduct sampling or flow measurement. Guard dogs shall be under proper control of the user while the representatives are on the user's property or property rented/leased by the user. Such representatives shall additionally have access to and may copy any records the user is required to maintain under this Part 2. Where a user has security measures in force which would require proper identification and clearance before entry into the premises, the user shall make necessary arrangements so that upon presentation of suitable identification, inspecting personnel will be permitted to enter, without delay, for the purpose of performing their specific responsibilities.

§ 157-133. Access to easements.

The Superintendent, bearing proper credentials and identification, shall be permitted to enter all private premises through which the Town of Warrensburg holds an easement for the purpose of inspection, observation, measurement, sampling, repair, and maintenance of any portion of the Town public sewer system lying within the easement. All entry and subsequent work on the easement shall be done in accordance with the terms of the easement pertaining to the private premises involved.

§ 157-134. Liability of property owner.

During the performance on private premises of inspections, sampling or other similar operations referred to in §§ 157-132 and 157-133, the inspectors shall observe all applicable safety rules established by the owner or occupant of the premises. The owner and/or occupant shall be held harmless for personal injury or death of the inspector and the loss of or damage to the inspector's supplies and/or equipment; and the inspector shall indemnify the owner and/or occupant against loss or damage to property of the owner or occupant by the inspector and against liability claims asserted against the owner or occupant for personal injury or death of the inspector or for loss of or damage to the inspector's supplies or equipment arising from inspection and sampling operations, except as such may be caused by negligence or failure of the owner or occupant to maintain safe conditions.

§ 157-135. Special agreements.

- A. Nothing in this article shall be construed as preventing any special agreement or arrangement between the Town of Warrensburg and any user of the POTW whereby wastewater of unusual strength or character is accepted into the POTW and specially

treated, subject to any payments or user charges, as may be applicable. In entering into such a special agreement, the Town Board shall consider whether the wastewater will:

- (1) Pass through or cause interference.
 - (2) Endanger the public municipal employees.
 - (3) Cause violation of the State Pollutant Discharge Elimination System permit.
 - (4) Interfere with any purpose stated in § 157-28.
 - (5) Prevent the equitable compensation to the Town for wastewater conveyance and treatment and sludge management and disposal.
- B. No discharge which violates the Federal Pretreatment Standards will be allowed under the terms of such special agreements.

ARTICLE III Administration and Enforcement

§ 157-136. Enforcement Response Plan.

- A. The Superintendent shall prepare an Enforcement Response Plan. The Enforcement Response Plan, in a step-by-step fashion, shall outline the procedures to be followed to identify, document and respond to violations by users of the POTW. All violations by users of the POTW shall be met with some type of enforcement response. The response shall be comprehensive and effective.
- B. The Enforcement Response Plan shall:
- (1) Describe how the Superintendent will investigate instances of noncompliance.
 - (2) Describe the types of escalated enforcement actions that the Superintendent will take in response to all anticipated types of user violations and the time periods within which to initiate and follow up these actions.
 - (3) Adequately reflect the Town Board's responsibility to enforce all applicable standards and requirements.
- C. The Enforcement Response Plan shall contain the following:
- (1) The criteria for scheduling periodic inspection and/or sampling visits to POTW users.
 - (2) Forms and guidelines for documenting compliance data in a manner which will enable the information to be used as evidence.
 - (3) Systems to track due dates, compliance schedule milestones and pending enforcement actions.
 - (4) Criteria, responsible, personnel and procedures to select and initiate an enforcement action.

- D. The range of appropriate enforcement actions shall be based on the nature and severity of the violation and other relevant factors, such as the magnitude of the violation, the duration of the violation, the effect of the violation on the receiving water, the effect of the violation on the POTW, the effect of the violation on the health and safety of the POTW employees, the compliance history of the user and the good faith of the user, and shall promote consistent and timely use of enforcement remedies.
- E. The Town Board shall approve the Enforcement Response Plan. The Enforcement Response Plan shall be reviewed at least every five years.

§ 157-137. Notification of violation.

Whenever the Superintendent finds that any user has violated or is violating this Part 2 or any wastewater discharge permit, order, prohibition, limitation or requirement permitted by this Part 2, the Superintendent may serve upon such person a written notice stating the nature of the violation. Within 10 calendar days of the date the Superintendent mails the notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof shall be submitted to the Superintendent by the user. The correction and prevention plan shall include specific actions. Submission of this plan in no way relieves the user of liability for any violations caused by the user before or after receipt of the Notice of Violation.

§ 157-138. Consent orders.

The Superintendent is hereby empowered to enter into consent orders, assurances of voluntary compliance or other similar documents establishing an agreement with the user responsible for the noncompliance. Such orders shall include specific action to be taken by the user to correct the noncompliance within a time period also specified by the order. Consent orders shall have the same force and effect as an administrative order.

§ 157-139. Administrative or compliance orders.

- A. When the Superintendent finds that a user has violated or continues to violate this Part 2 or a permit or administrative order issued thereunder, he may issue an administrative order to the user responsible for the discharge directing that, following a specified time period, sewer service shall be discontinued, severed and abated, unless the violation is corrected and that there is no reoccurrence of the violation. Administrative orders may also contain such other requirements as might be reasonably necessary and appropriate to address the noncompliance, including the installation of pretreatment technology, additional self-monitoring and management practices.
- B. The user may, within 15 calendar days of receipt of such order, petition the Superintendent to modify or suspend the order. Such petition shall be in written form and shall be transmitted to the Superintendent by registered mail. The Superintendent shall then:
- (1) Reject any frivolous petitions;
 - (2) Modify or suspend the order; or

- (3) Order the petitioner to show cause in accordance with § 157-144 and may, as part of the show cause notice, request the user to supply additional information.

§ 157-140. Violations; appeal.

- A. Notwithstanding any other section of this Part 2, any user who is found to have violated any provision of this Part 2 or a wastewater discharge permit or administrative order issued hereunder shall be fined in an amount not to exceed \$1,000 per violation. Each day on which noncompliance shall occur or continue shall be deemed a separate and distinct violation.
- B. The user may, within 15 calendar days of notification of the Superintendent's notice of such fine, petition the Superintendent to modify or suspend the order. Such petition shall be in written form and shall be transmitted to the Superintendent by registered mail. The Superintendent shall then:
 - (1) Reject any frivolous petitions.
 - (2) Modify or suspend the fine; or
 - (3) Order the petitioner to show cause in accordance with § 157-144 and may, as part of the show cause notice, request the user to supply additional information.

§ 157-141. Cease and desist orders; appeal.

- A. When the Superintendent finds that a user has violated or continues to violate this Part 2 or any permit or administrative order issued hereunder, the Superintendent may issue an administrative order to cease and desist all such violations and direct those persons in noncompliance to:
 - (1) Comply forthwith.
 - (2) Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations or terminating the discharge.
- B. The user may, within 15 calendar days of the date the Superintendent mails notification of such order, petition the Superintendent to modify or suspend the order. Such petition shall be in written form and shall be transmitted to the Superintendent by registered mail. The Superintendent shall then:
 - (1) Reject any frivolous petitions;
 - (2) Modify or suspend the order; or
 - (3) Order the petitioner to show cause in accordance with § 157-144 and may, as part of the show cause notice, request the user to supply additional information.

§ 157-142. Termination of permit; appeal.

- A. User who violates the following conditions of this Part 2 or a wastewater discharge permit or administrative order or any applicable or state and federal law is subject to permit termination for the following:
- (1) The violation of permit conditions.
 - (2) Failure to accurately report the wastewater constituents and characteristics of its discharge.
 - (3) Failure to report significant changes in operations or wastewater constituents and characteristics.
 - (4) Refusal of reasonable access to the user's premises for the purpose of inspection, monitoring or sampling.
- B. Noncompliant industrial users will be notified, by registered mail, of the proposed termination of their wastewater permit.
- C. The user may, within 15 calendar days of the date the Superintendent mails such notification, petition the Superintendent to permit continued use of the POTW by the user. Such petition shall be in written form and shall be transmitted to the Superintendent by registered mail. The Superintendent shall then:
- (1) Reject any frivolous petitions; or
 - (2) Order the petitioner to show cause in accordance with § 157-144 and may, as part of the show cause notice, request the user to supply additional information.

§ 157-143. Water supply severance; appeal.

- A. Whenever a user has violated or continues to violate the provisions of this Part 2 or an order or permit issued hereunder, water service to the user may be severed and service will only recommence, at the user's expense, after it has satisfactorily demonstrated its ability to comply.
- B. The user may, within 15 calendar days of severance, petition the Superintendent to reconnect water supply service. Such petition shall be in written form and shall be transmitted to the Superintendent by registered mail. The Superintendent shall then:
- (1) Reject any frivolous petitions.
 - (2) Reconnect the water supply; or
 - (3) Order the petitioner to show cause in accordance with § 157-144 and may, as part of the show cause notice, request the user to supply additional information.

§ 157-144. Show cause hearing.

- A. The Superintendent may order any user appealing administrative remedies for violations of this Part 2 to show cause, before the Town Board, why an enforcement action, initiated by the Superintendent, should not be taken. A notice shall be served on the user specifying the time and place of a hearing to be held by the Town Board regarding the violation, the reasons why the action is to be taken, the proposed enforcement action and directing the user to show cause before the Town Board why the proposed enforcement action should not be taken. The notice of the hearing shall be served at least 10 calendar days before the hearing, in accordance with § 157-146 of this article. Service shall be made on any principal or executive officer of a user's establishment or to any partner in a user's establishment.
- B. The Town Board may itself conduct the hearing or may designate any of its members or any officer or employee of the Town to conduct the hearing. Said designated officer or employee shall:
- (1) Issue, in the name of the Town Board, notices of hearings requesting the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in such hearings.
 - (2) Take the evidence.
 - (3) Take sworn testimony.
 - (4) Transmit a report of the evidence and hearing, including transcripts and other evidence, together with recommendations to the Town Board for action thereon.
- C. After the Town Board has reviewed the evidence and testimony, it may order the user to comply with the Superintendent's order or fine, modify the Superintendent's order or fine or vacate the Superintendent's order or fine.

§ 157-145. Failure to petition the Superintendent.

In the event that the Superintendent issues any administrative order, terminates the user's permit or makes any fine as set forth in this article and the user fails, within the designated period of time set forth, to petition the Superintendent, as provided in appropriate sections of this chapter, the user shall be deemed in default and its rights to contest the administrative order or fine shall be deemed waived.

§ 157-146. Notice. [Amended 7-13-1994]

The notices, orders, petitions or other notification which the user or Superintendent shall desire or be required to give pursuant to any sections of this Part 2 shall be in writing and shall be served personally or sent by certified mail, return receipt requested, postage prepaid, and the notice, order, petition or other communication shall be deemed given upon its mailing as provided herein. Any notice, administrative order or communication mailed to the user pursuant to the sections of this Part 2 shall be mailed to the user where the user's effluent is discharged into transmission lines to the Town POTW. Any notice, petition or other

communication mailed to the Superintendent shall be addressed and mailed to the Town Hall of the Town of Warrensburg.

§ 157-147. Right to choose multiple remedies.

The Superintendent shall have the right, within the Superintendent's sole discretion, to utilize any one or more appropriate administrative remedies set forth in this article. The Superintendent may utilize more than one administrative remedy established pursuant to this article, and the Superintendent may hold one show cause hearing combining more than one enforcement action.

§ 157-148. Civil penalties.

- A. Any person who violates any of the provisions of or who fails to perform any duty imposed by this Part 2 or any administrative order or determination of the Superintendent promulgated under this Part 2 or the terms of any permit issued hereunder shall be liable to the Town of Warrensburg for a civil penalty not to exceed \$1,000 for each such violation, to be assessed after a hearing (unless the user waives the right to a hearing) held in conformance with the procedures set forth in this article. Each violation shall be separate and distinct violation and, in the case of continuing violation, each days' continuance thereof shall be deemed a separate and distinct violation. Such penalty may be recovered in an action brought by the Town Attorney, or his designated attorney, at the request of the Superintendent in the name of the Town in any court of competent jurisdiction, giving preference to courts local to the Town.
- B. In addition to the above described penalty, the Superintendent may recover all damages incurred by the Town from any persons or users who violate any provisions of this Part 2 or who fail to perform any duties imposed by this Part 2 or any administrative order or determination of the Superintendent promulgated under this Part 2 or the terms of any permit issued hereunder. In addition to the above described damages, the Superintendent may recover all reasonable attorney's fees incurred by the Town in enforcing the provisions of this article, including reasonable attorney's fees incurred in any action to recover penalties and damages, and the Superintendent may also recover court costs and other expenses associated with the enforcement activities, including sampling and monitoring expenses.
- C. In determining the amount of civil penalty, the court shall take into account all relative circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration, any economic benefit gained through the user's violation, corrective, actions by the user, the compliance history of the user and any other relative factors as justice may require.
- D. Such civil penalty may be released or comprised by the Superintendent before the matter has been referred to the Town Attorney, and where such matter has been referred to the Town Attorney, any such penalty may be released or compromised and any action commenced to recover the same may be settled and discontinued by the Town Attorney, with the consent of the Superintendent.

§ 157-149. Court orders.

- A. In addition to the power to assess penalties as set forth in this article, the Superintendent shall have the power, following the hearing held in conformance with the procedures set forth in this article, to seek an order:
- (1) Suspending, revoking or modifying the violator's wastewater discharge permit; or
 - (2) Enjoining the violator from continuing the violation.
- B. Any such court order shall be sought in an action brought by the Town Attorney, at the request of the Superintendent, in the name of the Town in any court of competent jurisdiction, giving precedence to courts local to the Town of Warrensburg.
- C. The Town attorney, at the request of the Superintendent, shall petition the Court to impose, assess and recover such sums imposed according to this article. In determining amount of liability, the Court shall take into account all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration, any economic benefit gained through the user's violation, corrective actions by the user, the compliance history of the user and any other factor as justice requires.

§ 157-150. Criminal penalties.

- A. Any person who willfully violates any provision of this Part 2 or any final determination or administrative order of the Superintendent made in accordance with this article shall be guilty of a Class A Misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than \$500 nor more than \$1,000 or imprisonment not to exceed one year, or both. Each offense shall be a separate and distinct offense, and, in the case of a continuing offense, each days' continuance thereof shall be deemed a separate and distinct offense.
- B. Any user who knowingly makes any false statements, representations or certifications in any application, record, report, plan or other document filed or required to be maintained pursuant to this Part 2 or wastewater permit or who falsifies, tampers with or knowingly renders inaccurate any monitoring device or method required under this Part 2 shall be guilty of a Class A Misdemeanor and, upon conviction, shall be punished by a fine of not more than \$1,000 per violation per day or imprisonment for not more than (1) year, or both.
- C. No prosecution under this section shall be instituted until after final disposition of a show cause hearing, if any, was instituted.

§ 157-151. Additional injunctive relief.

Whenever a user has violated or continues to violate the provisions of this Part 2 or permit or order issued hereunder, the Superintendent, through counsel, may petition the Court, in the name of the Town of Warrensburg, for the issuance of a preliminary or permanent injunction, or both (as may be appropriate), which restrains the violation of or compels the compliance with any order or determination thereunder by the Superintendent.

§ 157-152. Summary abatement.

- A. Notwithstanding any inconsistent provisions of this Part 2, whenever the Superintendent finds that, after investigation, any user is causing, engaging in or maintaining a condition or activity which, in the judgment for the Superintendent, presents an imminent danger to the public health, safety or welfare or to the environment or is likely to result in severe damage to the POTW or the environment and it therefore appears to be prejudicial to the public interest to allow the condition or activity to go unabated until notice and an opportunity for a hearing can be provided, the Superintendent may, without prior hearing, order such user by notice, in writing wherever practicable or in such other form as practices are intended to be proscribed, to discontinue, abate or alleviate such condition or activity, and thereupon such person shall immediately discontinue, abate or alleviate such condition or activity; or where the giving notice is impracticable or in the event of a user's failure to comply voluntarily with an emergency order, the Superintendent may take all appropriate action to abate the violating condition. As promptly as possible, the Superintendent shall provide the user an opportunity to be heard, in accordance with the provisions of this article.
- B. If the user is not within the geographic boundaries of the Town of Warrensburg the right of summary abatement to discontinue, abate or alleviate conditions or activities shall be those prescribed in the intermunicipal agreement.
- C. The Superintendent, acting upon the belief that an emergency exists, shall be indemnified against any personal liability that may arise in the performance of his duties to protect the public health, safety or welfare or to preserve the POTW or the environment.¹⁰

§ 157-153. Performance bonds.

The Superintendent may decline to reissue a permit to any user which has failed to comply with the provisions of this Part 2 or any order or previous permit issued hereunder unless such user first files with it a satisfactory bond, payable to the POTW, in a sum not to exceed a value determined by the Superintendent to be necessary to achieve consistent compliance.

§ 157-154. Liability insurance.

The Superintendent may decline to reissue a permit to any user which has failed to comply with the provisions of this Part 2 or any order or previous permit issued hereunder, unless the user first submits proof that it has obtained financial assurances sufficient to restore or repair POTW damage caused by its discharge.

§ 157-155. Informant rewards.

The Superintendent is authorized to pay up to \$500 for information leading to the discovery of noncompliance by a user. In the event that the information provided results in an administrative fine or civil penalty levied against the user, the Superintendent is authorized to

10. Editor's Note: Former Section 1118, Delinquent Payments, which immediately followed this subsection, was deleted 9-2-1992.

disperse up to 10% of the collected fine or penalty to the informant. However, a single reward payment may not exceed \$10,000, including the discovery reward.

§ 157-156. Normal sewage service charges.

- A. Sewer rents shall be imposed on the basis of user units. A single user unit shall be based on the average flow of a typical single-family residence as defined in § 157-30 herein. Rents for multiple-family units and commercial establishments shall be imposed based on relative estimated average flow, volume, number and kind of plumbing fixtures and/or appliances, number of persons served, character of sewage and other factors. Rates for these users are forth in the User Unit Schedule as Appendix B.¹¹
- B. All vacant properties containing sufficient area and which, under the applicable laws, rules and ordinances of the Town of Warrensburg, the County of Warren and the State of New York, are legally capable of being developed by the erection of a building or structure for residential, commercial or other use shall be known as a "buildable lot." Each buildable vacant lot shall pay a benefit assessment based on the availability of the sewer system to such property. The benefit assessment shall be equal to one-quarter (1/4) user units.

§ 157-157. Surcharge for abnormal sewage.

All persons discharging or depositing wastes with concentrations in excess of the pollutant concentrations in normal sewage shall pay a surcharge according to the following formula:

$$UC(t) = UC(n) + UC(an)$$

Where:

- UC(t) = Total user charge for POTW operation and maintenance
- UC(n) = User charge associated with normal sewage
- UC(an) = User Charge associated with abnormal sewage
- UC(n) = $OM \times (OQ/100) \times (QIA/QA)$
- UC(an) = $OM \{ [OB/100 \times (BIA-Bn)/BA] + [OS/100 \times (SIA-Sn)/SA] + [OP/100 \times (PIA-Pn)/PAI] + [ONH/100 \times (NHIA-NHn)/NHA] + OTK/100 \times (TKIA-TKn)/TKA \}$

Where:

- OM = Total annual POTW operation and maintenance costs
- OQ = Percentage of OM attributable to flow (Q)

11. Editor's Note: Said User Unit Schedule is on file at the office of the Town Clerk.

OB	=	Percentage of OM attributable to BOD (five-day)
OS	=	Percentage of OM attributable to suspended solids
OP	=	Percentage of OM attributable to total phosphorus
ONH	=	Percentage of OM attributable to ammonia
OTK	=	Percentage of OM attributable to total Kjeldahl nitrogen
QLA	=	Average daily flow rate [millions of gallons per day (mgd)] from discharger
BIA	=	Average daily BOD (five-day) loading [pounds per day (lb/day)] from discharger
SIA	=	Average daily suspended solids loading (lb/day) from discharger
PIA	=	Average daily total phosphorus loading (lb/day) from discharger
NHIA	=	Average daily ammonia loading [pounds of nitrogen per day (lb n/day)] from discharger
TKIA	=	Average daily total Kjeldahl nitrogen loading (lb n/day) from discharger
QA	=	Average daily flow rate (mgd) at the POTW treatment plant
BA	=	Average daily BOD ₅ loading (lb/day) at the POTW treatment plant
SA	=	Average daily suspended solids loading (lb/day) at the POTW treatment plant
PA	=	Average daily total phosphorus loading (lb/day) at the POTW treatment plant
NHA	=	Average daily total ammonia loading (lb n/day) at the POTW treatment plant
TKA	=	Average daily total Kjeldahl nitrogen loading (lb n/day) at the POTW treatment plant
Bn	=	BOD (five-day) loading (lb/day) in discharge if it were normal sewage
Sn	=	Suspended solids loading (lb/day) in discharge if it were normal sewage
Pn	=	Total phosphorus loading (lb/day) in discharge if it were normal sewage
NHn	=	Ammonia loading (lb n/day) in discharge if it were normal sewage
TKn	=	Total Kjeldahl nitrogen loading (lb n/day) in discharge if it were normal sewage

NOTES:

¹If any difference terms in the equation above is negative, then that portion of the equation shall not be used; that is, the difference shall be set to zero when it is negative.

²All averages are arithmetic averages determined from available data during the billing period.

§ 157-158. Segmenting the POTW.

The service area of the POTW may be segmented to assist in a fair distribution of user charges, especially if there is a pump station serving a segment.

§ 157-159. Billing period.

- A. Rents, charges and assessments shall be issued four times a year. Bills shall be due on the first days of February, May, August and October. Rents and charges shall be paid at the office of the Town Clerk within 15 days of the billing date. Bills not paid within that time shall be assessed a penalty of 10%. [Amended 9-2-1992; 1-12-2011 by L.L. No. 1-2011]
- B. A further charge of an additional 10% shall be added thereto in each case of failure to make payment by November 1 following the initial due date, and the total thus obtained shall be the sewer rental in each such case. [Amended 1-12-2011 by L.L. No. 1-2011]
- C. The sewer rents and penalties remaining due and unpaid at the time of the annual Town tax levy is made out shall be included therein, pursuant to the Town Law, and levied against the real property on which the same has been used and shall be collected and enforced with and in the same manner and at the same time as the other Town taxes.
- D. Bills will be sent out to all owners of real property connected or adjacent to the sewer system. However, the failure of any owner to receive a bill promptly shall not excuse nonpayment of the same and, in the event that the owner fails to receive a bill promptly, shall demand the same of the Town Clerk's office.

§ 157-160. Pretreatment program costs.

The additional charges and fees associated with the operation of the pretreatment program shall be assessed the user and include:

- A. Reimbursement of costs of setting up and operating the pretreatment program.
- B. Issuing permits.
- C. Monitoring, inspections and surveillance procedures.
- D. Costs of equipment and supplies.
- E. Reviewing accidental discharge procedures.
- F. Construction inspections.
- G. Filing appeals.
- H. Application for consistent removal status as outlined in 40 CFR 403.
- I. Other reasonable expenses to carry out the program to satisfy the requirements of this Part 2, the NYSDEC and the Federal government.

§ 157-161. Charges for trucked and hauled wastes. [Amended 7-10-1996 by L.L. No. 1-1996]

The charge for dumping septage into the POTW shall be as set forth from time to time by resolution of the Town Board. The manner of determining the volume dumped shall be at the discretion of the Superintendent.

§ 157-162. Capital recovery.

The Town may institute an equitable procedure for recovering the costs of any capital improvements of those parts of the POTW which collect, pump, treat and dispose of industrial wastewaters from those persons discharging such wastewaters into the POTW.

§ 157-163. Collection of charges.

Provisions of Article III of this Part 2 relating to the collection of penalties shall apply to the collection of sewer service charges and abnormal sewage service surcharges, unless where otherwise provided by application of the Sewer Rent Law by the Town of Warrensburg.

§ 157-164. Operation according to fiscal year.

The POTW shall be operated on the basis of a fiscal year commencing on the first of January and ending on the 31st of December.

§ 157-165. Impact fees.

The Town Board shall have the authority to impose impact fees on new development, which development may:

- A. Cause enlargement of the service area of the POTW.
- B. Cause increased hydraulic and/or treatment demands on the POTW.

§ 157-166. Use of revenues.

Revenues derived from user charges and associated penalties and impact fees shall be credited to a special fund. Moneys in this fund shall be used exclusively for the following functions:

- A. For the payment of the operation and maintenance, including repair and replacement costs of the Town of Warrensburg POTW.
- B. For the discovery and correction of inflow and infiltration.
- C. For the payment of interest on and the amortization of or payment of indebtedness which has been or shall be incurred for the construction or extension of the Town POTW.
- D. For the extension, enlargement, replacement of and/or additions to the Town POTW, including any necessary appurtenances.

§ 157-167. POTW operations open to the public.

It shall be the policy of the Town Board to conduct all business with full disclosure to the public.

§ 157-168. Procedural requirements available.

The nature and requirements of all formal procedures for applying for a permit and for requesting a permit under this Part 2 and for requesting a hearing shall be formulated by the Town and be made available to any resident of the Town upon request.

§ 157-169. Validity through public inspection.

The Town shall formulate procedures to make available to the public for inspection such orders, statements of policy and interpretations used by the Town in administration of this Part 2. No rule, regulation or civil order shall be valid until it has been available for public inspection.

ARTICLE IV

Repairs to Private System of Sewers

[Added 5-7-1992]

§ 157-170. Responsibility for repairs of sewer line breaks on existing mains.

- A. The Town of Warrensburg shall assume responsibility for necessary repairs for malfunctions in said private sewer line if said malfunction occurs on publicly owned rights of way and/or properties.
- B. Where said breaks and malfunctions occur on publicly owned rights of way and/or properties, the extent of the own responsibility shall be for maintenance and repair only, not for any other consequential damages.
- C. If the malfunction, plug or break occurs on an owner's private property between the curb line and the owner's structure, the Town will not accept responsibility for repair, maintenance or installation.
- D. The Water Superintendent and/or the Superintendent of Highways shall be empowered to make the determination as to the location of the malfunction, plug or break.

Chapter 163

SHORT-TERM RENTALS

- | | |
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| § 163-1. Purpose and intent; authority. | § 163-6. Contents of short-term rental permit. |
| § 163-2. Definitions. | § 163-7. Short-term rental standards. |
| § 163-3. Permit required. | § 163-8. Enforcement and penalties. |
| § 163-4. Permit application requirements. | § 163-9. Severability. |
| § 163-5. Application procedure. | § 163-10. Effective date. |

[HISTORY: Adopted by the Town Board of the Town of Warrensburg 1-9-2019 by L.L. No. 1-2019. Amendments noted where applicable.]

§ 163-1. Purpose and intent; authority.

The Town Board has determined that short-term, transient rentals can be incompatible with the sense of privacy, community and ambience currently enjoyed in residential neighborhoods in the Town and have the potential to create a threat to the public health, safety and well-being within the Town. The Board also recognizes that short-term rentals can attract visitors to the Town and can provide an additional source of income to Town residents. Accordingly, the Board wishes to provide regulations to protect against adverse effects of this use while allowing it under appropriate circumstances. This chapter is adopted pursuant to New York Municipal Home Rule Law.

§ 163-2. Definitions.

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

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.

RENTAL — Granting use or possession of a dwelling unit in whole or part to a person or group in exchange for some form of valuable consideration.

SHORT-TERM RENTAL — A dwelling unit, which may or may not be inhabited by the owner of record or their immediate family, that is rented, in whole or in part, for a period of less than 30 consecutive days to any person or entity, but not including a hotel, motel, inn, campground or bed-and-breakfast.

SHORT-TERM RENTAL OWNER — All entities having an ownership interest in a dwelling unit which is used as a short-term rental.

SHORT-TERM RENTAL PROPERTY — The entire area which is under the ownership or control of the short-term rental owner including, as applicable, the parcel of land on which a

short-term rental is located together with the dwelling in which it is located and any other structures on the parcel.

§ 163-3. Permit required.

- A. An owner of a dwelling unit shall obtain a revocable short-term rental permit whenever the dwelling unit is to be used as a short-term rental.
- B. A short-term rental permit shall be obtained prior to using the dwelling unit as a short-term rental.
- C. A short-term rental permit shall be valid for three years and shall expire on the 31st day of December of the third year it is in effect, and must be renewed every three years thereafter for as long as the dwelling unit or portion thereof is used as a short-term rental.
- D. Short-term rental permits are nontransferable. If a short-term rental is sold or otherwise transferred, the new owner must apply for and obtain a short-term rental permit in their name prior to any use of the dwelling unit as a short-term rental by the new owner. Buyers under contract for the purchase of a short-term rental property may apply for a short-term rental permit as a prospective owner in the same manner as set forth herein, with issuance of the permit conditioned upon the buyers' closing of title to the property.
- E. Failure to abide by the rules established by the Town of Warrensburg for short-term rentals may result in revocation of the short-term rental permit and/or additional penalties as set forth below.

§ 163-4. Permit application requirements.

An application for a short-term rental permit at renewal shall be:

- A. Made on a form provided by the Town Clerk or Town Code Enforcement Officer;
- B. Submitted to the Code Enforcement Officer;
- C. Signed by all persons and entities that have an ownership interest in the proposed short-term rental property;
- D. Accompanied by:
 - (1) A non-refundable application fee in an amount to be determined by resolution of the Town Board.
 - (2) A copy of the vesting deed or other document showing how title to the proposed short-term rental is held.
 - (3) Proof of a satisfactory inspection of the short-term rental property by the Warren County Department of Fire Prevention and Building Codes conducted within the 30 days immediately preceding the application date and at the owner's expense; and which proof sets forth the maximum overnight occupancy for the short-term rental.

- (4) A site plan of the proposed short-term rental property (not required to be professionally drawn) showing all building locations and off-street parking area(s).
- (5) A list of the rules and regulations for the proposed short-term rental as required by § 163-7B.
- (6) A signed and notarized affidavit by all of the proposed short-term rental owners certifying compliance with the short-term rental standards set forth in § 163-7.
- (7) A list of the proposed short-term rental owners including names, addresses, telephone numbers and e-mail addresses.

§ 163-5. Application procedure.

- A. Upon the filing with the Code Enforcement Officer of a permit application, permit fee and all documents required by this chapter, the Code Enforcement Officer shall have 30 days to review the application and either issue the permit, with or without conditions, or notify the applicant in writing that the application has been denied and state the reason or reasons for denial. All issued permits shall bear the signature of the Code Enforcement Officer.
- B. If the Code Enforcement Officer believes that information provided with regard to the short-term rental and/or short-term rental property is inaccurate, he or she shall notify the property owner and make arrangements with the property owner to physically inspect the proposed short-term rental property to verify the application information. Failure on the part of the property owner to allow entrance onto the property shall terminate the application process.
- C. In issuing a short-term rental permit, the Code Enforcement Officer may impose reasonable conditions and restrictions which are directly related and incidental to the use of the short-term rental so long as such conditions and restrictions are consistent with the requirements of this chapter and the Town Zoning Code, and are imposed for the purposes of maintaining safety or minimizing any adverse impact the proposed short-term rental may have on the community or neighborhood.
- D. The Code Enforcement Officer may deny a permit application for any of the following reasons:
 - (1) If the application form is incomplete or required documents are not provided.
 - (2) If the application fee is not provided.
 - (3) If a short-term rental permit for the property was revoked within the previous year.
 - (4) If a physical inspection of the proposed short-term rental property, as outlined in this section, reveals that information provided in the application is not factual or the property is not in compliance with the requirements for short-term rentals as described in the short-term rental standards at § 163-7.

§ 163-6. Contents of short-term rental permit.

Short-term rental permits issued pursuant to this chapter shall state the following:

- A. The names, addresses, telephone numbers and e-mail addresses of every person or entity that has an ownership interest in the short-term rental property.
- B. The name, address and telephone number of a local primary contact person who shall be available during the entire time that the short-term rental is being rented.
- C. The maximum occupancy requirements for the short-term rental as determined by the Warren County Department of Fire Prevention and Building Codes.
- D. That the renters must observe quiet between the hours of 10:00 p.m. and 7:00 a.m. daily.
- E. That the short-term rental permit may be revoked for violations.
- F. Any conditions imposed by the Code Enforcement Officer.
- G. That the permit shall expire on December 31st of the third year for which it is effective.

§ 163-7. Short-term rental standards.

Short-term rentals shall comply with the following standards and requirements:

- A. Short-term rental properties shall comply with all current federal, state and local laws, codes, rules and regulations.
- B. Rules and regulations put in place by the short-term rental owner shall be provided in writing to each renter and posted at all times when the short-term rental is rented in a conspicuous location at the short-term rental in plain view of the renters, and shall list the penalties for violation of such rules or regulations. The rules and regulations shall be enforced by the short-term rental owner and shall include a requirement that renters shall maintain quiet at the short-term rental between the hours of 10:00 p.m. and 7:00 a.m.
- C. The short-term rental permit shall be posted inside the short-term rental within five feet of the main entrance and remain so posted during any period that the short-term rental is rented pursuant to the permit.
- D. Provisions shall be made by the short-term rental owner prior to actual rental for weekly garbage removal during rental periods. Garbage containers shall be secured with tight-fitting covers at all times to prevent leakage, spillage and odors, and be placed where they are not clearly visible from the street or road except as required for pick-up times.
- E. A house number visible from the street or road shall be maintained.
- F. The short-term rental owner shall provide each property owner within a 150-foot radius of the boundaries of the short-term rental property with a copy of the current short-term rental permit, and shall certify to the Town Code Enforcement Officer in written form

the name(s), addresses and date(s) of the person or persons provided with a copy of the current short-term rental permit.

- G. The short-term rental owner must ensure that current and accurate information is provided to the Town Code Enforcement Officer and must immediately notify the Code Enforcement Officer of any changes from the information originally supplied at the time of application. If, based on the information changed, the Code Enforcement Officer issues an amended permit, the amended permit must be immediately posted in the short-term rental in place of the original permit.

§ 163-8. Enforcement and penalties.

- A. The Town Code Enforcement Officer and Warren County Fire Prevention and Building Codes Department shall be granted access to the short-term rental property upon reasonable request for the purpose of inspection and/or enforcement of compliance with short-term rental regulations and/or state and local codes.
- B. A short-term rental permit may be revoked, suspended or reasonably conditioned according to the following:
- (1) For a first or second violation of this chapter or the terms of a short-term rental permit by a short-term rental owner related to a particular short-term rental property, the Code Enforcement Officer shall issue a written notice of violation to the short-term rental property owner mailed to the addresses set forth on the short-term rental permit by certified or registered mail, return receipt requested. The notice of violation shall specify the violation, what actions must be taken to remedy the violation and provide for a reasonable time in which to remedy the violation. If a property owner fails to remedy the violation within the time frame specified, the Code Enforcement Officer may revoke, suspend or attach reasonable conditions to an existing short-term rental permit.
 - (2) For a third or any subsequent violation of this chapter or the terms of a short-term rental permit by a short-term rental owner related to a particular short-term rental property, the Code Enforcement Officer shall issue a written notice of violation and may revoke, suspend or attach reasonable conditions to an existing short-term rental permit. The notice of violation and any determination of the Code Enforcement Officer to revoke, suspend or condition an existing short-term rental permit shall be provided to the short-term rental property owners in writing to the addresses set forth on the short-term rental permit by certified or registered mail, return receipt requested.
 - (3) The Code Enforcement Officer may suspend or revoke a short-term rental permit immediately, regardless of the number of prior violations, in the event of a violation of this chapter or the terms of a short-term rental permit which poses a threat to the health, safety or welfare of any occupants or the general public. In the case of an immediate suspension or revocation, the Code Enforcement Officer shall notify the short-term rental property owners in writing to the addresses set forth on the short-term rental permit by certified or registered mail, return receipt requested.

- (4) Short-term rental property owners may appeal a determination of the Code Enforcement Officer to suspend, revoke or condition a short-term rental permit no later than 30 days after the mailing of notice of the determination. The appeal must be made in writing to the Town Clerk and such appeal shall be heard by the Town Board at a regularly scheduled Town Board Meeting. During the time following submission of an appeal and prior to the decision of the Town Board, the determination of the Code Enforcement Officer shall be stayed. At the hearing the Town Board shall accept evidence offered by the short-term rental owner, any complaining parties, the Code Enforcement Officer and any other witness with relevant evidence. The Town Board shall make its determination within 10 days after the hearing, and may uphold, reverse or modify the Code Enforcement Officer's determination. The Town Board's determination shall be provided to the short-term rental property owners in writing to the addresses set forth on the short-term rental permit by certified or registered mail, return-receipt requested.
 - (5) If a short-term rental permit is revoked, no short-term rental permit may be obtained for the subject property for at least one year following the revocation.
- C. The Code Enforcement Officer and/or authorized assistants or deputies shall have the authority, pursuant to the Criminal Procedure Law, to issue an appearance ticket or summons and complaint, subscribed by him or her, directing a designated person to appear in court at a designated time in connection with the commission of a violation of this chapter.
- D. Penalties. Any person or entity who shall violate any provision of this chapter, any order made hereunder, or any rules or regulations adopted pursuant to this chapter in addition to other penalties provided for in this chapter shall be guilty of an offense punishable in the following manner:
 - (1) A fine of not more than \$200 for the first offense;
 - (2) A fine of not more than \$500 for a second offense; and
 - (3) A fine of not more than \$950 for a third or any subsequent offense.
- E. A civil action or proceeding in the name of the Town of Warrensburg, New York, may be commenced in any court of competent jurisdiction to compel compliance with or restrain by injunction the violation of any provision of this chapter or any rule or regulation adopted pursuant to hereto. Such remedy shall be in addition to penalties otherwise prescribed by law and may be commenced with the consent of a majority of the Town Board.
- F. No remedy or penalty specified in this section shall be the exclusive remedy or penalty available to address any violation described in this section, and each remedy or penalty specified in this chapter shall be in addition to, and not in substitution for or limitation of, the other remedies or penalties specified in this chapter, or in any other applicable law. Any remedy or penalty specified in this chapter may be pursued at any time, whether prior to, simultaneously with, or after the pursuit of any other remedy or penalty specified in this section. The Town may initiate enforcement proceedings under this chapter at any time following receipt of a complaint or if the Code Enforcement Officer determines that a violation has occurred.

- G. Each day a violation continues shall constitute a separate and distinct offense to which all penalties shall apply.

§ 163-9. Severability.

The invalidity of any clause, sentence, paragraph or provision of this chapter shall not invalidate any other clause, sentence, paragraph or part thereof.

§ 163-10. Effective date.

This chapter shall take effect upon filing by the office of the New York State Secretary of State or as otherwise provided by law.

Chapter 170
SOLID WASTE

ARTICLE I
Transfer Station

- § 170-1. Definitions.
- § 170-2. Site.
- § 170-3. Depositing restrictions; removal.
- § 170-4. General restrictions.
- § 170-5. Adherence to directions of authorized agent.
- § 170-6. Fees; permits.
- § 170-7. Penalties for offenses.
- § 170-8. Revocation of privileges.
- § 170-8.1. Authority of Town to remove garbage from private property.

ARTICLE II
Recycling

- § 170-9. Findings; purpose.

- § 170-10. Intent.
- § 170-11. Definitions.
- § 170-12. Source separation requirements; recommendation to change requirements.
- § 170-13. Procedures for residential recycling.
- § 170-14. Procedures for the commercial, industrial and institutional recycling.
- § 170-15. Requirements for commercial haulers.
- § 170-16. Unauthorized collection of recyclables.
- § 170-17. Amendments; public education.
- § 170-18. Enforcement.
- § 170-19. Penalties for offenses.

[HISTORY: Adopted by the Town Board of the Town of Warrensburg as indicated in article histories. Amendments noted where applicable.]

GENERAL REFERENCES

Outdoor burning — See Ch. 98.
Junkyards — See Ch. 129.

Trees — See Ch. 189.

ARTICLE I
Transfer Station
[Adopted 4-2-1986]

§ 170-1. Definitions.

As used in this article, the following words shall have the meanings indicated:

GARBAGE — Waste goods, dead animals, birds, fish or parts thereof or discarded animals or vegetable matters of any kind which are capable of fermentation or decay.

PERSON — An individual, society, club, firm, partnership, corporation or association of persons, and the singular number shall include the plural number.

REFUSE — Garbage, rubbish and such other materials as may be lawfully deposited in a transfer station, pursuant to the terms of this article or any local law of the Town of Warrensburg or any law, rule or regulation of the State of New York.

RUBBISH — Waste material, tin cans, brushes, cinders, glass, pottery and all discarded substances of a solid and incombustible nature.

§ 170-2. Site.

- A. Premises owned by the Town of Warrensburg situated adjacent to Route 9, known as the "Warrensburg Transfer Station," are hereby designated as a dumping ground for refuse by the residents of the Town of Warrensburg, subject to the provisions of this article.
- B. The provisions of this article shall also apply to any other lands hereafter acquired or leased for the purpose of disposal of refuse within the Town of Warrensburg.

§ 170-3. Depositing restrictions; removal.

- A. No person shall carry or leave or cause to be carried or left upon the premises in § 170-2 of this article any of the following materials, except as herein provided:
 - (1) Vehicles and large articles. Any automobile, vehicle, machine, appliance or any other article or any part thereof, unless the same shall have been dismantled and the body thereof so cut or flattened out so as to permit the same to occupy the minimum of space. The person in charge of the transfer station under the authority of the Town Board of the Town of Warrensburg shall have the authority to declare when a vehicle or large article does not comply with these provisions.
 - (2) Garbage and other refuse. Refuse which shall give off any offensive odor, either when left upon the premises or thereafter, or which has created or may create a nuisance of any kind or which shall be or may be dangerous to human or animal life, except as the same may be permitted by the regulations of the Town Board of the Town of Warrensburg.
 - (3) Any dangerous materials or substance, such as cleaning fluids, crank case oils, cutting oils, paints, plastics, explosives, acids, caustics, poisons, drugs, infected materials, radioactive materials, fine powdery earth used to filter cleaning fluid and any and all refuse of a similar nature.
 - (4) Any hazardous materials or any material which may now or hereafter require a permit pursuant to 6 NYCRR 364 or 6 NYCRR 371.
 - (5) Any septic waste, septage, sewage sludge or any other liquid wastes.
 - (6) Unusual quantities of materials resulting from the construction or wrecking of buildings and structures or that may result from manufacturing, industrial or agricultural processes.

- (7) Any refuse produced outside the Town of Warrensburg. No person, firm or corporation shall be permitted to deposit any refuse which has been produced outside of the Town of Warrensburg.
- B. Any person delivering any such refuse or restricted material to said premises or, in the event that such refuse may have been unloaded, at such premises shall be required to remove such material immediately.

§ 170-4. General restrictions.

- A. Except as is otherwise permitted by this article, no person shall throw or deposit or cause to be thrown or deposited any material described in § 170-3 of this article or any other refuse, in or upon any public highway or upon private lands adjacent thereto or upon any street or place within said Town of Warrensburg, except upon said Warrensburg Town Transfer station pursuant to the provisions of this article.
- B. Nothing herein contained shall be construed as prohibiting the reasonable use of ashes, sand, salt or other similar material for the purpose of reducing the hazard of or providing traction in mud, snow, ice or sleet.

§ 170-5. Adherence to directions of authorized agent.

No person shall deposit or cause to be deposited any substance of any kind on the dumping grounds designated herein, except at the places and in the manner directed by the person in charge of the premises under the authority of the Town Board of the Town of Warrensburg or by a sign or signs erected on the premises by order of the Town Board of the Town of Warrensburg.

§ 170-6. Fees; permits.

The Town Board may by resolution from time to time establish and amend fees to be charged for the use of the Warrensburg Transfer Station and facilities and may also authorize by resolution regulations for the issuance of permits for the appropriate use of the transfer station and facilities.

§ 170-7. Penalties for offenses. [Amended 5-12-1993; 7-10-1996 by L.L. No. 1-1996]

Any person violating any of the provisions of this article or the rules, regulations or resolutions promulgated hereunder shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished for each offense by a fine of not more than \$1,000 or imprisonment for not more than one year, or both such fine and imprisonment.

§ 170-8. Revocation of privileges.

Any person who or whose servants, agents, employees or officers acting on his behalf shall be convicted of a violation hereof may thereafter be denied the use of the transfer station and

facilities by the officer or employee in charge and may also be denied the issuance of any permits for the use of the transfer station.¹

§ 170-8.1. Authority of Town to remove garbage from private property. [Added 6-10-1998]

The Town is authorized to clean up and remove garbage and debris from private properties and reley the costs onto property taxes, following a court appearance by the property leaser/owner.

ARTICLE II

Recycling

[Adopted 4-10-1991 by L.L. No. 2-1991]

§ 170-9. Findings; purpose.

- A. The Town Board of the Town of Warrensburg finds that a reduction of solid waste through separation and removal of recyclable materials from the waste stream is of importance to the health, safety and general welfare of the residents of the Town of Warrensburg, County of Warren, and is required by a consent order entered into by the Town on September 20, 1990. Such a plan should reduce the amount of solid waste generated by residents of the Town and encourage the reuse or recycling of materials and conservation of our precious natural resources.
- B. Waste reduction and recycling are preferable to the disposal and processing of solid waste. Removing recyclable materials from the waste stream will decrease the flow of solid waste to the Town's overburdened transfer station and/or transport to other disposal facilities, aid in the conservation and recovery of valuable resources and conserve energy in the manufacturing process. Conversely, improper solid waste management practices create public health hazards, environmental pollution and economic loss.
- C. The Town should, to the extent feasible, purchase products or materials which are made from recycled materials and which are recyclable in order to foster recycling by stimulating the market for such materials and by educating the public concerning the utility and availability of such materials.

§ 170-10. Intent.

- A. It is the intent of this article to promote the disposal of solid waste generated within the Town of Warrensburg in the most environmentally acceptable manner possible by requiring the separation and recovery of all recyclable materials which can be marketed or used for secondary purposes.

1. Editor's Note: Former Section 10, Effective Date, which immediately followed this section, was repealed 7-10-1996 by L.L. No. 1-1996.

- B. In addition, this article seeks to provide for the education of the citizens of the Town with respect to the economic and environmental values of recycling and waste reduction and the encouragement of participation in such activities.

§ 170-11. Definitions.

As used in this article, the following words shall have the meanings indicated:

COMMERCIAL SECTOR — Businesses, including, without limitation, retail stores, banks and financial institutions, business and professional offices, personal service establishments, hotels, motels and other tourist accommodations, tourist attractions, mortuaries and funeral homes, restaurants, pet shops, veterinary establishments, medical offices, automobile sales establishments, gasoline stations, car washes and agricultural endeavors and any other business endeavor not specifically stated herein.

DIRECTOR — The person appointed by the Town Board to administer and supervise the Town's recycling and solid waste management program.

DROPOFF AREA — Any area designated from time to time by the Director where persons can bring recyclables for aggregation and further transport to a solid waste management facility.

HOUSEHOLD COLLECTION — The practice whereby solid waste, including separated recyclables, generated by the residential sector is placed at or near the roadside or other appropriate location at residential property, to be picked up by a commercial hauler for transportation to a solid waste management facility.

INDUSTRIAL SECTOR — Establishments primarily concerned with manufacturing or other substantial physical or chemical materials processing operations, including, without limitation, manufacturing establishments, warehouses, wholesale distributors, freight and trucking terminals and heavy machinery sales, service and repairs.

INSTITUTIONAL SECTOR — Public, charitable and similar establishments, including schools, churches, hospitals, psychiatric centers, government offices and garages and nursing homes.

RECYCLABLES — Includes the following materials: newsprint, clear and brown glass containers, steel (tin) cans, aluminum, copper, brass, stainless steel, high-density polyethylene (HDPE) plastic containers, motor vehicle batteries, motor vehicle tires and scrap metal, including miscellaneous iron, steel and white metals (appliances). The Director may modify this definition by adding or deleting from this list at his or her discretion, in accordance with § 170-12E hereof and subject to Town Board approval.

RESIDENTIAL SECTOR — Single- and multiple-family residences, boardinghouses, dormitories, mobile home parks, seasonal residences and camps.

§ 170-12. Source separation requirements; recommendation to change requirements.

- A. It shall be a violation of this article for any person to throw out, throw away or otherwise allow any recyclable to enter the waste stream.

- B. All persons shall separate recyclables from other solid waste when preparing waste for transportation, collection, pick up or removal by placing recyclables in one or more separate containers in accordance with rules adopted by the Town Board. It shall be a violation of this article for any person to place for collection or deliver to a dropoff area or a solid waste management facility a container which contains recyclables mixed with any solid waste.
- C. Nothing contained herein shall prevent the collection, storage and/or return of deposit-bearing returnable beverage bottles and cans.
- D. Recyclables delivered to a dropoff area or a solid waste management facility shall be prepared in accordance with all rules adopted or promulgated by the Town Board, which shall be filed with the Town Clerk. Rules for preparation may include, but shall not be limited to:
- (1) The removal of glossy inserts and wet or damp materials from newsprint.
 - (2) Washing, flattening and removal of paper labels from metal cans.
 - (3) Washing of and removal of caps and lids from glass containers.
 - (4) Removal of broken glass.
 - (5) The use of clear plastic bags, which shall be used for transportation and disposal of solid waste to a dropoff area or solid waste management facility.
- E. The Director may from time to time determine that certain materials contained in solid waste generated or brought within the Town are recyclable or that certain materials included or hereafter included in this article's definition of recyclables are no longer recyclable. Upon any such determination, the Director shall submit a written report to the Town Board recommending that such materials be added to or deleted from the definition of recyclables and providing the reasons and data supporting such inclusion or deletion.
- F. In making recommendations pursuant to this section, the Director may recommend that a material must be recyclable by only one sector (i.e., commercial sector, industrial sector), by all sectors or any combination of sectors.

§ 170-13. Procedures for residential recycling.

Persons in the residential sector shall dispose of recyclables by delivering recyclables properly separated and prepared to a solid waste management facility or to any dropoff area which the Director may designate or by arranging for pick up of separated recyclables by a commercial hauler.

§ 170-14. Procedures for the commercial, industrial and institutional recycling.

- A. Persons in the commercial, industrial and institutional sector shall dispose of recyclables by delivering recyclables properly separated and prepared to a solid waste management

facility duly designated pursuant to this article or by arranging for pick up of separated recyclables by a commercial hauler.

- B. Although all persons from the commercial, industrial or institutional sectors must separate recyclables from other solid waste in accordance with the general provisions of this article, they need not deliver or make arrangements with a commercial hauler to deliver such recyclables to a duly designated solid waste management facility in the following circumstances:
- (1) They have access to markets for recyclables and actually deliver or cause to be delivered recyclables to such markets on a regular basis.
 - (2) They file on an annual basis an application for exemption with the Director, which application shall set forth on a prescribed form all information or facts justifying exemption from the provisions of Subsection A above and which shall include copies of all pertinent documentation of access and actual delivery, such as contracts, receipts, bills of lading, affidavits, letters of intention or other suitable records indicating the facts justifying exemption.
 - (3) They obtain written approval of the exemption from the Director, which approval shall not be unreasonably withheld or delayed.

§ 170-15. Requirements for commercial haulers.

- A. Commercial haulers engaged in collecting recyclables generated within the Town by the residential, commercial, industrial or institutional sectors or who dispose of wastes in the Town's solid waste management facility shall keep recyclables separated from other solid wastes, shall handle recyclables in such a manner that they are not contaminated, broken, spoiled or destroyed and shall deliver recyclables only to a solid waste management facility duly designated by the Director pursuant to this article.
- B. Commercial haulers need not deliver collected recyclables from the commercial, industrial or institutional sectors to a duly designated solid waste management facility in the following circumstances:
- (1) They have access to markets for recyclables and actually deliver or cause to be delivered recyclables to such markets on a regular basis.
 - (2) They file on an annual basis an application for exemption with the Director, which application shall set forth on a prescribed form all information or facts justifying exemption from the provisions of Subsection A above and which shall include copies of all pertinent documentation of access and actual delivery with contracts, receipts, bills of lading, affidavits, letters of intention or other suitable records indicating the facts justifying exemption.
 - (3) They obtain written approval of the exemption from the Director, which approval shall not be unreasonably withheld or delayed.

§ 170-16. Unauthorized collection of recyclables.

It shall be a violation of this article for any person without authority of the Town to collect, pick up, remove or cause to be collected, picked up or removed any recyclables placed for collection at a dropoff area. Each such unauthorized collection, pick up or removal from a dropoff area shall constitute a separate and distinct violation of this article.

§ 170-17. Amendments; public education.

- A. The Town Board shall have the power to adopt and promulgate, amend and repeal such rules and regulations as may be recommended by the Director and which, in its discretion, are necessary or desirable to carry out, interpret and enforce the intent and purposes of this article. Notwithstanding this power, any failure to adopt and promulgate such rules and regulations shall not impair the enforceability of this article.
- B. The Director and/or the Code Enforcement Officer of the Town shall develop, subject to Town Board approval, a comprehensive, innovative and effective public education program concerning the requirements of this article and any amendments, the overall value of recycling and waste reduction and any related public programs.

§ 170-18. Enforcement.

- A. The Director and any other person designated by the Town Board shall be authorized to inspect:
 - (1) Solid waste left for collection.
 - (2) Loads of solid waste being transported within the Town of Warrensburg.
 - (3) Solid waste being disposed of at any duly designated dropoff area or solid waste management facility in the Town for the purposes of determining if any person has failed to comply with the provisions of any section of this article.
- B. The Director and any other person designated by the Town Board shall be authorized to turn away and deny access to any person delivering a mixed load of solid waste which includes or contains recyclable materials to a duly designated solid waste facility in the Town.

§ 170-19. Penalties for offenses.

- A. Each commission of a single act of violation shall constitute a separate violation of this article, and each day of such violation shall constitute a separate offense, which may be punished and prosecuted as such.
- B. Any violation of the provisions of this article shall be punishable by a fine of not more than \$250 or imprisonment for not more than 15 days, or both such fine and imprisonment. **[Amended 7-10-1996 by L.L. No. 1-1996]**

- C. For purposes of establishing the applicable fine pursuant to Subsection B above, a violation of this article by members of a family, employees or agents of any entity within the commercial, industrial or institutional sectors or of any commercial hauler or residents of a hotel, motel or other tourist accommodation shall be considered to be a violation by the family, the commercial, industrial or institutional entity, the commercial hauler or the other of the hotel, motel or other tourist accommodation, rather than by the individual actually committing the violation.



Chapter 174

STREETS AND SIDEWALKS

ARTICLE I Numbering System

- § 174-1. Adoption of system.
- § 174-2. Powers and duties of Town Clerk.

ARTICLE II Notification of Defects

- § 174-3. Prior notification required.
- § 174-4. Injury from defects.
- § 174-5. Copy to Town Clerk.
- § 174-6. Recordkeeping.
- § 174-7. Liability.

ARTICLE III Obstruction of Streets, Sidewalks and Public Property

- § 174-8. Foreign object or material in public right-of-way prohibited.

- § 174-9. Placing snow or ice on Town roads prohibited.
- § 174-10. Preventing snow or ice from falling from roof onto sidewalk.
- § 174-11. Landowner required to keep sidewalk clear of obstructions.
- § 174-12. Enforcement.
- § 174-13. Warning notice.
- § 174-14. Failure to comply.
- § 174-15. Abandoned motor vehicles.
- § 174-16. Penalties for offenses.

ARTICLE IV Obstruction of Fire Hydrants

- § 174-17. Purpose and intent.
- § 174-18. Restriction.
- § 174-19. Notice.
- § 174-20. Failure to cure.
- § 174-21. Enforcement.

[HISTORY: Adopted by the Town Board of the Town of Warrensburg as indicated in article histories. Amendments noted where applicable.]

GENERAL REFERENCES

Peddling and soliciting — See Ch. 141.

Vehicles and traffic — See Ch. 198.

ARTICLE I Numbering System [Adopted 4-5-1960]

- § 174-1. Adoption of system.

Pursuant to Subdivision 9 of § 64 of the Town Law, the Town Board does hereby adopt the uniform approved property numbering system and hereby designates by name and number the

roads, streets and avenues, which method is hereby adopted as the official system for the Town and an ordered filed in the office of the Town Clerk.¹

§ 174-2. Powers and duties of Town Clerk.

The Town Clerk be and he hereby is directed to notify the following persons or agencies of the action herein taken and to furnish each with a copy of the official map of the town within 10 days from the time such map with road names can be prepared:

- A. The Board of Assessors.
- B. The Town Planning Board (if any).
- C. The County Clerk.
- D. The County Superintendent of Highways.
- E. The Clerk of the Board of Supervisors.
- F. The United State Post Office Department.

ARTICLE II

Notification of Defects
[Adopted 4-10-1991 by L.L. No. 1-1991]

§ 174-3. Prior notification required.

No civil action shall be maintained against the Town of Warrensburg or the Town Superintendent of Highways of the town or against any improvement district in the town for damages or injuries to person or property (including those arising from the operation of snowmobiles and all terrain vehicles) sustained by reason of any highway, bridge, culvert, highway marking, sign or devise or any other property owned, operated or maintained by the town or any property owned, operated or maintained by any improvement district therein being defective, out of repair, unsafe, dangerous or obstructed, unless prior written notice of such defective, unsafe, dangerous or obstructed condition of such highway, bridge, culvert, highway marking, sign or devise or any other property owned, operated or maintained by the town or any property owned, operated or maintained by any improvement district was actually given to the Town Clerk of the town or the Town Superintendent of Highways of the town, and there was thereafter a failure or neglect within a reasonable time to repair or remove the defect, unsafe condition, danger or obstruction complained of; and no such action shall be maintained for damages or injuries to persons or property sustained solely in consequence of the existence of snow or ice upon any highway, bridge, culvert or any other property owned by the town or any property owned by any improvement district in the town unless prior written notice thereof, specifying in detail the particular place, was actually given to the Town Clerk of the town or the Town Superintendent of Highways of the town and there was a failure or neglect to cause such snow or ice to be removed or to make the place otherwise reasonably safe within a reasonable time after the receipt of such notice.

1. Editor's Note: Said numbering system is currently on file at the office of the Town Clerk.

§ 174-4. Injury from defects.

No civil action will be maintained against the town and/or the Town Superintendent of Highways of the town for damages or injuries to persons or property sustained by reason of any defect in the sidewalks of the town or in consequence of the existence of snow or ice upon any of its sidewalks, unless such sidewalks have been constructed or are maintained by the town or the Superintendent of Highways of the town pursuant to statute, nor shall any action be maintained for damages or injuries to person or property sustained by reason of such defect or in consequence of such existence of snow or ice unless prior written notice thereof, specifying in detail the particular place, was actually given to the Town Clerk of the town or to the Town Superintendent of Highways of the town and there was a failure or neglect to cause such defect to be remedied, such snow or ice to be removed or to make the place otherwise reasonably safe within a reasonable time after the receipt of such notice.

§ 174-5. Copy to Town Clerk.

The Town Superintendent of Highways of the town shall transmit, in writing, to the Town Clerk of the town within 10 days after receipt thereof, all written notices received by him pursuant to this article, and he shall take any and all corrective action with respect thereto as soon as practicable.

§ 174-6. Recordkeeping.

- A. The Town Clerk of the town shall keep an accurate indexed record in a separate book of all written notices which the Town Clerk shall receive of the existence of a defective, unsafe, dangerous or obstructed condition in or upon or of an accumulation of ice and snow upon any town highway, bridge, culvert or a sidewalk or any other property owned by the town or by any improvement district. The Town Clerk, upon receipt of such written notice, shall notify the Town Superintendent of Highways of the town of the receipt of such notice as soon as is reasonably practicable.
- B. All such written notices shall be indexed according to location of the alleged defective, unsafe, dangerous or obstructed condition or the location of accumulated snow or ice. The indexed record shall state the date of receipt of the notice, the nature and location of the alleged condition and the name and address of the person from whom the notice is received. [Amended 7-10-1996 by L.L. No. 1-1996]
- C. The record of each notice shall be preserved for a period of five years from the date it is received.

§ 174-7. Liability.

Nothing contained in this article shall be held to repeal or modify or waive any existing requirement or statute of limitations but, on the contrary, shall be held to be additional requirements to the rights to maintain such action. Nothing contained herein shall be held to modify any existing rule of law relative to the questions of contributory negligence, nor to impose upon the town, its officers and employees and/or any of its improvement districts any greater duty or obligations than that it shall keep its streets, sidewalks and public places in a reasonably safe condition for public use and travel.

ARTICLE III

Obstruction of Streets, Sidewalks and Public Property
[Adopted 1-11-2012 by L.L. No. 2-2012]**§ 174-8. Foreign object or material in public right-of-way prohibited. [Amended 4-14-2021 by L.L. No. 2-2021]**

Unless directed to do so by an appropriate Town official, no person shall put or place, or cause to be put or placed, within the public right-of-way of any Town road, public sidewalk or on any Town property any foreign object or material of any kind or nature whatsoever, including but not limited to equipment, personal property, dirt, gravel, ashes, garbage, litter, shavings, sawdust, bark, brush, grass or rubbish or snow.

§ 174-9. Placing snow or ice on Town roads prohibited.

No person shall shovel, plow, snow blow or otherwise put, place or cause to be put or placed within the traveled portion of any Town road or on any sidewalk, any snow or ice. Snow and ice may be banked on the side of Town roads incident to the cleaning thereof or banked on the side of sidewalks incident to the cleaning thereof.

§ 174-10. Preventing snow or ice from falling from roof onto sidewalk.

Any building situated with a roof inclined so that snow and ice naturally slides or falls from the roof on to any Town road or sidewalk shall be protected with a proper guard or railing upon such roof or an awning projecting under the roof so as to prevent the snow or ice from sliding and falling into the road or sidewalk. The landowner or occupant of any building which has received written notice from the Town to provide such snow protection which fails or refuses to do so for 30 days or more will be in violation of this section. Each day the condition remains uncorrected after the provision of notice and the expiration of the original thirty-day compliance period shall constitute a separate violation of this section.

§ 174-11. Landowner required to keep sidewalk clear of obstructions.

The landowner of any property abutting any street, highway or road in the Town, and/or the occupant of any premises where a sidewalk or pedestrian walkway has been installed, is required to keep the sidewalk bordering the property or premises free and clear of snow, ice, dirt or other obstructions within 48 hours after an obstruction is created. Should such landowner or occupant fail to keep the sidewalk in front of such premises free and clear from snow, ice, dirt and other obstructions, the Town may cause the removal thereof at the expense of the owners of such premises, and such charge shall become a lien upon the premises benefited thereby, until paid. No notice is required under this section.

§ 174-12. Enforcement.

The Code Enforcement Officer of the Town of Warrensburg is directed to enforce the provisions of this article.

§ 174-13. Warning notice.

Where the Code Enforcement Officer has reason to believe that there has been a violation of any section of this article except § 174-11, a written warning notice may be issued to the landowner or occupant of the premises. Notice may be given by mailing by First-Class U.S. Mail to the property address or by posting on the property.

§ 174-14. Failure to comply.

If, within 30 days after having received notice under § 174-13, said landowner or occupant has not complied with the terms of this article, Town employees may remove the obstruction, and the landowner or occupant shall be charged by the Town for the reasonable cost of such removal.

§ 174-15. Abandoned motor vehicles.

If any motor vehicle is parked, left or abandoned in any Town road or in the right-of-way of any Town road and creates an impediment to the removal of snow and/or ice or impedes the flow of traffic, said motor vehicle may be removed by the Town. The Town shall not be liable for any damage incurred by or during removal or storage of such motor vehicle. The owner or owners of such motor vehicle shall be charged by the Town for the reasonable cost of said removal and/or storage.

§ 174-16. Penalties for offenses.

A violation of any section of this article will be an offense punishable by a fine not to exceed \$250 for the first offense and not to exceed \$950 for a second or subsequent offense. In addition to any penalty imposed, the Court shall require payment to the Town of all reasonable costs of removal of obstructions as set forth in this chapter.

ARTICLE IV**Obstruction of Fire Hydrants
[Adopted 3-13-2019 by L.L. No. 2-2019]****§ 174-17. Purpose and intent.**

- A. The Town Board hereby finds that a significant risk to the health, safety and welfare of the community is created when fire hydrants become imperceptible or inaccessible due to obstruction by snow and/or ice. The inability to immediately reach and access fire hydrants during an emergency is likely to have devastating consequences. It is in the overall public interest to prevent the depositing of snow or ice onto or near fire hydrants. The Town Board hereby finds that adoption of this article is in the overall public interest and is necessary to prevent damage by fire and to protect property exposed to destruction by fire. The Town Board further finds that adoption of this article is necessary and helpful in fostering the extinguishing of fires and further finds that this article will provide for the general safety of persons and property within the Town.

- B. The Town Board hereby finds that when fire hydrants are covered by snow other than through precipitation, the snowbanks or snow piles formed are most often formed with snow and/or ice which is cleared from proximate areas. Therefore, there is a reasonable presumption that owners of property cleared of snow are the cause of snow piles or snowbanks formed around fire hydrants in close proximity.
- C. The Town Board hereby finds that proper access to a fire hydrant requires fire personnel to have at least three feet of clearance around such hydrant.

§ 174-18. Restriction.

No person, firm, corporation or organization of any kind may cause snow or ice to be deposited onto or within three feet of any fire hydrant in the Town without immediately removing such snow and/or ice.

§ 174-19. Notice.

- A. The Code Enforcement Officer is hereby authorized to issue a notice of violation to any person, firm, corporation or organization of any kind believed to have deposited snow or ice onto any fire hydrant within the Town, including landowners adjacent to such hydrant. This includes any person or service which undertakes snow removal and the person or entity for whom/which such service is provided.
- B. Notice shall set forth the nature of the violation with reasonable specificity and shall provide no less than 48 hours for the removal of all snow and/or ice within three feet of the hydrant at issue.
- C. Service of notice may be by personal delivery upon one or more owners or agents of the owners (including any tenant) who may be present at the property and where service is through personal delivery, no further notice need be provided. Service of notice may be effectuated by mailing the same to the property owners at their mailing address as set forth in the Town's real property tax billing records. This may be accomplished by first-class mail and/or by certified mail. Notice effectuated by mail shall provide no less than 72 hours for full compliance.

§ 174-20. Failure to cure.

- A. If the violation is not cured by the compliance date set forth in the notice, the Town may cause the remedial action outlined in the notice to be undertaken. Any funds advanced by the Town (including the cost of Town employees' times and a reasonable charge for use of Town equipment) for this purpose shall become a cost to the landowner.
- B. The Town may, in its sole discretion, contract for such services.

§ 174-21. Enforcement.

- A. The Code Enforcement Officer is authorized to enforce the provisions of this article and may commence an enforcement proceeding against any person, firm, corporation or organization of any kind who/which, having received a notice to remedy, failed to comply within the time permitted and failed to reimburse the Town for its expenditure of funds described in § 174-20 of this article.
- B. Each violation of this article shall result in a fine of no less than \$100. In the event of a guilty plea or a finding of guilt where the Town expended more than \$100 to remedy the violation, the Town is entitled to a fine equal to the expenditure, including the value of employees' time spent and Town equipment used to remedy the violation.

Chapter 178

SUBDIVISION OF LAND

ARTICLE I General Provisions

- § 178-1. Authority.
- § 178-2. Statement of policy.
- § 178-3. Conflicts with other provisions.
- § 178-4. References to other provisions.
- § 178-5. Compliance with state provisions and other agencies; exemption for Town activities.

ARTICLE II Terminology

- § 178-6. Word usage.
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ARTICLE III Filing and Review of Subdivisions

- § 178-8. Application required.
- § 178-9. Land partitions.
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- § 178-13. Minor subdivision review.
- § 178-14. Major subdivision review; fees.
- § 178-15. Filing of subdivision plats.

§ 178-16. Public streets, parks and recreation areas.

§ 178-17. Required improvements; bond.

ARTICLE IV General Requirements and Design Standards

- § 178-18. Provisions to be minimum requirements.
- § 178-19. General requirements.
- § 178-20. Design standards.

ARTICLE V Waivers

§ 178-21. Approval or denial of waivers.

ARTICLE VI Penalties

§ 178-22. Penalties for offenses.

Figure A, Typical Cross Section for Open Drainage Roadways

Figure B, Typical Cross Section for Closed Drainage Roadways

Figure C, Typical Detail for Hamerhead Turnaround

[HISTORY: Adopted by the Town Board of the Town of Warrensburg: 2-5-1986; amended in its entirety 1-23-1996. Subsequent amendments noted where applicable.]

GENERAL REFERENCES

Flood damage prevention — See Ch. 116.
Junkyards — See Ch. 129.
Property maintenance — See Ch. 145.
Sewers — See Ch. 157.

Streets and sidewalks — See Ch. 174.
Trees — See Ch. 189.
Water — See Ch. 204.
Zoning — See Ch. 211.

ARTICLE I
General Provisions

§ 178-1. Authority.

By the authority of the resolution of the Town Board of the Town of Warrensburg, adopted on November 6, 1985, pursuant to the provisions of Article 16 of the Town Law, the Planning Board is authorized and empowered to approve plats showing lots, blocks or sites, with or without streets or highways, pursuant to § 276 of Town Law, as amended, to approve the development of entirely or partially undeveloped plats already filed in the office of the Clerk of Warren County and to conditionally approve preliminary plats within the Town of Warrensburg.

§ 178-2. Statement of policy.

- A. It is declared to be the policy of the Planning Board to consider land subdivision plats as part of a plan for the orderly, efficient and economical development of the town. This means, among other things, that the land to be subdivided shall be of such character that it can be used safely for building purposes without danger to health or peril from fire, flood, drainage or other menace to neighboring properties or the public health, safety and welfare; that proper provisions shall be made for drainage, water supply, sewerage and other needed improvements; the lots shall be in conformance with the requirements of Chapter 211, Zoning; and that proposed streets shall be coordinated so as to compose a convenient system conforming to the official map and properly related to the proposals shown in the Comprehensive Plan of the town and shall be of sufficient width and suitable grade and shall be suitably located to accommodate the prospective traffic, to afford adequate light and air, to facilitate fire protection and to provide access for firefighting equipment to buildings.
- B. To make proper provisions in accordance with this policy, these regulations which shall be known as, and which may be cited as, the "Town of Warrensburg Land Subdivision Regulations" have been adopted by the Planning Board on January 7, 1986, and approved by the Town Board February 5, 1986, and as amended.

§ 178-3. Conflicts with other provisions.

This regulation in no way affects the provisions or requirements of any federal, state or local law or regulation. Where this chapter is in conflict with any other such law or regulation, the more restrictive shall apply.

§ 178-4. References to other provisions.

Any reference requiring compliance with another ordinance, such as Chapter 211, Zoning, or a local law of the Town of Warrensburg, shall not apply if no such ordinance or local law has been adopted at the time of consideration of an application by the Planning Board.

§ 178-5. Compliance with state provisions and other agencies; exemption for Town activities.¹

- A. All applications reviewed under this chapter shall also comply with the provisions of the State Environmental Quality Review Act (SEQRA), as applicable.
- B. The Town of Warrensburg is located wholly within the Adirondack Park. As such, all subdivisions with the Town of Warrensburg may be subject to the review, approval and permit system of the Adirondack Park Agency (APA). All such subdivisions shall also be subject to the rules and requirements of these regulations, as well as Chapter 211, Zoning.
- C. Notwithstanding any other provision of this chapter, any action proposed or undertaken by the Town of Warrensburg, or on behalf of the Town with the Town's authorization, shall be exempt from the provisions of this chapter. Notwithstanding this exemption, the Town Board may seek nonbinding advisory review from the Town Planning Board and/or Zoning Board of Appeals for any such proposed Town action. This exemption specifically does not apply to the provisions of the State Environmental Review Act (SEQRA), the Adirondack Park Agency (APA) Act or other state or federal requirements, but is limited only to requirements of the Town of Warrensburg. [Added 5-8-2013 by L.L. No. 2-2013]

**ARTICLE II
Terminology****§ 178-6. Word usage.**

Unless the context otherwise requires, the following terms shall be used in interpretations and construction of this chapter. Words used in singular number shall include the plural, and the plural the singular; the word "structure" shall include the word "building"; the word "used" shall include "arranged," "constructed," "altered," "converted," "rented," "leased" or "intended to be used"; and the word "shall" is mandatory and not optional. Words not herein specifically defined shall have their ordinary dictionary meaning, as in Webster's New International Dictionary.

§ 178-7. Definitions. [Amended 2-13-2013 by Res. No. 40-13]

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

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

AS-BUILT DRAWING — Plat and plan profiles submitted by the owner, prior to dedication of roads or utilities to the Town, showing all construction as it has occurred in the field; i.e., roads, monuments, sanitary sewer, storm sewer, waterlines and valves (etc.), gas mains, electric mains, telephone lines, cable television and all other cable and conduit, etc.

1. Editor's Note: The title of this section was changed from "Compliance with state provisions and other agencies" to "Compliance with state provisions and other agencies; exemption for Town activities" 5-8-2013 by L.L. No. 2-2013.

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

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 PERMIT — The official building approval form.

BUILDING, PRINCIPAL — A building in which is conducted the main or principal use of the lot on which said building is situated.

CLERK OF THE PLANNING BOARD — That person who shall be designated to perform the duties of the Clerk of the Board for the purposes of these regulations. The Code Enforcement Officer, his duly designated deputy or some other person may be designated by resolution of the Town Board.

CLERK, TOWN — The duly elected Clerk of the Town who shall act as Clerk of the Planning Board in the absence of the appointment of an individual by the Town Board.

CLUSTER DEVELOPMENT — The modification of the applicable provisions of Chapter 211, Zoning, to provide an alternative permitted method of the development of a subdivision plat or plats to allow all of the development which could occur on a particular parcel of land to be developed on a portion of said parcel.

CODE ENFORCEMENT OFFICER — See "authorized official."

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.

CONDOMINIUM — A building or group of buildings in which units are owned individually and the structure, common areas and facilities are owned by all the owners on a proportional, undivided basis. By definition, a "condominium" has common areas and facilities and there is an association of owners organized for the purpose of maintaining, administering and operating the common areas and facilities. It is a legal form of ownership of real estate and not a specific building style. The purchaser has title to his or her interior space in the building and an undivided interest in parts of the interior, the exterior and other common elements. The property is identified in a master deed and recorded on a plat with the local jurisdiction. The common elements usually include the land underneath and surrounding the building, certain improvements on the land and such items as plumbing, wiring and major utility systems, the interior areas between walls, the public interior spaces, exterior walls, streets and recreational facilities.

CONDOMINIUM ASSOCIATION — The community association which administers and maintains the common property and common elements of condominium. "Condominium associations" differ from other forms of community associations in that the condominium association does not have title to the common property and facilities. These are owned by the condominium owner on a proportional, undivided basis.

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.

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

DULY DESIGNATED OFFICER — That member of the Planning Board authorized to sign approved plats for filing. Unless otherwise specified, this shall be the Chairman.

ENGINEER/LICENSED PROFESSIONAL ENGINEER — A person licensed as a professional engineer by the State of New York.

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

ESSENTIAL SERVICES — The erection, construction, alteration or maintenance of underground, surface or overhead electrical, gas, steam, water and sewerage transmission and collection systems and the equipment and appurtenances necessary for such systems to furnish an adequate level of public service.

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

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.

FORESTRY USE — Any management, including logging, of a forest, woodland or plantation and related research and educational activities, including the construction, alteration or maintenance of wood roads, skidways, landings, fences and forest drainage systems.

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 forms.

LAND PARTITION — A one-time allowance for a division of a residential parcel of land into two lots, plots or sites, both of which front on an existing street, do not require the construction of any new streets or roads or the extension of municipal facilities, do not contain slopes of more than 10% or the disruption of or encroachment on any existing watercourse and which meet all applicable requirements of Chapter 211, Zoning. All of the above requirements must be met to qualify as a "land partition."

LOT — A parcel of land occupied or capable of being occupied by a structure or structures, including such open spaces as are required by Chapter 211, Zoning.

LOT LINE — Any line dividing one lot from another.

LOT, BUILDABLE — A lot on which the proposed structure can be built on a stabilized foundation with any required erosion control and with supporting utilities, including water supply and waste disposal, and which can be located within required setbacks and in an acceptable engineering fashion. Changes in drainage patterns must not adversely affect neighboring properties or threaten the structures proposed for the lot.

OFFICIAL MAP — The map established by the Town of Warrensburg Town Board under § 270 of the Town Law showing the streets, highways and parks, adopted and established by law and all changes or additions thereto made under the provisions of the Town Law.

OPEN SPACE — An unoccupied area open to the sky on the same lot as a building.

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

PLAT, FINAL — Drawing(s) in final form showing the proposed subdivision and containing, in such additional detail as shall be provided by these regulations, all information shown on the preliminary plat and the modifications, if any, required by the Planning Board at the time of the approval of the preliminary plat (if such preliminary plat has been so approved).

PLAT, PRELIMINARY — Drawing(s) clearly marked "preliminary plat," showing the salient features of a proposed subdivision, as specified by these regulations, submitted to the Planning Board for purposes of consideration prior to submission of a plat in final form and of sufficient detail to apprise the Planning Board of the layout of the proposed subdivision.

PLAT, UNDEVELOPED — A previously filed subdivision wherein 20% or more of the lots are unimproved, unless existing conditions, such as poor drainage, have prevented their development.

REQUIRED IMPROVEMENTS — Any activities or improvements required by these regulations, except as may be waived by the Planning Board, including, but not limited to, streets and roads, utility installations, road ditches, drainage facilities and culverts, monuments and revegetation operations.

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

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

SERVICE DISTRICT — Any private or public entity which provides a public service to residents of all or any part of the Town, including fire, water, sewer, etc.

SHORELINE — That line at which land adjoins the waters of lakes, ponds, rivers and streams within the Town at high water, as determined by the one-hundred-year floodplain.

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.

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

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

- A. ARTERIAL STREETS or HIGHWAYS — Those streets used or designed to be used primarily for fast or heavy traffic.
- B. COLLECTOR STREETS — Those streets which carry traffic from minor streets to the major system of arterial streets and highways. "Collectors" may also serve as secondary arteries to carry some through traffic. A street which is an outlet toward an arterial street for more than 100 acres or is a main entrance to a residential development shall be considered a "collector street."
- C. LOCAL STREETS — Those streets which are used primarily for access to the abutting properties.
- D. MARGINAL ACCESS STREETS — Minor streets which are parallel and adjacent to arterial streets and highways and which provide access to abutting properties and protection from through traffic.
- E. DEAD-END or CUL-DE-SAC — A street or portion of a street with only one point of ingress and egress.

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 purpose 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 on opposite sides of the street.

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

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, and shall include any alteration of lot lines or dimensions of any lots or sites shown on a map previously approved and filed in the Office of the County Clerk. 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. The term includes

resubdivision. It does not include the lease of land for hunting or fishing and other open space recreational uses.

- A. MAJOR SUBDIVISION — Any subdivision not classified as a minor subdivision, including, but not limited to, a subdivision requiring any new street or extension of municipal services.
- B. MINOR SUBDIVISION — Any subdivision containing not more than four lots fronting on an existing street, not involving any new street or road or the extension of municipal facilities and not adversely affecting the development of the remainder of the parcel or adjoining property and not in conflict with any provision or portion of Chapter 211, Zoning, or these regulations.
- C. See also "land partition."

SURVEY — The determination of the location of land boundaries and natural and man-made objects by means of the use of surveying instruments.

SURVEY MAP — A drawing made to scale based upon survey measurements, showing land boundaries and natural and man-made objects, made by or under the direction of a New-York-State-licensed land surveyor.

SURVEYOR — Any person licensed as a land surveyor in the State of New York.

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

TOWN — Refers to the Town of Warrensburg in Warren County, New York State.

TOWN PLAN/COMPREHENSIVE MASTER PLAN — An overall plan for the growth and development of the Town, prepared by the Planning Board pursuant to § 272-a of the New York State Town Law and subsequently endorsed by the Town Board.

USERS — Individuals that use streets, including bicyclists, children, person with disabilities, motorists, movers of commercial goods, pedestrians, users of public transportation, seniors, youth, and families.

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.

WETLANDS — Any land which is annually subject to periodic or continual inundation by water and commonly referred to as "bog," "swamp" or "marsh," which is either one acre or more in size or located adjacent to a body of water, including a permanent stream with which there is free interchange of water at the surface, in which case there is no size limitation.

ARTICLE III
Filing and Review of Subdivisions

§ 178-8. Application required.

Whenever any subdivision of land is to be made and before any offer to sell any lots in such subdivision is made and before any permit for the erection of a structure in such subdivision shall be granted, the subdivider or his duly authorized agent shall apply, in writing, for approval, in accordance with the following procedures. The Board may require, when it deems necessary for the protection of the public health, safety and welfare, that a minor subdivision comply with all or some of the requirements for major subdivisions.

§ 178-9. Land partitions.

- A. A land partition is a one-time exemption for a residential split that, by definition, has little or no impact on the lands to be subdivided or on adjacent properties or the town at large. As such, it does not require review by the Planning Board.
- B. The Code Enforcement Officer shall make the determination as to whether a land subdivision qualifies as a land partition based on the definition contained in this chapter. To make this determination, he/she will need the information listed as required for a sketch plan review procedure, as stated in § 178-10 of this Article.
- C. If a subdivision meets the criteria set forth in the definition of a land partition as stated in this chapter, said subdivision will receive a statement to that effect from the Code Enforcement Officer. This statement shall be filed with the plat in the office of the County Clerk.

§ 178-10. Sketch plan.

- A. Statement of policy. Prior to a subdivision of land, the subdivider may submit to the Clerk of the Planning Board, at least 10 days prior to a meeting of the Board, three copies of a sketch plan of the proposed subdivision, as herein described, for the purpose of preliminary discussion. Informal in nature, a sketch plan is intended as a preview of a proposed project. No formal engineering work need be done prior to submission of a sketch plan.
- B. Sketch plan submittal. Using a tax map or some similarly accurate map, at a scale to enable the entire ownership of the subdivider to be shown on one sheet, the following information (where applicable) is needed to give the Board a clear understanding of the proposal:
 - (1) The tax map sheet, block and lot numbers of the involved property.
 - (2) The name(s) of the owner(s) of the property to be subdivided.
 - (3) The location of that portion of the subdivider's ownership which is to be subdivided, as it relates to the whole piece of property and to neighboring lands, existing roads and utilities.

- (4) The general position of all existing structures, wooded areas and both permanent and intermittent watercourses located within the portion to be subdivided and at least 200 feet therefrom.
 - (5) The layout of all proposed lots, roads, utilities, recreation and open spaces to be included in the new subdivision.
 - (6) The topography of the site at ten-foot intervals or less, taken from a United States Geological Survey map or source of comparable accuracy.
 - (7) A drainage plan and proposed runoff control measures.
 - (8) The landscape plan.
- C. Discussion of requirements and classification. After submission of the sketch plan, the subdivider shall meet with the Planning Board during a regular meeting to discuss the requirements of these regulations, including those related to street design and construction, placement of utilities, drainage, sewerage, water supply, fire protection, parks and open space areas. Consideration will also be given to the availability of existing services and other pertinent information. After review, the project will be classified as either a minor or a major subdivision. The applicant will be informed as to the review procedure to be followed and the time frames to be expected.
- D. Planning Board recommendations. The Planning Board shall study the sketch plan in conjunction with the individual and composite resource limitations map to determine if the proposed subdivision is in an area where there are severe limitations to development. The Planning Board shall make advisory recommendations to the subdivider as to feasibility of the project and what further information will be needed for plat review.

§ 178-11. Cluster development.

Whereas, pursuant to § 278 of the Town Law, the Planning Board has been empowered by the Town Board to modify the minimum lot area and minimum lot width requirements of Chapter 211, Zoning, in accordance with the provisions of said section and those contained herein, the following shall be the standards and procedures:

- A. Purpose. The purpose of the cluster provision is to enable and encourage flexibility of design and development of the land in such a manner as to promote the most appropriate use of the land, to facilitate the adequate and economical provision of streets and utilities and to promote its most environmentally sensitive use by preserving the natural and scenic qualities of open land.
- B. Objectives. To achieve the purpose of this section, a cluster design shall meet the following objectives:
- (1) A development pattern which preserves outstanding natural topography and geologic features, scenic vistas and trees and prevents the disruption of natural drainage patterns.
 - (2) An efficient use of land resulting in a smaller network of utilities and streets.

- (3) A development pattern in harmony with the land use intensity, transportation facilities and community facilities.

C. Standards.

- (1) The application of this procedure shall not result in a permitted number of building plots or dwelling units which exceed the number which could be permitted if the lands were subdivided into lots conforming to the minimum lot size and density requirements of the district in which such land is situated and conforming to all other applicable requirements. If the subdivision falls within two or more districts with differing density requirements, the Board may approve in any one district a cluster development representing the cumulative density as derived from the summing of all units in such districts. The provisions of this section shall not be deemed to authorize a change in the permissible use of such lands, as provided in Chapter 211, Zoning.
- (2) The minimum acreage to which this section may be applicable shall be three times the minimum lot area required for the zoning district involved.
- (3) To prevent any possibility of nutrient pollution and to protect the visual character, there shall be no cluster development that results in an increase of density within 500 feet of the shorelines of Warrensburg.
- (4) In the event that the application of this section results in a plat showing lands available for park, recreation, open space or other municipal purposes, the Board, as a condition of plat approval, may establish such conditions on the ownership, use and maintenance of such lands as it deems necessary to assure the preservation of such lands for their intended purposes.

D. Procedures. A cluster development may come as a result of a request by the Planning Board or by a request of the subdivider as follows:

- (1) Request by Planning Board. By request of the Planning Board, a cluster design alternative may be required if the characteristics of the site include any of the following:
 - (a) Slopes greater than 15% occupy over 50% of the site.
 - (b) Slopes greater than 25% occupy over 25% of the site.
 - (c) Wetlands occupy over 25% of the site or where streams are crossed by the development of the site.
 - (d) Soils with a percolation rate of less than 0.05 inches or greater than six inches per hour occupy over 25% of the site.
 - (e) Soils with depth to bedrock at 18 inches or less occupy over 25% of the site.
 - (f) Soils with depth to seasonal high-water table of 40 inches or less occupy over 25% of the site.

- (g) A significant wildlife or plant habitat exists on the site or may be impacted by the development of the site.
 - (h) Sites are adjacent to or include buildings, structures or areas of historic significance.
- (2) Request by subdivider. A subdivider may request the use of this section simultaneously with or subsequent to the submission of the sketch plan, as described in this section. Any such request subsequent to preliminary approval of a plat shall require resubmission of the sketch plan.
 - (3) Alternate sketch plan. The Planning Board may request that a subdivider present, along with a proposal utilizing the provisions of this section, an alternate sketch plan, with lots meeting the minimum lot area, minimum lot width and minimum shoreline lot width requirements of Chapter 211, Zoning.
 - (4) Plat submission. Upon determination by the Planning Board that the sketch plan utilizing the provisions of this section is suitable, the procedures attendant to and subsequent to the sketch plan submission, as set forth in this Article, shall be followed in regular order.

§ 178-12. Review of plats; hearing; fees.

- A. The review of a minor subdivision is a procedure that includes the submission of a plat for review, a public hearing and decision by the Board. The review of a major subdivision is a procedure that includes the submission of both a preliminary plat and a final plat. A public hearing will be held after the initial review of the preliminary plat by the Board. A second hearing will be held after the submission of the final plat if there are substantial changes made to the preliminary design.
- B. The following are the procedures for all subdivisions:
 - (1) Application and fee.
 - (a) Unless otherwise agreed by the Planning Board and the subdivider, the subdivider shall submit an application for a subdivision plat approval to the Clerk of the Planning Board within six months after discussion of the subdivision shown by the sketch plan. Failure to do so within such time period may require resubmission of the sketch plan to the Planning Board.
 - (b) In order to be considered at a Planning Board meeting, the application must be submitted at least 10 days prior to the regular Planning Board meeting.
 - (c) All applications shall be accompanied by a fee, payable to the Town Clerk, as set forth from time to time by resolution of the Town Board.² **[Amended 7-10-1996 by L.L. No. 1-1996]**

2. Editor's Note: A fee schedule is on file at the office of the Town Clerk.

- (d) The application shall be on a form provided by the Clerk of the Planning Board and be accompanied by the data listed in §§ 178-13 and 178-14 of this Article.
- C. Date of official submission.
- (1) The date of the submission on the subdivision plat shall be considered to be the date on which the Board holds its next regular meeting following the submission of plat and payment of required fee, at which a formal motion of acceptance of a complete application is made and accepted.
 - (2) If the Planning Board takes no formal motion of acceptance or rejection of a completed application at the next regular meeting following the submission of plat and payment of required fee, the application shall be deemed complete by default.
 - (3) Upon request, following such meeting, a certificate of the Town Clerk shall be issued to the subdivider certifying the official date of submittal.
- D. Number of copies. The number of copies shall be as follows:
- (1) Eight copies of the application shall be presented to the Clerk of the Board at the time of submission of the plat.
 - (2) Three copies of the full-sized plat shall be included.
 - (3) Eight maps at a size to fit on an 8 1/2 by 11 or 8 1/2 by 14 inch sheet shall be included, where possible.
- E. Planning Board meeting. The subdivider or his duly authorized representative shall attend the meeting of the Board to discuss the subdivision plat.
- F. Study of plat. The Board shall study the plat, taking into consideration the provisions of these regulations. Particular attention shall be given to the arrangement, location and design of lots and streets and their relationship to the topography, water supply, sewage disposal, drainage, the placement of utilities, the future development of adjoining lands as yet unsubdivided and the requirements of the Comprehensive Plan and Chapter 211, Zoning. Specific standards and requirements are set forth in Article IV of this chapter.
- G. Action on plat; public hearing.
- (1) Within 62 days after the date of official submission of the plat, the Board shall hold a public hearing. Such hearing shall be advertised at least once in a newspaper of general circulation in the town at least five days prior to such hearing. The Board may provide that the hearing be further advertised in such manner as it deems most appropriate for full public consideration.
 - (2) Such public hearing shall be closed upon a motion of the Planning Board within 120 days after it has been opened.
 - (3) A notice of public hearing shall be sent by the Clerk of the Board to all owners of property within 500 feet of the lands to be subdivided, as disclosed by the most

recent municipal tax records. Applicant shall provide Clerk with properly addressed, stamped envelopes suitable for mailing notice of public hearing.

§ 178-13. Minor subdivision review.

- A. The review of a minor subdivision is a procedure that includes the submission of a plat for review, a public hearing and decision by the Board.
- B. Application requirements. Application requirements shall be as follows:
- (1) The proposed subdivision name, name of the town and county in which it is located.
 - (2) The date, North point, map scale, name and address of the record owner and subdivider.
 - (3) The location of that part of the subdivider's ownership which is to be subdivided, as it relates to the entire tract, the neighboring parcels and to existing roads and utilities.
 - (4) An actual field survey of the boundary lines of the tract, giving complete descriptive data by bearings and distances, made and certified to by a licensed land surveyor. The corners of the tract shall also be located on the ground and marked by monuments and shall be referenced and shown on the plat.
 - (5) The topographic contours at ten-foot intervals or less to show the slope of the property to be developed.
 - (6) The drainage plan and proposed erosion control methods.
 - (7) The location of watercourses, marshes, wetlands, rock outcrops, wooded areas and other prominent natural features. All on-site sanitation and water supply facilities shall be designed to meet the minimum specifications of the New York State Department of Health, and a note to this effect shall be stated on the plat signed by the licensed engineer.
 - (8) A copy of such covenants or deed restrictions as are intended to cover all or part of the tract.
 - (9) For the plat to be filed with the Warren County Clerk, a copy 22 inches by 26 inches in size clearly printed upon Mylar.
- C. In addition to the procedures set forth in § 178-12 above, an application for a minor subdivision shall also be reviewed in accordance with the following:
- (1) Time frame.
 - (a) The time periods prescribed herein within which the Planning Board must take action on a plat are specifically intended to provide the Planning Board and the public adequate time for review and to minimize delays in the processing of subdivision applications. Such time periods may be extended

only by mutual agreement of the subdivider and the Board and shall be entered upon the records of the Planning Board.

- (b) Within 62 days after the completion of the public hearing, the Board shall, by resolution, conditionally approve, disapprove or grant approval and authorize the signing of the Mylar of the plat. This time period may be extended by written agreement of the subdivider and the Board.
- (2) Grounds for decision. The grounds for a modification, if any, or the grounds for a disapproval shall be stated upon the records of the Planning Board.
 - (3) Conditional approval of plat.
 - (a) Within five business days of the adoption of the resolution granting conditional approval of the plat, such plat shall be certified by the Clerk of the Board as having been granted conditional approval, and a copy of such resolution and plat shall be filed in such Clerk's office. Such resolution shall include a statement of such requirements which, when completed, will authorize the signing of the conditionally approved plat. A copy of the resolution shall be mailed to the owner.
 - (b) Upon granting conditional approval of the plat, the Board shall empower a duly designated officer to sign the plat upon compliance with such conditions and requirements as may be stated in its resolution for conditional approval. Such conditional approval does not qualify a final plat for recording nor authorize issuance of building permits prior to the signing of the plat by a duly authorized officer of the Planning Board and recording of the plat in the office of the County Clerk.
 - (c) Upon completion of such requirements, the plat shall be deemed to have received final approval, and the duly designated officer shall sign the plat.
 - (d) Conditional approval of a plat shall expire 180 days after the date of the resolution granting such approval, unless the requirements have been certified as having been completed within that time. The Board may, however, extend the time within which a conditionally approved plat may be submitted for signature if, in its opinion, such an extension is warranted under the circumstances. The extension may be for one or two additional periods of 90 days each.
 - (4) Final approval. Within five business days of the adoption of the resolution granting approval of the plat, such plat shall be certified by the Clerk of the Board as having been granted approval, and a copy of such resolution and plat shall be filed in such Clerk's office. A copy of the resolution shall be mailed to the owner.
 - (5) Filing of decision on minor subdivision plat. Within five business days from the date of the adoption of the resolution approving the final plat, the Chairman or other duly authorized member of the Planning Board shall cause a copy of such resolution to be filed in the office of the Town Clerk.
 - (6) Signing of final plat.

- (a) The signature of the duly authorized officer of the Planning Board on the plat shall qualify the plat for filing at the County Clerk's office within 62 days of such signing.
 - (b) The applicant shall supply one Mylar and two paper copies of the final plat for signature. One paper copy shall be retained by the Planning Department. The applicant shall file the Mylar with the office of the Warren County Clerk. The second paper copy serves as the applicant's copy.
 - (c) See also Article III, § 178-15, Filing of subdivision plats.
- (7) Failure to act/default approval. In the event that the Board fails to act upon the plat within the time prescribed therefor, such plat shall be deemed granted approval. The certificate of the Clerk of the town as to the date of official submission and the failure of the Planning Board to take action within such prescribed time shall be issued to the subdivider on demand and shall be sufficient in lieu of written endorsement or other evidence of approval herein required.
- (8) As-built plat. Prior to the issuance of a building permit, the subdivider shall submit an as-built drawing to the Code Enforcement Officer.
- (9) Inspection of construction.
- (a) The owner shall be responsible for notifying the town 48 hours prior to commencing any work. Such notification is required prior to each of the following phases of construction:
 - [1] Site clearing.
 - [2] Sanitary sewer installation.
 - [3] Storm sewer installation.
 - [4] Waterline installation.
 - [5] Subgrade preparation.
 - [6] Gravel installation.
 - [7] Asphalt binder course.
 - [8] Asphalt top course.
 - [9] Any special construction.
 - (b) In addition, forty-eight-hours notification will be required prior to resuming work if contractor is absent from the site for more than seven days.

§ 178-14. Major subdivision review; fees.

- A. The review of a major subdivision is a procedure that includes the submission of both a preliminary plat and a final plat. A public hearing will be held after the initial review of

the preliminary plat by the Board. A second hearing will be held after the submission of the final plat if there are substantial changes made to the preliminary design.

- B. Application requirements. The application for a major subdivision shall be accompanied by a fee,³ as set forth from time to time by resolution of the Town Board, payable to the Town Clerk, and shall be on a form provided by the Clerk of the Board, accompanied by the following data: **[Amended 7-10-1996 by L.L. No. 1-1996]**
- (1) The proposed subdivision name, name of town and county in which it is located, date, true North point, scale, name and address of record owner, subdivider and engineer or surveyor, including license and seal.
 - (2) The location of lands to be subdivided in relation to existing roads and adjacent properties. If the application covers only a portion of the subdivider's entire holding, a map of the entire tract, drawn at a scale of not less than 400 feet to the inch, showing the platted area with its proposed streets and an indication of the probable future street system with its grades and drainage in the remaining portion of the tract and the probable future drainage layout of the entire tract, shall be submitted. The part of the subdivider's entire holdings shall be considered in light of the entire holdings.
 - (3) An actual field survey of the boundary lines of the tract, giving complete descriptive data by bearings and distances, made and certified to by a licensed land surveyor. Also, the proposed lot lines and approximate dimensions and area of each lot.
 - (4) The location of existing property lines, easements, watercourses, marshes, rock outcrops, wooded areas, single trees with a diameter of eight inches or more as measured three feet above the base of the trunk and other significant existing features for the proposed subdivision and adjacent property.
 - (5) The location of existing water mains, sewers, culverts and drains on the property and giving access to it.
 - (6) The topographic contours at intervals of 10 feet or less and an approximate grading plan if natural contours are to be changed more than two feet.
 - (7) The width, location, grades and street profiles of all proposed roads.
 - (8) The approximate location and size of all proposed waterlines, valves, hydrants, sewer lines and fire alarm boxes, as well as connections to existing lines or alternate means of water supply and sanitary sewage disposal.
 - (9) A storm drainage plan indicating the approximate size and location of proposed lines and their profiles. Also, connections to existing lines or alternate means of disposal.
 - (10) A preliminary design of any bridges or culverts which may be required.

3. Editor's Note: A fee schedule is on file at the office of the Town Clerk.

- (11) Where topography is such as to make difficult the placement of any required utilities within the public area as laid out, the boundaries of the proposed permanent easements over or under private property, which permanent easements shall not be less than 20 feet in width and shall provide satisfactory access to a public space as shown on the map.
 - (12) All parcels of land to be dedicated to public use and the conditions of such dedication.
 - (13) A copy of such covenants and deed restrictions as are intended to cover all or part of the tract.
- C. In addition to the procedures set forth in § 178-12 above, an application for a major subdivision shall also be reviewed in accordance with the following:
- (1) Preliminary plat review. Approval of a preliminary plat is the approval of the layout of a proposed subdivision, but subject to the approval of the plat in final form.
 - (a) Time of action. The time periods prescribed herein within which the Planning Board must take action on a plat are specifically intended to provide the Planning Board and the public adequate time for review and to minimize delays in the processing of subdivision applications. Such time periods may be extended only by mutual agreement of the subdivider and the Board and shall be entered upon the records of the Planning Board. Within 62 days after the completion of the public hearing, the Board shall, by resolution, approve, with or without modification, or disapprove the preliminary plat.
 - (b) Terms of approval.
 - [1] When granting approval to a preliminary plat, the Board shall state the terms of such approval, if any, with respect to:
 - [a] The modifications to the preliminary plat.
 - [b] The character and extent of any required improvements for which waivers may have been requested and which, in its opinion, may be waived without jeopardy to the public health, safety and general welfare.
 - [c] The amount of improvements or amount of all bonds therefor which it will require as a prerequisite to final approval.
 - [2] The grounds for a modification, if any, or the grounds for disapproval shall be stated upon the records for the Planning Board.
 - (c) Notice of approval. Within five days of the resolution granting preliminary approval, the plat shall be certified by the Clerk of the Board as granting preliminary approval. A copy shall be filed in the planning office, a certified copy mailed to the subdivider and a copy forwarded to the Town Clerk.
 - (d) Failure to act/default approval.

- [1] In the event that the Board fails to act upon the preliminary plat within the time prescribed therefor, such preliminary plat shall be deemed granted preliminary approval. The certificate of the Clerk of the town as to the date of submission and the failure of the Planning Board to take action within such prescribed time shall be issued to the subdivider on demand and shall be sufficient in lieu of a written endorsement or other evidence of approval herein required.
- [2] Approval of a preliminary plat shall not constitute approval of the subdivision plat, but rather it shall be deemed an expression of approval of the design submitted on the preliminary plat and as a guide to the preparation of the final subdivision plat.
- (2) Final plat for major subdivision. Unless otherwise agreed by the Board and the subdivider, the subdivider shall submit an application (as provided above) for major subdivision approval within six months after preliminary plat approval. Failure to do so may require resubmission of the preliminary plat to the Board.
- (a) Endorsement of state and county agencies. Included with the application for a final subdivision plat, the applicant shall provide evidence that any proposed water supply and sewage disposal facilities associated with the plat and requiring approval by the New York State Department of Health, New York State Department of Environmental Conservation or any other involved agency have received at least preliminary approvals. Other jurisdictional approvals shall also be provided.
- (b) Additional or second public hearing. Within 62 days of the date of official submission of the subdivision plat for approval, the Board may require a public hearing if said plat is substantially different from the preliminary plat (procedure is set forth above); provided, however, that when the Planning Board deems the final plat to be in substantial agreement with the preliminary plat and modified in accordance with requirements of such approval (if such preliminary plat was approved with modifications), the Board may waive the requirement for such public hearing.
- (c) Time frame. Within 62 days of official submission of a final subdivision plat, if no hearing is held or, in the event that a second hearing is held, not more than 62 days after the completion of such hearing, the Planning Board shall, by resolution, conditionally approve, disapprove or grant final approval and authorize the signing of the Mylar of the plat. This time period may be extended by written agreement of the subdivider and the Board.
- (d) Grounds for decision. The grounds for a modification, if any, or the grounds for a disapproval shall be stated upon the records of the Planning Board.
- (e) Conditional approval of the plat.
- [1] Within five business days of the adoption of the resolution granting conditional approval of a final plat, such plat shall be certified by the Clerk of the Board as having been granted conditional approval, and a

copy of such resolution and plat shall be filed in such Clerk's office. Such resolution shall include a statement of such requirements which, when completed, will authorize the signing of the conditionally approved plat. A copy of the resolution shall be mailed to the owner.

- [2] Upon granting conditional approval of the plat, the Board shall empower a duly designated officer to sign the plat upon compliance with such conditions and requirements as may be stated in its resolution for conditional approval. Such conditional approval does not qualify a final plat for recording, nor authorize issuance of building permits prior to the signing of the plat by a duly authorized officer of the Planning Board and recording of the plat in the office of the County Clerk.
 - [3] Upon completion of such requirements, the plat shall be deemed to have received final approval, and the duly designated officer shall sign the plat.
 - [4] Conditional approval of a plat shall expire 180 days after the date of the resolution granting such approval, unless the requirements have been certified as having been completed within that time. The Board may, however, extend the time within which a conditionally approved plat may be submitted for signature if, in its opinion, such an extension is warranted under the circumstances. The extension may be for one or two additional periods of 90 days each.
- (f) Final approval. Within five business days of the adoption of the resolution granting approval of the plat, such plat shall be certified by the Clerk of the Board as having been granted approval, and a copy of such resolution and plat shall be filed in such Clerk's office. A copy of the resolution shall be mailed to the owner.
- (g) Filing of decision on major subdivision plat. Within five business days from the date of the adoption of the resolution approving the final plat, the Chairman or other duly authorized member of the Planning Board shall cause a copy of such resolution to be filed in the office of the Town Clerk.
- (h) Signing of final plat.
- [1] The signature of the duly authorized officer of the Planning Board on the final plat shall qualify the plat for filing at the County Clerk's office within 62 days of such signing.
 - [2] The applicant shall supply one Mylar and two paper copies of the final plat for signature. One paper copy shall be retained by the Planning Department. The applicant shall file the Mylar with the office of the Warren County Clerk. The second paper copy serves as the applicant's copy.
 - [3] See also Article III, § 178-15, Filing subdivision plats.

- (i) As-built plat. Prior to the issuance of a building permit, the subdivider shall submit an as-built drawing to the Code Enforcement Officer.
- (j) Inspection of construction.
 - [1] The owner shall be responsible for notifying the town 48 hours prior to commencing any work. Such notification is required prior to each of the following phases of construction:
 - [a] Site clearing.
 - [b] Sanitary sewer installation.
 - [c] Storm sewer installation.
 - [d] Waterline installation.
 - [e] Subgrade preparation.
 - [f] Gravel installation.
 - [g] Asphalt binder course.
 - [h] Asphalt top course.
 - [i] Any special construction.
 - [2] In addition, 48 hours notification will be required prior to resuming work if contractor is absent from the site for more than seven days.

§ 178-15. Filing of subdivision plats.

- A. A subdivision plat is eligible for filing with the Clerk of Warren County within 62 days of the date of either:
 - (1) The signature of the duly designated officer of the Planning Board constituting final approval by the Board of a plat as herein provided; or
 - (2) The approval by such Board of the development of a plat or plats already filed in the office of the Warren County Clerk if such plats are entirely or partially undeveloped; or
 - (3) The certificate of the Town Clerk as to the date of official submission of the final plat and the failure of the Planning Board to take action within the time herein provided.
- B. The plat is void if revised after approval. No changes, erasures, modifications or revisions shall be made in any subdivision plat after approval has been given by the Planning Board and a duly designated officer thereof has signed the plat. Such changes may, however, be resubmitted to the Planning Board where written approval for the changes may be received.

- C. In the event that any such modified or revised subdivision plat is filed without complying with this requirement, such recording shall be null and void, and the Board shall institute proceedings to have the plat stricken from the records of the County Clerk.
- D. Upon filing a plat for a cluster subdivision in the office of the County Clerk, a copy shall be filed with the Town Clerk, who shall make appropriate notations and references thereto in Chapter 211, Zoning, or the Zoning Map.⁴

§ 178-16. Public streets, parks and recreation areas.

- A. Public acceptance of streets. After a subdivision plat is approved and filed, the streets, highways and parks shown on such plat shall become a part of the Official Map of the town. However, such approval and filing shall not be deemed to constitute or be evidence of any acceptance by the town of any street, easement or other open space shown on such subdivision plat.
- B. Notation of no offering. The owner of the land or his agent who files the plat may add as part of the plat a notation, if he so desires, to the effect that no offer of dedication of such streets, highways or parks or any of them is made to the public. A plat not containing such notation by the owner or his agent shall be considered as having a continuing offer of dedication and said offer may be accepted by the Town Board at any time prior to revocation of said offer by the owner or his agent.
- C. Ownership and maintenance of recreation areas. When a park, playground or other recreation area shall have been shown on a plat, the approval of said plat shall not constitute an acceptance by the town of such area. The Planning Board shall require the plat to be endorsed with appropriate notes to this effect. The Planning Board may also require the filing of a written agreement between the applicant and the Town Board covering future deed and title, dedication and provision for the cost of grading, development, equipment and maintenance of any such recreation area.

§ 178-17. Required improvements; bond.

- A. Construction of improvements as shown on the subdivision plat shall not be a condition for final approval. The stamp of approval of the Board shall contain the following legend: "Approval of this plat by the Planning Board does not entitle owners of lots hereon to building permits. Improvements servicing each lot must be completed and accepted before that lot qualifies for a building permit or appropriate bond or deposit must be posted with the town; it is suggested that a purchaser of any parcel shown hereon make inquiry to the Town Building Department as to the eligibility of that parcel for a building permit."
- B. Issuance of building permits.
 - (1) As relates to this chapter, a permit for the erection of any building shall be issued where a street or highway giving access to such proposed structure has been duly

4. Editor's Note: The Zoning Map is on file at the office of the Town Clerk.

placed on the Town of Warrensburg Official Map or Plan or if there be no official map or plan, unless such street or highway is an existing state, county or town highway or a street shown upon a plat approved by the Planning Board as approved or a street on a plat duly filed and recorded in the office of the County Clerk prior to the appointment of such Planning Board and the grant to such Board of the power to approve plats.

- (2) Before such permit shall be issued, such street or highway shall have been suitably improved to the satisfaction of the Town Board or Planning Board as adequate in respect to the public health, safety and public welfare for the special circumstances of the particular street or highway.
- (3) For the purposes of this section, the word "access" shall mean that the plot on which such structure is proposed to be erected directly abuts on such street or highway and has sufficient frontage thereon to allow the ingress and egress of fire trucks, ambulances, police cars and other emergency vehicles, and a frontage of 15 feet shall presumptively be sufficient for that purpose.

C. Performance bonds.

- (1) Where the subdivider has constructed a roadway per the specifications hereof, except for the surfacing materials, the Town Board may accept the offer of dedication if the subdivider files with the Town Clerk a certified check or performance bond covering the cost of satisfactorily completing construction of subject road. Said certified check will be deposited by the town fiscal officer in an interest bearing account, or the subdivider shall file with the Town Clerk a performance bond to cover full cost of the required improvements.
- (2) Any such bond shall comply with the requirements of § 277 of the Town Law and shall be satisfactory to the Town Board and Town Highway Attorney as to form, sufficiency, manner of execution and surety. A period of one year (or such other period as the Planning Board may determine appropriate, not to exceed three years) shall be set forth in the bond within which required improvements must be completed.

D. Offer of dedication.

- (1) Statement of policy and requirements.
 - (a) Prior to being offered for dedication to the town, all streets shall be completely graded, all underground utilities shall have been installed in accordance with all provisions of this Article, base course of gravel shall have been placed, graded and completed and tapered, curbing and sidewalks, as required, shall have been installed in conformance with the applicable standards as shown on the schedule "Town of Warrensburg Highway Cross Section and Specification," and revegetation procedures shall have been utilized as required by this section. All applications for approval shall be made in writing to the Town Board, Town Superintendent of Highways and Town Planning Board and shall specify name, starting point, direction, distance and ending point.

- (b) The Town Board shall, in considering dedication of roadways, have the right to reject the same if all other municipal improvements concerning the lots fronting on said roadway are not also complete.
- (c) In making said offer of dedication, the subdivider shall submit the following documents to the Town Clerk:
 - [1] An abstract of title continued to recent date showing marketable title to the premises offered for dedication or, in the alternate, a policy of title insurance insuring the fee interest of said roadway to the Town of Warrensburg in an amount not less than \$5,000.
 - [2] A copy of survey of subject roadway certified to the Town of Warrensburg by the person preparing the same.
 - [3] A continued tax search of subject premises showing no outstanding taxes and receipts showing payment of current taxes.
 - [4] The written review by the Town Superintendent of Highways.
 - [5] The written review of the Department Water Superintendent.
 - [6] If the surfacing material has not been applied, then a certified check or bond in an amount recommended by the Town Superintendent of Highways to cover such cost of satisfactorily completing said roadway. Any such bond shall be satisfactory to the Town Board and the Town Attorney as to form, sufficiency, manner of execution and surety.
 - [7] An affidavit signed by the subdivider agreeing to complete surfacing of the roadway within two years. Said subdivider shall bear the expense of any paving cost overruns if the certified check on deposit with the town, with accrued interest, should be an insufficient amount. If any amount of moneys remain after surfacing is satisfactorily completed, said moneys, plus accrued interest, shall be refunded to the subdivider.
- (2) Time of construction. No street or highway shall be constructed between October 1 and May 1 in any year unless, in the opinion of the Town Superintendent of Highways, weather would permit proper construction after October 1 and before May 1.
- (3) Other authorizations. Approval in writing shall be obtained by the owner/developer from the New York State Department of Transportation and/or the Warren County Superintendent of Highways and/or Town Superintendent of Highways regarding drainage where proposed streets or highways intersect state/county/town roads, respectively, and for permission to connect said streets with such roads.
- (4) Stabilizing cleared areas. All cleared areas associated with the construction of roads offered for dedication, excluding those areas comprising road surfaces or shoulders, all exposed borrow areas and all cut and fill slopes, including ditch banks, shall be successfully vegetated to grasses or legumes that are suited to site conditions. Ditch bottoms shall be constructed to minimize soil erosion during

periods of design flow by means of revegetation, sodding, mulching, netting stone paving, riprap and other materials or combinations of these, depending on hydraulics and soil properties.

- (5) Right of refusal.
 - (a) The Town Board shall, in considering an offer of dedication of a roadway, have the right to reject the same if all other municipal improvements concerning the lots fronting on said roadway are not also complete.
 - (b) If the Town Board, the Town Superintendent of Highways, Water Superintendent or the Planning Board finds that, due to special circumstances, it is inappropriate to extend municipal services to the proposed subdivision, access to said municipal services may be denied.

ARTICLE IV

General Requirements and Design Standards [Amended 2-13-2013 by Res. No. 40-13]

§ 178-18. Provisions to be minimum requirements.

In considering applications for subdivision of land, the Planning Board shall adhere to and be guided by the requirements and standards hereinafter set forth. Such standards shall be considered to be minimum requirements and shall be waived by the Board only under circumstances set forth in Article V herein.

§ 178-19. General requirements.

- A. Character of land. Land to be subdivided shall be of such character that it can be used safely for building purposes or other uses without danger to health or peril from fire, flood or other menace, while minimizing impacts on existing natural or public resources.
- B. Conformity to land use plan. All subdivisions shall be in harmony with the Town of Warrensburg Land Use Plan.
- C. Specifications for required improvements. All required improvements shall be constructed or installed in accordance with Town specifications, which may be obtained from the Planning Office or the Town Clerk.

§ 178-20. Design standards.

- A. Introduction.
 - (1) These standards are issued as guides for design and construction of facilities by private developers. They are formulated so that all facilities may eventually be accepted for maintenance by the Town. Within this objective, adequate design life, ease of operation and maintenance and standardization have been given primary consideration. The Town desires to provide accommodations for all modes of

travel on its roadways in order to achieve Complete Streets objectives. Each facility shall be designed and constructed as part of a future complete system.

- (2) Any standard or specification referred to shall be understood to be the current version of that standard or specification. The Board may require higher standards where it believes they are justified. The Board will also consider approval of a design or construction method which is not included in these standards.
- (3) The list of approved materials is under constant review by the Board, and submission of requests for inclusion of such new material is encouraged. Such requests should be substantiated by test results, specifications and other data. Listing of a material or component in the list of approved materials or approval of a new material does not prevent the Board from requiring inspections or tests deemed by the Board to be necessary before such material or component is installed.
- (4) In general, the subdivision plat, development map, and the plan/profiles included in the final submission shall include enough detail to show compliance with design standards. The Board may require the submission of design calculations for review by the Board's Engineer.
- (5) Compliance with all standards cited herein will be required prior to final approval for construction. Failure to do so shall prevent the issuance of building permits for construction on the individual lots.

B. Surveying and mapping.

- (1) General. The procedure shall include tension, temperature and slope corrections to distance measurements; adjustment of closed baseline traverses; presentation of all necessary data clearly and completely; and the use of proper methods to obtain the required standards of accuracy cited in the Code of Practice.
- (2) Surveying accuracy. The position closure of a traverse after distribution of azimuth errors shall not exceed one over 15,000. Discrepancies in levels between forward and backward runs shall not exceed 1/10 of a foot times the square root of the length of section in miles.
- (3) Mapping accuracy. The limits of error in any map shall not exceed 1/10 inch between points, as scaled on the original map. The elevation error shall not exceed 1/2 of the contour interval.
- (4) Monuments and benchmarks.
 - (a) Monuments shall be reinforced concrete or stone, four inches square and minimum of 30 inches long.
 - (b) There shall be a minimum of two monuments within each subdivision to control the location of lot corners and road lines. If these monuments are at road intersections or along road lines, they should not be set until the road has been constructed. They should be in position when the Town Superintendent of Highways inspects the road prior to dedication.

- (c) The number of monuments to be set should depend on the size of the subdivision. In general, a pair of intervisible monuments should be set along each road.
- (d) The subdivision map should show the location of the monuments to be set, along with the coordinate values and elevation of the top of each monument. The elevation of the monuments should be referred to sea level datum, as established by the United States Geological Survey or other governmental agencies.
- (e) If an elevation control monument does not exist within one mile of the subdivision, then the elevation shown on the United States Geological Survey topographic map, at the nearest road intersection, shall be used as a benchmark and so noted on the subdivision map.

C. Streets and roads.

(1) General.

- (a) All streets and roads shall be designed to provide safe and convenient routes for the traveling public. The Town desires to include a complete streets approach when designing and planning new and reconstructed streets and roads. All streets and roads shall incorporate measures for all modes of travel by a variety of users where practicable.
- (b) All streets and roads shall be logically related to the existing topography, soils, vegetation and other natural features and shall be coordinated into a logical and efficient system. Streets shall follow lowland, excepting wetlands, wherever feasible. Road layout shall minimize stream crossings.
- (c) Installation of utility distribution and service lines shall be planned at the time the road layout is determined. Areas with steep slopes, shallow soils, soils with a water table at or near the surface and soils that are highly susceptible to erosion or slippage shall be avoided as far as practical.
- (d) Subdivision streets shall be the responsibility of the developer and shall be built according to the Town of Warrensburg design standards for road construction.
- (e) The Town has developed two road design standards: a typical section for open drainage (or rural roadways) generally located outside the official hamlet, and a typical section for closed drainage roadways located within the hamlet.
 - [1] Open drainage/rural roads. This typical road design standard is appropriate in most subdivisions outside of the busy hamlet core. It is comprised of two ten-foot travel lanes with an open drainage system. Shoulders shall be gravel for stability. Where side slopes adjacent to roadways exceed 3:1, a guiderail is appropriate. This is a shared roadway where vehicle speed and traffic volumes allow. A paved/gravel walking path (minimum of six feet in width) is appropriate to

accommodate pedestrians and other modes of travel. The pathway shall be located on that side of the roadway providing the greatest connectivity, safety accommodations, subject to physical site constraints as determined by the Planning Board and/or Highway Superintendent. (See Figure A, Typical Cross-Section for Open Drainage Roadways.⁵)

[2] Closed drainage roadways (roads within the hamlet). This typical road design standard is appropriate within the hamlet and those areas in close proximity to the developed core of the Town. It is comprised of two ten-foot travel lanes and closed drainage system. The ten-foot travel lane serves as a shared roadway to accommodate bicyclists. The standard also provides an option for an eight-foot parking lane where on-street parking is preferred or provided. Sidewalks may be located on both sides of the road where demand exists or connections are desired. Sidewalks shall be located on one side of the road at a minimum. Within the most active areas and commercial core of the hamlet, sidewalks shall be a minimum of five feet from the curb and the area between the curb and walk shall be planted or paved as appropriate to the adjoining land use. (See Figure B, Typical Cross-Section for Closed Drainage Roadways.⁶)

- (f) Bicycle and pedestrian facilities, and other accommodations to address other travel modes and needs (i.e., safety, access, etc.) shall be incorporated into street design. The typical standards allow flexibility in implementation and may be modified based on the determination of the specific needs for a particular location.
 - (g) When identifying the need and desire for bicycle and pedestrian facilities, the Town may vary from the typical standards.
- (2) Street access. Access to arterial streets shall be restricted as far as practicable. Where possible and desirable, subdivisions containing 20 lots or more shall have at least two street connections with existing public streets.
 - (3) Continuation of projection of certain streets. The arrangement of streets in the subdivision shall provide for the continuation of principal streets of adjoining subdivisions and for proper projection of principal streets into adjoining properties which are not yet subdivided, in order to make possible necessary fire protection, movement of traffic and the construction or extension, presently or when later required, of needed utilities and public services, such as sewers, water and drainage facilities. Where, in the opinion of the Planning Board, topographic or other conditions make such continuation or projection undesirable or impracticable, this requirement may be modified. Approved future connector links shall be dedicated at the same time the principal streets are dedicated.
 - (4) Intersections.

5. Editor's Note: Said figure is included at the end of this chapter.

6. Editor's Note: Said figure is included at the end of this chapter.

- (a) In general, all streets and roads shall intersect so that for a distance of at least 100 feet, each street is approximately at right angles to the street it joins. Minor street intersections with collector streets or arterial highways shall be separated by at least 300 feet.
- (b) When a subdivision street intersects an existing street, the Board may require the subdivider to improve the existing street within 100 feet of said intersection to meet the requirements of these regulations for intersection design.

(5) Street alignment.

- (a) A curve shall be required whenever a collector or local street deflects more than 10°. A curve shall be required for any deflection in an arterial street. Minimum center-line radius for horizontal curves shall be as follows:

Street Type	Minimum Radius (feet)
Collector	300
Local	300
Marginal access	250

- (b) A tangent of at least 150 feet shall be required between reverse curves, except where the topographical conditions of the site being subdivided would require a lesser radius or tangent without disturbing major portions of unexcavated soil and foliage.

(6) Street grades.

- (a) Grades of roads shall conform as closely as possible to the original topography. However, maximum street grades shall be as follows:

Street Type	Minimum Grade
Collector	8%
Local	10%
Marginal access	10%

- (b) Street grades shall not be less than 0.5%. Grades at street intersections shall be held to a maximum of 3% for a distance of 100 feet from the edge of pavement of the intersected street. Vertical parabolic curves shall be introduced at changes of grade exceeding an algebraic difference of 1% and shall provide the following minimum sight distances:

Street Type	Minimum Sight Distance (feet)
Collector	250
Local	100
Marginal access	100

(7) Fill slopes.

- (a) Where streets are constructed on new fill, the side slopes of the fill shall be as follows:

Fill Height (feet)	Slope (vertical to horizontal)
0 to 6	1 to 4 or flatter
8 to 12	1 to 3 or flatter
Above 12	Not allowed

- (b) The width of the top of embankment shall be at least 20 feet wider than the width of roadway.

(8) Guardrailing. Where streets are constructed on fills of greater than six feet in height, guardrailing shall be installed along the side of the road eight feet from the edge of the roadway.

(9) Dead-end streets.

- (a) Dead-end or loop residential streets are discouraged, but may be permitted wherever the Board finds that such type of development is necessary to accommodate the character of the land and will not interfere with normal traffic circulation in the area.
- (b) Dead-end streets shall not be longer than 1,000 feet and shall be provided with a turnaround at the closed end. The Planning Board may seek an advisory opinion from the Town Highway Superintendent to determine what form of dead-end turnaround is preferred. A circular cul-de-sac or hammerhead options are available.
- (c) A hammerhead turnaround shall conform to Figure C, Typical Detail for Hammerhead Turnarounds.⁷
- (d) A circular cul-de-sac shall have a street right-of-way diameter of least 140 feet and an outside edge of pavement diameter of at least 110 feet.

[1] The pavement radius at the entrance to the turnaround shall be at least 50 feet for symmetrical turnarounds and greater for offset turnarounds.

7. Editor's Note: Said figure is included at the end of this chapter.

- [2] If an island is left in the turnaround, it shall be nearly level to facilitate snow plowing, and there shall be no curbs around the island.
- [3] The turnaround pavement shall slope to the outside of the circle. When a street is extended beyond an intersection to make provision for its future extension, a temporary turnaround shall be provided at the end of the street, unless no lots are served by the extension. The temporary turnaround shall meet the requirements for a permanent turnaround.
- (e) In the case of a dead-end road, the Board may require the reservation of an easement 20 feet wide to provide for continuation of pedestrian traffic, emergency access, and utilities to the next street when the Board, in its discretion, feels such an easement is necessary or desirable.
- (10) Special treatment along arterial highways. When a subdivision abuts or contains an arterial highway, the Board may require marginal access streets, reverse frontage with screen planting contained in a non-access reservation along the rear property line, deep lots with rear service alleys or other such treatments as may be necessary for adequate protection of residential properties and to afford separation of through and local traffic.
- (11) Other required streets. Where a subdivision borders on or contains a railroad right-of-way or limited access highway right-of-way, the Planning Board may require a street approximately parallel to and on each side of such right-of-way, at a distance suitable for the appropriate use of the intervening land (as for park purposes in residential districts or for commercial or industrial purposes in appropriate districts). Such distances shall also be determined with due regard for the requirements of approach grades and future grade separations.
- (12) Street setbacks. Setbacks from existing streets shall be in accordance with Chapter 211, Zoning.
- (13) Commercial development.
- (a) Service streets or loading space. Paved rear service streets of not less than 20 feet in width or, in lieu thereof, adequate off-street loading space, suitably surfaced, shall be provided in connection with lots designed for commercial use. This requirement is in addition to street requirements of any such development.
- (b) Free flow of vehicular traffic abutting commercial developments. In front of areas zoned and designed for commercial use or where a change of zoning to a zone which permits commercial use is contemplated, the street width shall be increased by such amount on each side as may be deemed necessary by the Planning Board with consultation of Superintendent of Highways or Town Board to assure the free flow of through traffic without interference by parked or parking vehicles and to provide adequate and safe parking space for commercial or business districts.

- D. Storm drainage. In designing for storm drainage, the Water Pollution Control Federation Manual of Practice on Design and Construction of Sanitary and Storm Sewers (MOP-9) (the New York State Department of Environmental Conservation's Stormwater Management Guidelines for New Development, most recent edition) shall be used as a guide. The procedures of said manual are not binding, and other good engineering practices may be accepted by the Town.
- E. Erosion control. On properties where construction activities will occur, erosion control measures may be required during construction. Based upon site conditions, temporary erosion control measures, as outlined in the most recent edition of New York Guidelines for Urban Erosion and Sediment Control, may be required to prevent potentially damaging siltation caused by upland erosion. Permanent erosion control measures will be required where site conditions indicate they are needed.
- F. Water system.
- (1) General. All components of the water system shall meet the requirements of the Warrensburg Department of Water or the Rural Water Supply Manual of the New York State Department of Health. Fire hydrants and shutoffs shall be located as per requirements of the Rural Water Supply Manual, New York State Health Department. Where subdivisions are located within the Town of Warrensburg Water District, all water service laterals shall be installed to the boundary of each lot prior to the surfacing of the roadway.
 - (2) Water supply. A source of supply shall be developed which will yield 100 gallons per resident in approximately 16 hours over a prolonged period of time without disturbing the normal groundwater reserve.
 - (3) Water quality. Water supplies for community water systems shall meet all requirements of the New York State Public Drinking Water Standards.
 - (4) Hydro-pneumatic pressure system. Pumps, tanks and accessory equipment shall provide adequate pump capacity and pressure with one-day storage.
- G. Sewage disposal systems.
- (1) Sanitary sewers. Where an existing (approved by New York State Department of Environmental Conservation) sanitary sewer is within 500 feet of the subdivision, the developer shall extend it to accommodate the proposed subdivision. All elements of the system must be approved by both the Town of Warrensburg and New York State Department of Environmental Conservation. Where subdivisions are located within the Town of Warrensburg Sewer District, all sewer laterals shall be installed to the boundary of each lot prior to the surfacing of the roadway.
 - (2) Individual septic systems. Where the daily discharge of sanitary sewage into an individual system for an individual residential structure is less than 1,000 gallons per day per structure, the waste treatment (septic) system shall be designed and constructed according to the provisions and standards of the Waste Treatment Handbook, Individual Household System (blue book), New York State Department

of Health Division of Sanitary Engineering or the Town of Warrensburg Sanitary Code, whichever is more restrictive.

- (3) Combined septic systems. Where the daily discharge from a structure, group of structures or units into a single sewage treatment system exceeds 1,000 gallons per day, the standards and approval of the New York State Department of Environmental Conservation will be required.

ARTICLE V

Waivers

§ 178-21. Approval or denial of waivers.

- A. Where the Planning Board finds, due to the special circumstances of a particular plat, that meeting a certain requirement of these regulations is not requisite in the interest of the public health, safety and general welfare, it may waive such requirement subject to appropriate conditions.
- B. In granting waivers, the Planning Board shall impose such conditions that will substantially assure that the objectives of the standards or requirements so waived are met.
- C. If the Town Board finds that, due to special circumstances, it is inappropriate to extend municipal services to the proposed subdivision, access to said municipal services may be denied, as stated in Article III, § 178-17D(5), Right of refusal.

ARTICLE VI

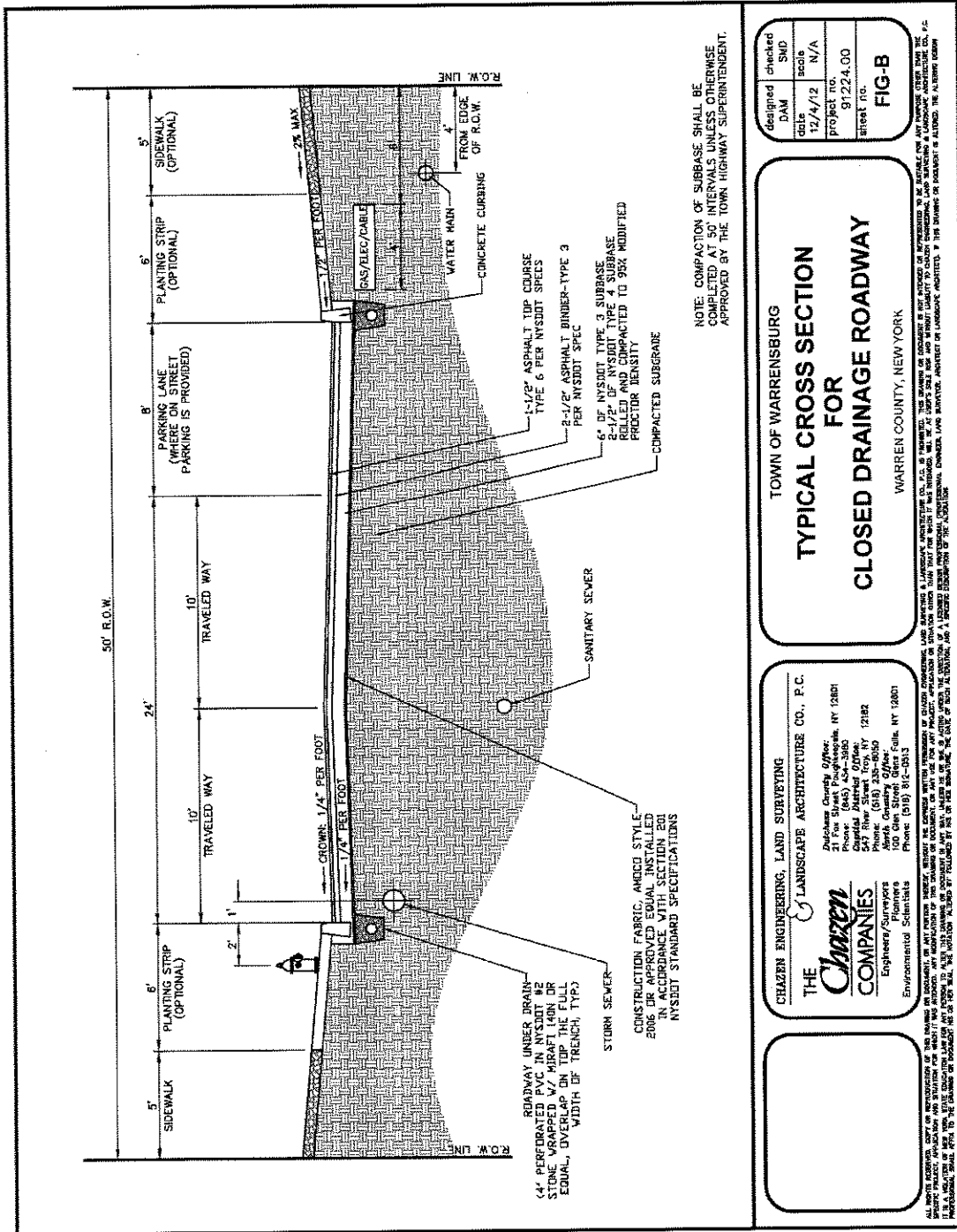
Penalties

§ 178-22. Penalties for offenses.

A violation of this chapter is hereby declared to be an offense punishable by a fine not to exceed \$350 or imprisonment for a period not to exceed six months, or both, for a conviction of a first offense; for a conviction of a second offense, both of which were committed within a period of five years, by a fine of not less than \$350 nor more than \$700 or imprisonment for a period not to exceed six months, or both; and upon conviction of a third or subsequent offense, all of which were committed within a period of five years, by a fine of not less than \$700 nor more than \$1,000 or imprisonment for a period not to exceed six months, or both. Each weeks' violation after notice shall constitute a separate additional violation. However, for purpose of conferring jurisdiction upon courts and judicial officers generally, violations of this chapter shall be deemed misdemeanors and, for such purpose only, all provisions of law relating to misdemeanors shall apply to such violations.

WARRENSBURG CODE

Figure B
 Typical Cross Section for Closed Drainage Roadways
 [Added 2-13-2013 by Res. No. 40-13]



designed	checked
DAM	SND
date	scale
12/4/12	N/A
project no.	
91224.00	
street no.	
	FIG-B

TOWN OF WARRENSBURG
 WARREN COUNTY, NEW YORK

TYPICAL CROSS SECTION FOR CLOSED DRAINAGE ROADWAY

CHAZEN ENGINEERING, LAND SURVEYING
 LANDSCAPE ARCHITECTURE CO., P.C.

THE Chazen COMPANIES
 Engineers/Surveyors
 Planners
 Environmental Scientists

Buffalo County Office: 12182
 Phone: (645) 424-3360

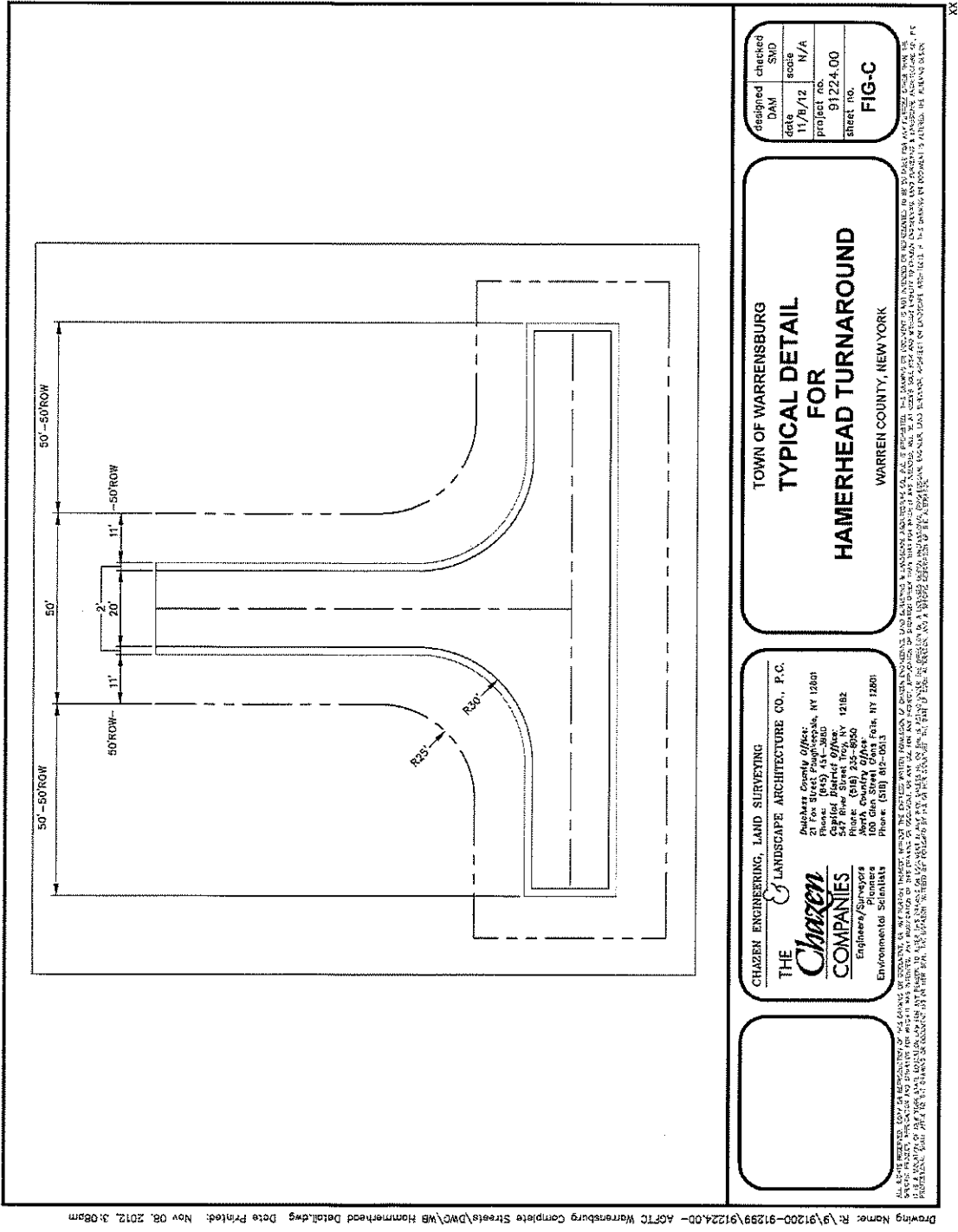
Capital District Office: 12182
 247 River Street
 Phone: (518) 335-2000

Albany County Office: 12182
 100 Glen Street
 Phone: (518) 812-1833

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SUBDIVISION OF LAND

Figure C
 Typical Detail for Hamerhead Turnaround
 [Added 2-13-2013 by Res. No. 40-13]



Chapter 181
SUNDAY ACTIVITIES

ARTICLE I
Racing Vehicles; Public Entertainment

§ 181-2. Penalties for offenses.

§ 181-1. Permission granted.

[HISTORY: Adopted by the Town Board of the Town of Warrensburg as indicated in article histories. Amendments noted where applicable.]

GENERAL REFERENCES

Bingo — See Ch. 82.
Games of chance — See Ch. 120.

Parks and beaches — See Ch. 137.

ARTICLE I
Racing Vehicles; Public Entertainment
[Adopted 5-26-1953]

§ 181-1. Permission granted.

It shall be lawful to conduct, witness, participate and engage in automobile, stock car or motorcycle races and any other form of public sports, exercises or shows which are conducted or engaged in primarily for entertainment of spectators not specifically prohibited by any provision of law on the first day of the week after 2:00 p.m. to witness and which the public is invited or an admission fee is charged, either directly or indirectly, in the Town of Warrensburg.

§ 181-2. Penalties for offenses. [Added 7-10-1996 by L.L. No. 1-1996]

Any violation of the provisions of this article shall be punishable by a fine of not more than \$250 or imprisonment for not more than 15 days, or both such fine and imprisonment.

Chapter 185
TAXATION

ARTICLE I
Business Exemptions

- § 185-1. Exemption granted.
- § 185-2. Applicability of statutory provisions.
- § 185-3. Administration.

ARTICLE II
Delinquent Tax Notice Fee

- § 185-4. Charge.

ARTICLE III
Senior Citizens Tax Exemption

- § 185-5. Exemption granted.
- § 185-6. Levels of exemption.

ARTICLE IV
Gold Star Parent Exemption

- § 185-7. Purpose and intent; authority
- § 185-8. Definitions.
- § 185-9. Exemption granted.

ARTICLE V
Veterans Exemption

- § 185-10. Purpose.
- § 185-11. Exemptions granted.
- § 185-12. Exemption for Cold War veterans.

ARTICLE VI
Exemption for Volunteer Firefighters and
Volunteer Ambulance Workers

- § 185-13. Legislative intent and purpose.
- § 185-14. Real property tax exemption.
- § 185-15. Qualifications.
- § 185-16. Twenty-year active members.
- § 185-17. Unremarried surviving spouses of volunteers killed in the line of duty.
- § 185-18. Unremarried surviving spouses of volunteers with at least 20 years of service.
- § 185-19. Application process.
- § 185-20. No diminution of current benefits.
- § 185-21. Severability.
- § 185-22. When effective.

[HISTORY: Adopted by the Town Board of the Town of Warrensburg as indicated in article histories. Amendments noted where applicable.]

ARTICLE I
Business Exemptions
[Adopted 7-22-1981 by L.L. No. 1-1981]

§ 185-1. Exemption granted.

- A. A one-hundred-percent exemption from taxation and special ad valorem levies for five successive years after the adoption hereof is granted to eligible business facilities (as

defined by Article 4-A of the Commerce Law of the State of New York¹⁾ located in the Town of Warrensburg, Warren County, New York, from taxes and special ad valorem levies imposed on behalf of the Town of Warrensburg, New York for Town purposes.

- B. Following the aforesaid one-hundred-percent exemption/five-year period, a fifty-percent exemption from taxation and special ad valorem levies for the next five successive years is hereby granted to such eligible business facilities from taxes and special ad valorem levies imposed on behalf of the Town of Warrensburg for Town purposes.

§ 185-2. Applicability of statutory provisions.

Such exemption shall be granted in accordance with the provisions of § 485 of the Real Property Tax Law of State of New York,²⁾ as the same may be amended from time to time.

§ 185-3. Administration.

Such exemption shall be granted and administered by the Assessor of the Town of Warrensburg as provided in § 485 of the Real Property Tax Law.

ARTICLE II

Delinquent Tax Notice Fee

[Adopted 12-14-1994; amended in its entirety 7-10-1996 by L.L. No. 1-1996]

§ 185-4. Charge.

The Town Clerk of the Town of Warrensburg is hereby authorized to impose a charge in an amount as set forth from time to time by resolution of the Town Board for sending delinquent notices to compensate for postage and cost to taxpayers.

ARTICLE III

Senior Citizens Tax Exemption

[Adopted 7-10-1996 by L.L. No. 1-1996; amended in its entirety 5-8-2013 by L.L. No. 3-2013]

§ 185-5. Exemption granted.

A partial exemption from taxation in accordance with a sliding scale of incremental levels of exemption up to 50% of the assessed valuation of real property which is owned by certain persons with limited income who are 65 years of age or older meeting the requirements set forth in § 467 of the New York Real Property tax law is hereby granted.

-
1. Editor's Note: Said Article 4-A was repealed by L. 1983, c. 15, § 87, effective 4-1-1983 (the Commerce Law was also renamed the Economic Development Law).
 2. Editor's Note: Said § 485 was repealed by L. 1988, c. 165, § 5, effective 6-27-1988.

§ 185-6. Levels of exemption.

The partial exemption from taxation granted by § 185-5 shall be in accordance all the provisions, conditions, and requirements of § 467 of the New York Real Property Tax Law and amendments thereto and shall be in accordance with the following sliding scale of incremental levels of exemption:

Annual Income	Percentage of Assessed Value Exempt from Taxation
Up to \$18,000	50%
\$18,001 to \$18,999	45%
\$19,000 to \$19,999	40%
\$20,000 to \$20,999	35%

Annual Income	Percentage of Assessed Value Exempt from Taxation
\$21,000 to \$21,899	30%
\$21,900 to \$22,799	25%
\$22,800 to \$23,699	20%
\$23,700 to \$24,599	15%
\$24,600 to \$25,499	10%
\$25,500 to \$26,399	5%
\$26,400 and over	0%

ARTICLE IV
Gold Star Parent Exemption
 [Adopted 10-12-2005 by L.L. No. 5-2005]

§ 185-7. Purpose and intent; authority

This article is adopted as provided in Real Property Tax Law § 458-a(7) to recognize the sacrifices made by parents of men and women who have died in the line of duty while serving in the armed forces during a period of war by extending the real property tax exemptions granted to veterans by Real Property Tax Law § 458-a to Gold Star Parents. This article is adopted pursuant to § 10 of Article 2 of the Municipal Home Rule Law.

§ 185-8. Definitions.

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

GOLD STAR PARENT — The parent of a person who has died in the line of duty while serving in the United States Armed Forces during a period of war.

§ 185-9. Exemption granted.

- A. For purposes of Town real estate taxes levied on property within the Town of Warrensburg, Gold Star Parents shall be included within the definition of "qualified owner" as provided in Real Property Tax Law § 458-a(1)(c) and property owned by a Gold Star Parent shall be included within the definition of "qualifying residential real property" as provided in Real Property Tax Law § 458-a(1)(d), providing that such property is the primary residence of the Gold Star Parent.
- B. The provisions of Real Property Tax Law § 458-a shall be applicable to real property tax exemptions for Gold Star Parents as therein described.

ARTICLE V
Veterans Exemption
[Adopted 3-29-2006 by L.L. No. 3-2006]

§ 185-10. Purpose.

The purpose of this article is to provide for the maximum veterans exemption allowable pursuant to § 458-a of the Real Property Tax Law of the State of New York.

§ 185-11. Exemptions granted. [Amended 9-10-2008 by L.L. No. 2-2008]

In accordance with New York State Real Property Tax Law § 458-a, Subdivision 2(d), the maximum veterans exemption allowable from real property taxes is established as follows:

- A. Qualifying residential real property shall be exempt from taxation to the extent of 15% of the assessed value of such property; provided, however, that such exemption shall not exceed the lesser of \$27,000 or the product of \$27,000 multiplied by the latest state equalization rate for the assessing unit.
- B. In addition to the exemption provided by Subsection A of this section, where the veteran served in a combat theater or combat zone of operations, as documented by the award of a United States campaign ribbon or service medal, or the armed forces expeditionary medal, navy expeditionary medal, marine corps expeditionary medal, or global war on terrorism expeditionary medal, qualifying residential real property also shall be exempt from taxation to the extent of 10% of the assessed value of such property; provided, however, that such exemption shall not exceed the lesser of \$18,000 or the product of \$18,000 multiplied by the latest state equalization rate for the assessing unit.
- C. In addition to the exemptions provided by Subsections A and B of this section, where the veteran received a compensation rating from the United States Veterans Administration or the United States Department of Defense because of a service-connected disability, qualifying residential real property shall be exempt from taxation to the extent of the product of the assessed value of such property multiplied by 50% of the veteran's disability rating; provided, however, that such exemption shall not exceed the lesser of \$90,000 or the product of \$90,000 multiplied by the latest state equalization rate for the assessing unit. For purposes of this subsection, where a person who has served in the active military, naval or air service during a period of war died in service of a service-connected disability, such person shall be deemed to have been assigned a compensation rating of 100%.

§ 185-12. Exemption for Cold War veterans. [Added 9-10-2008 by L.L. No. 2-2008]

In accordance with New York State Real Property Tax Law § 458-b, the maximum Cold War veterans exemption allowable from real property taxes is established as follows:

- A. Qualifying residential real property of veterans of the United States armed forces who served during the Cold War (defined as September 2, 1945, to December 26, 1991) shall be exempt from taxation to the extent of 15% of the assessed value of such property;

provided, however, that such exemption shall not exceed the lesser of \$12,000 or the product of \$12,000 multiplied by the latest state equalization rate for the assessing unit.

- B. In addition to the exemption provided by Subsection A of this section, where the Cold War veteran received a compensation rating from the United States Veterans Administration or the United States Department of Defense because of a service-connected disability, qualifying residential real property shall be exempt from taxation to the extent of the product of the assessed value of such property multiplied by 50% of the veteran's disability rating; provided, however, that such exemption shall not exceed the lesser of \$40,000 or the product of \$40,000 multiplied by the latest state equalization rate for the assessing unit. For purposes of this subsection, where a person who has served in the active military, naval or air service during a period of war died in service of a service connected disability, such person shall be deemed to have been assigned a compensation rating of 100%.

ARTICLE VI

Exemption for Volunteer Firefighters and Volunteer Ambulance Workers [Adopted 3-8-2023 by L.L. No. 1-2023]

§ 185-13. Legislative intent and purpose.

- A. The Town Board of the Town of Warrensburg (hereinafter "Town Board") finds and determines that attracting and retaining quality volunteer firefighters and volunteer emergency medical personnel is one of the most critical problems facing a number of communities and that maintaining effective emergency protection depends on the ability to train and retain volunteers.
- B. The Town Board finds and determines that it is in the public interest for the Town to provide real property tax exemptions as an incentive to attract new volunteers and help combat a persistent and alarming decline in the number of volunteers serving as active responders to fire and medical emergencies, and unless recruits are found to replace retiring volunteers and seasoned members are encouraged to continue their volunteer service, the health and safety of citizens served by the volunteer firefighter and emergency medical personnel may be jeopardized.
- C. The Town Board further finds and determines that real property tax exemption is one of the ways for the Town of Warrensburg to recognize the personal sacrifices and dedication of these community-spirited men and women who unselfishly give their time and risk their safety to protect their neighbors without compensation.
- D. The purpose of this article is to adopt the real property tax exemptions provided for volunteer firefighters and volunteer emergency medical personnel in accordance with § 466-a of the Real Property Tax Law.

§ 185-14. Real property tax exemption.

Real property owned by an enrolled member of an incorporated volunteer fire company, fire department or incorporated voluntary ambulance service or such enrolled member and spouse residing in the Town of Warrensburg shall be exempt from taxation for Town real property

taxes to the extent of 10% of the assessed value of such property for Town purposes, exclusive of special assessments.

§ 185-15. Qualifications.

Such exemption shall only be granted to an enrolled member of an incorporated volunteer fire company, fire department or incorporated voluntary ambulance services if:

- A. The applicant resides in the Town of Warrensburg and is a member of an incorporated volunteer fire company or fire department or incorporated voluntary ambulance service which provides service within the Town.
- B. The real property which is the subject of such exemption is the primary residence of the applicant.
- C. The real property is used exclusively for residential purposes; provided, however, that in the event any portion of such property is not used exclusively for the applicant's residence but is used for other purposes, such portion shall be subject to taxation and the remaining portion only shall be entitled to the exemption provided by this article.
- D. The applicant is listed as an enrolled member on the accepted rosters as determined by the bylaws of the authority having jurisdiction of the incorporated volunteer fire company or fire department, or incorporated voluntary ambulance service indicating that the applicant has been an enrolled member of such for at least two years.

§ 185-16. Twenty-year active members.

Any enrolled member of an incorporated volunteer fire company, fire department or incorporated voluntary ambulance service who accrues more than 20 years of active service, as defined in § 185-15D hereof, and is so certified by the authority having jurisdiction for the incorporated volunteer fire company, fire department or incorporated voluntary ambulance service, shall be granted the 10% exemption as authorized by this section for the remainder of his or her life as long as his or her primary residence is located within the Town of Warrensburg.

§ 185-17. Unremarried surviving spouses of volunteers killed in the line of duty.

An unremarried spouse of a volunteer firefighter or volunteer ambulance worker killed in the line of duty may receive the real property tax exemption if:

- A. Such unremarried spouse is certified by the authority having jurisdiction for the incorporated volunteer fire company, fire department or incorporated voluntary ambulance service as an unremarried spouse of an enrolled member of such incorporated volunteer fire company, fire department or incorporated volunteer ambulance service who was killed in the line of duty;
- B. Such deceased volunteer had been an enrolled member for at least five years; and
- C. Such deceased volunteer had been receiving the exemption prior to his or her death.

§ 185-18. Unremarried surviving spouses of volunteers with at least 20 years of service.

An unremarried spouse of a deceased volunteer firefighter or volunteer ambulance worker with 20 years of service may receive the real property tax exemption if:

- A. Such unremarried spouse is certified by the authority having jurisdiction for the incorporated volunteer fire company, fire department or incorporated voluntary ambulance service as an unremarried spouse of an enrolled member of such incorporated volunteer fire company, fire department or incorporated volunteer ambulance service of a volunteer who had been an enrolled member for at least 20 years; and
- B. Such deceased volunteer and unremarried spouse had been receiving the exemption of such property prior to the death of such volunteer.

§ 185-19. Application process.

- A. Applications for such exemption shall be filed with the Town Assessor on or before the taxable status date on a form as prescribed by the New York State Commissioner for the Office of Real Property Tax Services.
- B. The Town Assessor shall have the duty and responsibility of administering the provisions of this article and confirming due filing of the application and a copy of such certification prior to granting the exemption provided for by this article.

§ 185-20. No diminution of current benefits.

No applicant who is a volunteer firefighter or volunteer ambulance worker who by reason of such status is receiving any benefit under the provisions of law on the effective date of this article shall suffer any diminution of such benefit because of the provisions of this article.

§ 185-21. Severability.

If any clause, sentence, paragraph, subdivision or part of this article of the application thereof to any person, firm or corporation or circumstance shall be adjusted by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision or part of this article or its application to the person, individual, firm or corporation or circumstance directly involved in the controversy in which such judgment or order shall be rendered.

§ 185-22. When effective.

This article shall take effect immediately upon filing with the Secretary of State.

Chapter 189

TREES

ARTICLE I Timber Harvesting

§ 189-1. Purpose; intent.

§ 189-2. Definitions.

§ 189-3. Permission to timber harvest granted.

§ 189-4. Notice to prospective neighbors.

§ 189-5. Penalties for offenses.

[HISTORY: Adopted by the Town Board of the Town of Warrensburg as indicated in article histories. Amendments noted where applicable.]

ARTICLE I Timber Harvesting [Adopted 7-14-1993 by L.L. No. 1-1993]

§ 189-1. Purpose; intent.

It is the general purpose and intent of this article to maintain and preserve the rural tradition and character of Warrensburg, to permit the continuation of sound timber harvesting activities, to promote the existence and operation of tree farms and to encourage the utilization of proper forest harvesting and management techniques within the Town of Warrensburg. The Town of Warrensburg also recognizes the timber resources are an important renewable resource of significant value and may be harvested. The Town of Warrensburg, also recognizes that if timber harvesting activities are poorly carried out they can result in significant environmental damage to the land and waters of the State of New York. This article is intended to assure individuals the right to harvest renewable timber resources within the Town of Warrensburg, consistent with accepted, sound timber harvesting practices designed specifically for the protection of the land and water resource of the State of New York.

§ 189-2. Definitions.

As used in this article, the following words shall have the meanings indicated:

FOREST MANAGEMENT ACTIVITY — Any of a number of New York State Department of Environmental Conservation approved forestry-related practices which may or may not be associated with a timber harvesting activity. "Forest management activities" may include, but are not limited to, timber marking, pruning, thinning, the construction of wood roads, skid trails and stream crossing areas.

TIMBER HARVESTING ACTIVITIES — The removal of timber in quantities greater than 20 standard cords of wood, 2,000 cubic feet or 10,000 board feet (MBF) measured by the specified log rule on any one ownership of land within any given calendar year.

TIMBER HARVESTING GUIDELINES FOR NEW YORK STATE — Guidelines and recommendations prepared by the New York State Department of Environmental

Conservation which, if followed, will reduce the environmental impact and degradation to the water and land resources of New York State associated with timber harvesting activities.

TREE FARM — A parcel of land in excess of five acres which is utilized for the growth, sound management and harvesting of silvicultural products.

§ 189-3. Permission to timber harvest granted.

The Town of Warrensburg supports the right of forest landowners of the Town of Warrensburg to lawfully engage in the conduct of timber harvesting activities consistent with this article which establishes standards for timber harvesting consistent with the Timber Harvesting Guidelines for New York, as published by the New York State Department of Environmental Conservation. Such timber harvesting activities may be conducted at any and all such times and all such locations as are reasonably necessary to conduct the business of timber harvesting or tree fanning. For any forest management activity or timber harvesting activity or operation, in determining the reasonableness of the time, place and methodology of such operation, due weight and consideration shall be given to both traditional customs and procedures in the logging/tree farming industry, as well as to advances resulting from increased knowledge and improved technologies.

§ 189-4. Notice to prospective neighbors.

- A. The following notice shall be included in building permits and on plats of subdivisions submitted for approval pursuant to Town Law § 276 or Village Law § 7-728:

"This property may border forested areas of Warrensburg."

- B. Residents should be aware that forest landowners have the right to undertake acceptable forest management and timber harvesting activities which may generate dust, odor, smoke, noise, and vibration.

§ 189-5. Penalties for offenses. [Added 7-10-1996 by L.L. No. 1-1996]

Any violation of the provisions of this article shall be punishable by a fine of not more than \$250 or imprisonment for not more than 15 days, or both such fine and imprisonment.

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| <p>§ 198-41. Schedule VIII: Through Streets.</p> <p>§ 198-42. Schedule IX: Stop Intersections.</p> <p>§ 198-43. Schedule X: Yield Intersections.</p> <p>§ 198-44. Schedule XI: Trucks Over Certain Weights Excluded.</p> <p>§ 198-45. Schedule XII: Parking Prohibited at All Times.</p> <p>§ 198-46. Schedule XIII: No Stopping.</p> <p>§ 198-47. Schedule XIV: No Standing.</p> | <p>§ 198-48. Schedule XV: Parking Prohibited Certain Hours.</p> <p>§ 198-49. Schedule XVI: No Stopping Certain Hours.</p> <p>§ 198-50. Schedule XVII: No Standing Certain Hours.</p> <p>§ 198-51. Schedule XVIII: Time Limit Parking.</p> <p>§ 198-52. Schedule XIX: Angle Parking.</p> <p>§ 198-53. (Reserved)</p> <p>§ 198-54. Schedule XXI: Loading Zones.</p> <p>§ 198-55. Schedule XXII: Taxi Stands.</p> <p>§ 198-56. Schedule XXIII: Bus Stops.</p> |
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[HISTORY: Adopted by the Town Board of the Town of Warrensburg 4-14-1999 by L.L. No. 2-1999. Amendments noted where applicable.]

GENERAL REFERENCES

Appearance tickets — See Ch. 7.
Boats and boating — See Ch. 86.

Streets and sidewalks — See Ch. 174.

ARTICLE I General Provisions

§ 198-1. Definitions.

- A. The words and phrases used in this chapter shall, for the purposes of this chapter, have the meanings respectively ascribed to them by Article 1 of the Vehicle and Traffic Law of the State of New York.
- B. The following words and phrases, which are not defined by Article 1 of the Vehicle and Traffic Law of the State of New York, shall have the meanings respectively ascribed to them in this section for the purposes of this chapter:

CURBLINE — The prolongation of the lateral line of a curb or, in the absence of a curb, the lateral boundary line of the roadway.

HOLIDAYS — New Year's Day, Lincoln's Birthday, Washington's Birthday, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans Day, Thanksgiving Day and Christmas Day.

OFFICIAL TIME STANDARD — Whenever certain hours are named herein or on traffic control devices, they shall mean the time standard which is in current use in this state.

§ 198-2. Authority to install traffic control devices.

The Town Superintendent of Highways shall install and maintain traffic control devices when and as required under the provisions of this chapter, to make effective the provisions of this chapter, and may install and maintain such additional traffic control devices as he may deem necessary to regulate, warn or guide traffic under the Vehicle and Traffic Law of the State of New York, subject to the provisions of §§ 1682 and 1684 of that law.

§ 198-3. Schedules; adoption of regulations.

- A. For the purpose of maintaining an accurate record of all regulations adopted under the provisions of this chapter, there is hereby established a system of schedules, appearing as Article VI of this chapter, in which shall be entered all regulations after adoption. Such schedules shall be deemed a part of the section to which they refer. All regulations shall be adopted with reference to the appropriate schedule as indicated in the various sections of this chapter.
- B. Regulations shall be adopted by the Town Board in accordance with provisions of the Town Law and the Vehicle and Traffic Law, or by an officer or agency authorized by the Town Board to adopt regulations pursuant to § 1603 of the Vehicle and Traffic Law.
- C. At the discretion of the Town Board, said schedules may contain regulations enacted by county and/or state departments with jurisdiction over those roadways.

ARTICLE II
Traffic Regulations

§ 198-4. Traffic control signals.

(Reserved)

§ 198-5. Speed limits.

The speed limit for both directions of traffic along the streets or parts thereof described in Schedule II (§ 198-35), attached to and made a part of this chapter, is hereby established at the rate of speed indicated.

§ 198-6. School speed limits.

No person shall drive a vehicle at a speed in excess of that indicated in Schedule III (§ 198-36), attached to and made a part of this chapter, in the areas described in said schedule, during school days between the hours of 7:00 a.m. and 6:00 p.m.

§ 198-7. One-way streets.

The streets or parts of streets described in Schedule IV (§ 198-37), attached to and made a part of this chapter, are hereby designated as one-way streets in the direction indicated.

§ 198-8. U-turns.

No person shall make a U-turn on any of the streets or parts of streets described in Schedule V (§ 198-38), attached to and made a part of this chapter.

§ 198-9. Prohibited turns at intersections.

No person shall make a turn of the kind designated (left, right, all) at any of the locations described in Schedule VI (§ 198-39), attached to and made a part of this chapter.

§ 198-10. Prohibited right turns on red signal.

No person shall make a right turn when facing a steady red signal (stop indication) at any of the locations described in Schedule VII (§ 198-40), attached to and made a part of this chapter.

§ 198-11. Through streets.

The streets or parts of streets described in Schedule VIII (§ 198-41), attached to and made a part of this chapter, are hereby designated as through streets. Traffic control devices shall be installed on each street intersecting the through street.

§ 198-12. Stop intersections.

The intersections described in Schedule IX (§ 198-42), attached to and made a part of this chapter, are hereby designated as stop intersections. Stop signs shall be installed as provided therein.

§ 198-13. Yield intersections.

The intersections described in Schedule X (§ 198-43), attached to and made a part of this chapter, are hereby designated as yield intersections. Yield signs shall be installed as provided therein.

§ 198-14. Trucks over certain weights excluded.

Trucks in excess of the weights indicated are hereby excluded from the streets or parts of streets described in Schedule XI (§ 198-44), attached to and made a part of this chapter, except for the pickup and delivery of materials on such streets.

ARTICLE III
Parking, Standing and Stopping

§ 198-15. Application of article.

The provisions of this article shall apply except when it is necessary to stop a vehicle to avoid conflict with other traffic or in compliance with the directions of a police officer or official traffic control device.

§ 198-16. Parking prohibited at all times.

No person shall park a vehicle at any time upon any of the streets or parts thereof described in Schedule XII (§ 198-45), attached to and made a part of this chapter.

§ 198-17. No stopping.

No person shall stop a vehicle upon any of the streets or parts of streets described in Schedule XIII (§ 198-46), attached to and made a part of this chapter.

§ 198-18. No standing.

No person shall stand a vehicle upon any of the streets or parts of streets described in Schedule XIV (§ 198-47), attached to and made a part of this chapter.

§ 198-19. Parking prohibited certain hours.

No person shall park a vehicle between the hours specified in Schedule XV (§ 198-48) of any day, unless otherwise indicated, upon any of the streets or parts of streets described in said schedule, attached to and made a part of this chapter.

§ 198-20. No stopping certain hours.

No person shall stop a vehicle during the times specified in Schedule XVI (§ 198-49) of any day, unless otherwise indicated, upon any of the streets or parts of streets described in said schedule, attached to and made a part of this chapter.

§ 198-21. No standing certain hours.

No person shall stand a vehicle during the times specified in Schedule XVII (§ 198-50) of any day, unless otherwise indicated, upon any of the streets or parts of streets described in said schedule, attached to and made a part of this chapter.

§ 198-22. Time limit parking.

No person shall park a vehicle for longer than the time limit shown in Schedule XVIII (§ 198-51) at any time between the hours listed in said schedule of any day, unless otherwise

indicated, upon any of the streets or parts of streets described in said schedule, attached to and made a part of this chapter.

§ 198-23. Angle parking.

No person shall park a vehicle upon any of the streets or parts thereof described in Schedule XIX (§ 198-52), attached to and made a part of this chapter, except at the angle designated and only within the painted stall lines. On all streets or portions thereof where angle parking is now or shall hereafter be authorized, all vehicles parked thereon shall be parked with the front thereof nearest the curb.

§ 198-24. Winter parking.

- A. It shall be unlawful for the owner or operator of any type of vehicle to cause or permit said vehicle to stand upon any public highway within the Town of Warrensburg during the hours from 12:00 midnight to 6:00 a.m. commencing on December 1st of each year and continuing until April 1st, except at such locations where signs permitting such parking have been erected by the Town of Warrensburg Highway Department by order of the Town Board of the Town of Warrensburg. [Amended 12-12-2007 by Ord. No. 2-2007]
- B. The provisions of this section shall not apply to:
- (1) Vehicles owned by Town of Warrensburg, fire apparatus or equipment, ambulances or other emergency vehicles.
 - (2) Vehicles actively engaged in the work of construction or repair of streets or utilities or while actually engaged in making deliveries or rendering services in or upon any property adjacent to the highway where said vehicle is parked or standing.
 - (3) Disabled motor vehicles which are disabled in such manner and to such extent that it is impossible to avoid stopping and temporarily leaving such disabled vehicle in such position for a reasonable period of time not to exceed 24 hours.

§ 198-25. Loading zones.

The locations described in Schedule XXI (§ 198-54), attached to and made a part of this chapter, are hereby designated as loading zones.

§ 198-26. Taxi stands.

The locations described in Schedule XXII (§ 198-55), attached to and made a part of this chapter, are hereby designated as taxi stands.

§ 198-27. Bus stops.

The locations described in Schedule XXIII (§ 198-56), attached to and made a part of this chapter, are hereby designated as bus stops.

§ 198-28. Handicapped parking.

- A. Parking spaces for mobility handicapped persons. For every 20 parking spaces in front of or adjacent to any public building in the town there shall be at least one space marked distinctly "Handicap Parking."
- B. It shall be unlawful for any person without a mobility handicap or not using a wheelchair to park in any space reserved for such handicapped persons; provided however, that a driver of a vehicle used in transporting such handicapped persons may park in such spaces.
- C. If any more restrictive laws, local laws, rules or regulations of the State of New York or any other authority having competent jurisdiction shall apply to handicapped parking, then such more restrictive laws, local laws, rules or regulations shall be applicable.

§ 198-29. Municipal parking.

The following shall apply to municipal parking areas:

- A. All vehicles shall be parked within the spaces delineated for parking.
- B. No vehicle shall be parked within the access corridors of any parking area.
- C. No tractor, semitrailer or trailer shall be parked on any municipal parking area except in such places which may be specifically designated for such vehicles by the placement of signs ordered by the Town Board.
- D. No vehicle having a gross vehicle weight in excess of 18,000 pounds shall be parked on any municipal parking area except in such places which may be specifically designated for such vehicles by the placement of signs ordered by the Town Board.
- E. No vehicle may otherwise be parked on any municipal parking area, street or highway which does not otherwise conform to the dimension and weight requirements of the Vehicle and Traffic Law of the State of New York.

ARTICLE IV
Removal and Storage of Vehicles

§ 198-30. Authority to impound vehicles.

- A. When any vehicle is parked or abandoned on any highway or public parking lot within this town during a snowstorm, and such period thereafter as shall be required for snow plowing or snow removal, flood, fire or other public emergency which affects that portion of the public highway or parking lot upon which said vehicle is parked or

abandoned, said vehicle may be removed by or under the direction of the Town Superintendent of Highways.

- B. When any vehicle is found unattended on any highway or public parking lot within the town where said vehicle constitutes an obstruction to traffic, said vehicle may be removed by or under the direction of the Town Superintendent of Highways.

§ 198-31. Storage and charges.

After removal of any vehicle as provided in this article, the Town Superintendent of Highways, a police officer, the Sheriff or a Deputy Sheriff may store or cause such vehicle to be stored in a suitable place at the expense of the owner. Such owner or person in charge of the vehicle may redeem the same upon payment to the person with whom stored of the amount of all expenses actually and necessarily incurred in effecting such removal and storage, such storage charges not to exceed a fee per day or fraction thereof as set forth from time to time by resolution of the Town Board.

§ 198-32. Notice of removal.

The Town Superintendent of Highways shall without delay report the removal and disposition of any vehicle which has been removed and stored by him or under his direction to the Warren County Sheriff's Department so that the Department may ascertain the owner of such vehicle or other person lawfully entitled to the possession of such vehicle and notify him of the removal and disposition of such vehicle, and of the amount which will be required to redeem the same.

ARTICLE V
Miscellaneous Provisions

§ 198-33. Penalties for offenses.

Every person convicted of a traffic infraction for a violation of any provision of this chapter which is not a violation of any provision of the Vehicle and Traffic Law of the State of New York shall, for a first conviction thereof, be punished by a fine of not more than \$100 or by imprisonment for not more than 15 days, or by both such fine and imprisonment; for a second such conviction within 18 months thereafter, such person shall be punished by a fine of not more than \$200 or by imprisonment for not more than 45 days, or by both such fine and imprisonment; upon a third or subsequent conviction within 18 months after the first conviction, such person shall be punished by a fine of not more than \$300 or by imprisonment for not more than 90 days, or by both such fine and imprisonment.

ARTICLE VI
Schedules

§ 198-34. Schedule I: Traffic Control Signals.

(Reserved)

§ 198-35. Schedule II: Speed Limits.

In accordance with the provisions of § 198-5, speed limits are hereby established upon the following described streets or parts thereof:

Name of Street	Speed Limit (mph)	Location
Alden Avenue	30	Entire length
Cloverleaf Drive [Added 3-8-2000]	30	Entire length
Forest Lake Road	40	From Route 9, 1.3 miles west to northwest to Forest Lake Camp
Hudson Street	30	From Fourth Avenue to the Edmunds residence

§ 198-36. Schedule III: School Speed Limits.

In accordance with the provisions of § 198-6, no person shall drive a vehicle in excess of the speeds indicated below, in the areas designated below, during school days between the hours of 7:00 a.m. and 6:00 p.m.:

Name of Street	Speed Limit (mph)	Location
Elm Street	15	From Library Avenue to Warrensburg Volunteer Firehouse
Horicon Avenue	15	For 1,000 feet in front of the high school
Library Avenue	15	From Elm Street to Sanford Street

§ 198-37. Schedule IV: One-Way Streets.

In accordance with the provisions of § 198-7, the following described streets or parts thereof are hereby designated as one-way streets in the direction indicated:

Name of Street	Direction of Travel	Limits
	(Reserved)	

§ 198-38. Schedule V: U-Turns.

In accordance with the provisions of § 198-8, no person shall make a U-turn at any of the following locations:

Name of Street	Location
	(Reserved)

§ 198-39. Schedule VI: Prohibited Turns at Intersections.

In accordance with the provisions of § 198-9, no person shall make a turn of the kind designated below at any of the following intersections:

Name of Street	Direction of Travel	Prohibited Turn	Hours	At Intersection of
		(Reserved)		

§ 198-40. Schedule VII: Prohibited Right Turns on Red Signal.

In accordance with the provisions of § 198-10, no person shall make a right turn when facing a steady red signal (stop indication) at any of the following locations:

Name of Street	Direction of Travel	Prohibited Right Turn on Red Signal Onto
		(Reserved)

§ 198-41. Schedule VIII: Through Streets.

In accordance with the provisions of § 198-11, the following described streets or parts thereof are hereby designated as through streets. Traffic control devices shall be installed on each street intersecting the through street:

Name of Through Street	Name of Entrance Street	Direction From Which Entering	Traffic Control Device
		(Reserved)	

§ 198-42. Schedule IX: Stop Intersections.

In accordance with the provisions of § 198-12, the following described intersections are hereby designated as stop intersections, and stop signs shall be installed as follows:

Stop Sign on	Direction of Travel	At Intersection of
Adirondack Avenue	West	King Street
Adirondack Avenue	West	Oak Street
Adirondack Avenue	West	Warren Street
Ashe Avenue	Northwest	Lake Avenue
Beach Road	West	Hudson Street
Burdick Avenue	Northeast	River Street
Burhans Avenue	East	Elm Street
Catherine Street	East	River Street
Catherine Street	Northwest	Burdick Avenue
Commercial Avenue	Northwest	South Street

Stop Sign on	Direction of Travel	At Intersection of
Dinu Drive [Added 6-9-2010 by L.L. No. 1-2010]	Southeast	Lake Avenue
Emerson Avenue	East	Oak Street
First Avenue	Both	Hudson Street
Fish Hatchery Road	East	Hudson Street
Fourth Avenue	West	Hudson Street
Gold Street	West	King Street
Gold Street	West	Oak Street
Gold Street	West	Warren Street
Green Terrace	Southeast	Horicon Avenue
Griffen Street	East	Horicon Avenue
Hackensack Avenue	Northeast	King Street
Herrick Avenue	Southwest	Water Street
James Street	Southwest	Library Avenue
King Street	Both	Mountain Avenue
King Street	Southeast	Emerson Avenue
Lake Avenue	Northeast	Hudson Street
Library Avenue	East	Elm Street
Library Avenue	Northeast	Milton Avenue
Mountain Avenue	East	Warren Street
Mountain Avenue	West	Oak Street
Mountain Avenue	West	King Street
Newton Street	Both	Alden Avenue
Oak Street	West	Gold Street
Oak Street	West	Mountain Avenue
Park Street	Northwest	Fourth Avenue
Pratt Street	South	Horicon Avenue
Ridge Street [Added 6-14-2000; repealed 12-13-2000]		
Rosalie Avenue	Southeast	Horicon Avenue
Sanford Street	Southeast	Library Avenue
Second Avenue	West	Hudson Street
Smith Street	Both	Mill Street
Smith Street	Both	Ridge Street
Smith Street	Both	South Street
Smith Street	Northwest	Burdick Street

Stop Sign on	Direction of Travel	At Intersection of
Smith Street	Northwest	Mill Avenue
Smith Street	Northwest	South Avenue
Stewart Farrar Street	West	Elm Street
Summit Street	Both	Burdick Street
Summit Street	Northwest	South Avenue
Summit Street	Southeast	Mill Street
Summit Street	Southeast	Ridge Street
Swan Street	Southeast	Horicon Avenue
Terrace Avenue	Southeast	Prospect Street
Third Avenue	West	Hudson Street
Thompson Avenue	North	Fourth Avenue
Warrensburg Central School parking lot exit	East	Burhans Avenue
Woodward Avenue [Added 3-29-2006 by L.L. No. 2-2006]	Both	Ashe Drive
Woodward Avenue	Northeast	Hudson Street

§ 198-43. Schedule X: Yield Intersections.

In accordance with the provisions of § 198-13, the following described intersections are hereby designated as yield intersections, and yield signs shall be installed as follows:

Yield Sign on	Direction of Travel	At Intersection of
Smith Street	Both	Burdick Avenue

§ 198-44. Schedule XI: Trucks Over Certain Weights Excluded.

In accordance with the provisions of § 198-14, trucks in excess of the weights indicated are hereby excluded from the following streets or parts thereof, except for the pickup and delivery of materials on such streets:

Name of Street	Weight Limit (tons)	Location
		(Reserved)

§ 198-45. Schedule XII: Parking Prohibited at All Times.

In accordance with the provisions of § 198-16, no person shall park a vehicle at any time upon any of the following described streets or parts thereof:

Name of Street	Side	Location
Elm Street [Added 6-14-2006 by L.L. No. 6-2006]	East	From the intersection of Richards Avenue to Hudson Street
Emerson Avenue	South	From Main Street to a point 200 feet thereof
Horicon Avenue [Added 8-13-2008 by L.L. No. 1-2008]	Both	From Green Terrace to the Warrensburg School Bus Garage
Horicon Avenue	Both	From Main Street to Green Terrace
Horicon Avenue	Both	From Main Street to Rosalie Avenue
Main Street	Both	From Main Street to a point 2 car lengths north and south thereof
Pasco Avenue [Added 3-29-2006 by L.L. No. 1-2006]	Both	From Main Street to the dead end of Pasco Avenue
Ridge Avenue	Both	From River Street to Smith Street
Second Avenue [Added 7-12-2017 by Res. No. 90-17]	North	From Main Street west on Second Avenue for a distance of 25 feet
Warrensburg Volunteer Fire Department (Elm Street and Burhans Avenue)	All	Entire length of parking lot located in front fire station on Elm Street, except for authorized agents and vehicles'
Water Street	Both	From Main Street to Herrick Avenue
Water Street	North	From Route 9 to Herrick Avenue

§ 198-46. Schedule XIII: No Stopping.

In accordance with the provisions of § 198-17, no person shall stop a vehicle upon any of the following described streets or parts thereof:

Name of Street	Side	Location
		(Reserved)

§ 198-47. Schedule XIV: No Standing.

In accordance with the provisions of § 198-18, no person shall stand a vehicle upon any of the following described streets or parts thereof:

1. Editor's Note: Pursuant to the ordinance adopted 1-23-1996 (which was adopted pursuant to the authority set forth in Vehicle and Traffic Law § 1660-a, Subdivision 6), "authorized agents and vehicles" consist of the following: any active member of the Warrensburg Volunteer Fire Department or Emergency Squad who parks any vehicle operated by such member in said lot for the reasonable length of time said member is engaged in any activity commencing or occurring at the fire station; vehicles owned by the Town of Warrensburg, Warrensburg Volunteer Fire Department or Warrensburg Emergency Squad; and vehicles making deliveries or rendering service to Warrensburg Volunteer Fire Department or Warrensburg Emergency Squad.

Name of Street	Side	Location
		(Reserved)

§ 198-48. Schedule XV: Parking Prohibited Certain Hours.

In accordance with the provisions of § 198-19, no person shall park a vehicle between the times specified upon any of the following described streets or parts thereof:

Name of Street	Side	Hours/Days	Location
James Street	Both	7:30 a.m. to 3:30 p.m./School days	From Library Avenue to the Central School property
Library Avenue	Both	7:30 a.m. to 4:00 p.m./School days	From a point west of James Street to a point 200 feet east of James Street

§ 198-49. Schedule XVI: No Stopping Certain Hours.

In accordance with the provisions of § 198-20, no person shall stop a vehicle between the times specified upon any of the following described streets or parts thereof:

Name of Street	Side	Hours/Days	Location
			(Reserved)

§ 198-50. Schedule XVII: No Standing Certain Hours.

In accordance with the provisions of § 198-21, no person shall stand a vehicle between the times specified upon any of the following described streets or parts thereof:

Name of Street	Side	Hours/Days	Location
			(Reserved)

§ 198-51. Schedule XVIII: Time Limit Parking.

In accordance with the provisions of § 198-22, no person shall park a vehicle for longer than the time limit specified upon any of the following described streets or parts thereof:

Name of Street	Side	Time Limit; Hours/Days	Location
			(Reserved)

§ 198-52. Schedule XIX: Angle Parking.

In accordance with the provisions of § 198-23, no person shall park a vehicle upon any of the streets or parts thereof described below, except at the angle designated:

Name of Street	Side	Angle (degrees) (Reserved)	Location
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§ 198-53. (Reserved)²

§ 198-54. Schedule XXI: Loading Zones.

In accordance with the provisions of § 198-25, the following described locations are hereby designated as loading zones:

Name of Street	Side	Location (Reserved)
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§ 198-55. Schedule XXII: Taxi Stands.

In accordance with the provisions of § 198-26, the following described locations are hereby designated as taxi stands:

Name of Street	Side	Location (Reserved)
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§ 198-56. Schedule XXIII: Bus Stops.

In accordance with the provisions of § 198-27, the following described locations are hereby designated as bus stops:

Name of Street	Side	Location (Reserved)
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2. Editor's Note: Former § 198-53, Schedule XX: Winter Parking, was superseded 12-12-2007 by L.L. No. 2-2007. See now § 198-24.

Chapter 204

WATER

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ARTICLE III Installation and Maintenance of Pipes

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- § 204-20. Service pipe requirements.
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- § 204-33. Cost of meters.
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- § 204-39. Water service billing periods.
- § 204-40. Consumption charges and rates.
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- § 204-44. Payment of charges; delinquent charges.
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- § 204-46. Opening or closing of valves.
- § 204-47. Water turn-off or turn-on; turn-off for unfit buildings.

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**ARTICLE VII
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- § 204-51. Copy available.
- § 204-52. Promulgation of additional rules and regulations; amendments.
- § 204-53. Consent required to take water from hydrants.
- § 204-54. Access to equipment by Department.
- § 204-55. Exceptions.

**ARTICLE VIII
Enforcement**

- § 204-56. Penalties for offenses.

[HISTORY: Adopted by the Town Board of the Town of Warrensburg 4-10-2013 by L.L. No. 1-2013. Amendments noted where applicable.]

GENERAL REFERENCES

Sewers — See Ch. 157.

**ARTICLE I
Introduction**

§ 204-1. Title.

This chapter shall be known as the "Town of Warrensburg Water Use Law."

§ 204-2. Purpose; intent.

The purpose of this chapter is to provide the procedures for obtaining water from the Town of Warrensburg Water Department, rules and regulations of the Department and the method of charging for both unmetered and metered water service.

§ 204-3. Applicability.

The territory to which this chapter applies shall be the Town of Warrensburg, Warren County, and the vicinity where water mains are maintained by the Town.

§ 204-4. Definitions.

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

CHARGE — Any monetary rate, charge, cost, fee or expense provided for herein and to be paid by any owner, occupant, user or person to the Tax Collector of the Town.

CORPORATION STOP — (Reserved)

CROSS-CONNECTION — The connection of a service pipe with any other source of water supply or the connection of a service pipe with any other apparatus which may endanger the quality of the Town water supply.

CURB BOX — The protective casing or compartment, with cover attached, which houses and protects the curb stop.

CURB STOP — The water shutoff mechanism and valve located at approximately the street or road curb at the point in the service line leading from a main to where the service pipe connects to such service line, and including the curb stop and curb box.

DEPARTMENT — The Warrensburg Water Department.

MAIN — That portion of the water distribution system of the Department to which are connected water service lines carrying water to individual curb stops for individual parcels of real property and premises receiving water service.

OCCUPANT — The person, partnership, association, corporation or other entity using a parcel of land and premises or living in the building thereon as a tenant, lessee or party in actual possession thereof, including the owner.

OWNER — The person, partnership, association, corporation or other entity holding legal title to lands and premises or any person properly authorized to exercise powers of or for an owner of property for purposes of its purchase, sale, use, occupancy or maintenance.

SERVICE LINE — That portion of the water distribution system of the Department which connects a main to a curb stop.

SERVICE PIPE — That portion of the water distribution system of an owner of an individual parcel of real property and premises receiving water service which connects the meter to the curb stop.

TOWN — The Town of Warrensburg.

UNIT — The same meaning as defined in the fee schedule adopted by resolution by the Town Board and posted in the Town Clerk's office.

USER — Any person receiving water service from the Warrensburg Water Department.

WATER METER or METER — The water-measuring device as chosen by the Department and connected to the service pipe for measuring the amount of water in gallons passing from the main by way of the service line and service pipe to the user.

WATER SERVICE — The supply of water to a user.

§ 204-5. Water Department designated.

The department of the Town responsible for installation, operation and maintenance of the water supply and distribution systems and all wells, pumps, mains, pipes, tanks, structures and other appurtenances of the Town of Warrensburg shall hereafter be collectively known and designated as the "Warrensburg Water Department," hereinafter referred to as "the Department."

§ 204-6. Supervision of Water Department.

The Department shall be operated, controlled and managed by the Water Department Senior Operator or a Town Board appointed designee.

**ARTICLE II
Service**

§ 204-7. Compliance required for service.

Water service shall not be furnished to any user unless such user complies with all the provisions, terms, conditions, rules and regulations herein set forth or duly adopted from time to time by Town Board resolution pursuant to § 204-52 of this chapter, together with any additions, amendments and supplements to the same which may hereafter be made.

§ 204-8. Application for service; costs.

- A. Before the water service is installed, an application for a supply of water must be made at the office of the Town Clerk, in writing, and upon the form entitled "Application for Water Service." The application shall be filed with the Department for review by the Water Department Senior Operator or the Town-Board-appointed designee and issuance of an authorization for water service if his or her approval is granted.
- B. The application must be signed by the owner of the property to be supplied, and the application fee must be paid in advance with the application.
- C. The application for water service must include:
 - (1) The name and telephone number of the owner of the real property to be supplied.
 - (2) The name of the occupant of the property.
 - (3) The street address and Tax Map lot and block number of the property.
 - (4) The size of the service pipe or pipes.

- (5) The exact location of the place where it is proposed to set the meter (if applicable).
 - (6) The purpose for which water is to be used.
 - (7) For either new construction or renovations and conversions, the number and date of any required municipal or state building permit.
- D. By submitting an application for water service, the property owner:
- (1) Requests to receive such water service from the Department in accordance with all of the terms of this chapter and all rules and regulations of the Department herein contained or hereafter adopted, amended or supplemented by resolution of the Town Board; and
 - (2) Agrees to pay all water rates, charges, fees, costs and expenses relating to such water service, including the cost of materials and labor for the installation or the maintenance thereof, in the amounts as set forth from time to time by resolution of the Town Board.
- E. Applications for service will be accepted subject to there being an existing main in a street or right-of-way abutting the premises to be served. Acceptance of an application in no way obligates the Town to extend its mains to serve the premises under construction.
- F. No agreement will be entered into by the Town with any applicant for water service until all arrears and charges due by the applicant for water or services at any premises now or heretofore owned or occupied by him or her have been paid in full.

§ 204-9. Certificate of occupancy.

Prior to water service being turned on for any premises, a certificate of occupancy for the same, issued by the Building Inspector or Zoning Administrator or, if the premises are located outside of Town, the municipality in which the lands and premises are located, must be in the possession of the owner or occupant thereof and exhibited upon request of the Town Clerk of the Town or of an authorized representative of the Department, and a photocopy thereof, if requested, shall be supplied to the Department for filing.

§ 204-10. Water agreement.

The Department may require, in special circumstances, the execution of a written water agreement with an owner in a form prepared by Town Counsel or the Town Attorney. The cost of preparing and recording the agreement shall be charged to and paid by the owner before any water service is approved and supplied.

§ 204-11. Discontinuance of service by user.

Written notice is required for discontinuance of service. All contracts for the supply of water are made for an initial period of one year. Such contracts shall be deemed to be renewed, and charges will become payable when due, unless the consumer terminates the contract, in writing, delivered to the Town.

§ 204-12. Change of occupancy.

Until the Town is notified, in writing, by a property owner that premises have become vacated or title transferred, the owner will be held responsible for all unpaid bills. Any unpaid bills remain a lien against the real property and, if unpaid, will be provided to the county, to be added to the property's Town/county tax bill.

§ 204-13. Restriction of water service; conservation of water; sprinkling hours.

- A. The Department reserves the right to stop or restrict water service whenever it determines such action to be necessary.

The Department specifically reserves the right to control or stop any and all lawn sprinkling and car washing, and to cut off the service of water where used for artificial air-cooling devices unless the water is aerated and returned for use in the same system, at any time if, because of drought or any other emergency condition, the continued uncontrolled use of water for these purposes would jeopardize the supply and service of water for necessary living and/or fire protection. In the event of a violation of a stop or control order by the Department under this section, the Department shall mark the property by delivering a tag to the premises to provide notice of such violation to the occupant(s) of the property and shall notify the Town Code Enforcement Officer, who shall then become responsible for enforcement measures under § 204-56 of this chapter.

§ 204-14. Failure in supply.

The Town undertakes to use reasonable care and diligence to provide a constant supply of water at a reasonable pressure, but reserves the right at any time, without notice, to shut off the water in its mains for the purpose of making repairs, taps and extensions. However, the Town will try to give notice of the shutting off of water when time and conditions permit. Neither the Department nor the Town Board shall be liable under any circumstances for a deficiency or failure in the supply of water or in the pressure for any cause whatsoever or the proximate or remote results, damages or effects thereof to any user, owner, occupant or other person whomever the same may be.

ARTICLE III**Installation and Maintenance of Pipes****§ 204-15. New service.**

On all applications where mains are in a public highway or where the Town has an easement, the Town will tap the main and install the following equipment: corporation stop, stop and waste and curb box. The charge for such service shall be as set forth from time to time by resolution of the Town Board. The service pipe shall be installed by the property owner from the property to the water main under the supervision of the Water Department Senior Operator or the Town Board appointed designee, or any person designated by said Senior Operator. There shall also be a commercial tap fee in an amount as set forth from time to time by resolution of the Town Board.

§ 204-16. Service line requirements.

All service lines shall be connected with a main in such manner and by the use of such materials as are approved by the Water Department Senior Operator or the Town Board appointed designee. The service line from a main to a curb stop shall be copper. Service lines one inch in diameter and under shall be installed by the Department, and those larger than one inch in diameter shall be installed by the owner of the lands and premises being supplied under the Department's supervision.

§ 204-17. Service line connection and charges.

The tap-in or connection of a service line to a main may only be performed by the Department, and the charge therefor shall be in accordance with the fee schedule as set forth from time to time by resolution of the Town Board. Such charges are for the actual tap-in or connection, and do not include any excavating work or services.

§ 204-18. Charges for required installations and excavations.

Where the Department undertakes to perform the required excavation work or service for a new tap-in or connection of a service line to a main of a service line or repair of an existing connection, a charge based on the materials and labor expended shall be made to the owner by the Department. However, for repairs to an existing connection, if the main is located on the opposite side of a street or road from the property, the Department shall pay the cost of excavation work and labor to install or repair the service line from the main to the curb stop on the same side of the street or road as the property, and a charge based only on the cost of pipe materials shall be paid by the owner to the Department.

§ 204-19. Curb stops and curb boxes.

Curb stops and curb boxes shall be installed as authorized by the Department and shall be visible at grade level at all times. If any curb box is covered by concrete, asphalt, gravel, dirt or otherwise becomes not readily visible to or cannot be located by the Department, the owner shall be notified to that effect, in writing, and shall be requested to remedy such condition within five days of the receipt of such notice. If the owner fails to timely comply with such request, the curb box location shall be determined and the condition remedied by the Department, and the cost thereof shall be charged to the owner.

§ 204-20. Service pipe requirements.

The service pipe from the curb stop to the property shall be maintained by the property owner and shall not be less than 3/4 inch copper Type K or 200 p.s.i. polyethylene CTS plastic tubing with stainless steel inserts.

§ 204-21. Notice of leakage; responsibility.

When a leak occurs in the service pipe or service line or at the curb box, prompt notice thereof shall be given by the owner to the Department. The Department shall only be responsible for any leakage occurring in the service line.

§ 204-22. Damage due to leaks and breaks.

The Department shall not be held accountable for any damage, proximate or remote, which shall result from leaks, bursting pipes or from any other cause upon any lands and premises or in any building or structure receiving water service, and the owner shall pay for all water passing through the meter in cases where the Department has not been timely notified of any leaks or bursting pipes and has not had sufficient time to shut off the water service.

§ 204-23. Frozen pipes.

Where a service line/pipe is frozen, the consumer shall, at his or her own expense, thaw out the service line/pipe between the property and the main. If examination of the service line/pipe discloses that the service line/pipe is not five feet in depth to prevent freezing, the Town reserves the right to require it to be lowered to prevent the line/pipe from freezing.

§ 204-24. Installation and inspection of new distribution systems.

All newly installed water mains, service lines or other portions of a water distribution system not installed by the Department and intended to be connected to that of the Department shall be designed in accordance with the technical and engineering requirements of the Department and shall be reflected in plans, drawings, specifications and agreements submitted to the Department for review and approval by any person, owner or user proposing the same. Installation of the system shall be inspected by the Department during its construction to ensure compliance with the approved plans, drawings and specifications, and the cost of such review and inspection shall be borne by the person, owner or user constructing the same. An escrow deposit in an amount determined by the Department shall be deposited with the Town Clerk at the time of initial application to ensure timely payment of technical and professional review fees of plans or agreements and of inspection charges when the same are imposed as to all portions of such new water distribution system as shall lie within any existing public streets or rights-of-way or within any proposed street or right-of-way intended to be dedicated as a public street or right-of-way. Arrangements may be made for inspection of those portions of a proposed system as shall lie within nonpublic streets or rights-of-way upon request of a municipality having responsibility for such inspection and upon payment of an appropriate escrow deposit to the Town Clerk.

§ 204-25. Dedication of new distribution systems.

The title to every water distribution system constructed on and after July 10, 1996 (the original date of this provision being adopted as the Town's local law), shall inure to and shall become the sole and absolute property of the Town and the Department as the sole owner thereof and of all right, title and interest thereto:

- A. If the system is constructed within any existing public street or right-of-way, immediately upon the approval and acceptance of the completed installation by the Town and the Department for the supplying of water service through the same to any person, owner or user; or
- B. If the system is constructed in any proposed public street or right-of-way, upon both the prior approval and intention to accept such system by the Town and the Department, followed by the dedication as a public street or right-of-way of the proposed public street or right-of-way and the acceptance of such street or right-of-way as a dedicated street or right-of-way by formal action of the governing body of the municipality in which such street or right-of-way is located.

ARTICLE IV Water Meters

§ 204-26. Meter required.

Any user presently receiving water service upon lands and premises not having a meter shall have a meter installed in accordance with the terms and provisions of this article. Notwithstanding the above, all travel trailers and mobile homes, whether or not located in a mobile home park, must have an individual meter installed at the trailer or mobile home on or before December 31, 2016. If a meter is not installed at a trailer or mobile home by that date, the rate for water service to the unmetered structure shall be double the rate for unmetered service applicable at that time as per the water rate schedule.

§ 204-27. Individual service pipes.

Each individual apartment building, store building, office building, mobile home or other structure or other property receiving water service shall have an individual service pipe connected directly to the curb stop and curb box. No single service pipe shall serve two or more of the foregoing. The installation, repair and maintenance of the service pipe shall be the sole responsibility of the property owner served by the same.

§ 204-28. Inspection of piping.

After completion of any piping upon any lands and premises or within any building or structure, an inspection of said premises shall be made by the Department to ensure and determine that the water service must first pass through the meter before being received into the distribution system of the user.

§ 204-29. Connections to pass through meter; exception.

No water service bypass or connection shall be made or maintained unless passing through a meter, except that in the case of a meter with a greater than two-inch inlet, a sealed bypass of the same size as the service pipe may be permitted upon prior approval of the Department and only for fire protection purposes.

§ 204-30. Determination of meter type and size; location.

The size, type and make or brand of any meter to be installed upon the lands and premises of any owner shall be as determined by the Water Department Senior Operator or the Town Board appointed designee and shall be consistent with Department requirements. All meters shall be remote radio meters and shall be located inside of the structure to which water service is being provided. It is the property owner's responsibility to ensure that the meter is located in a protected area and will not be damaged by freezing temperatures or any other elements. If a meter is damaged by freezing temperatures or any other elemental cause, the property owner shall bear the cost of repair or replacement of the meter.

§ 204-31. Approval and control of meters.

No meter shall be installed which has not been furnished by the Department, in the case of meters with a one-and-one-half-inch inlet or less or, in the case of meters with a greater than one-and-one-half-inch inlet, approved by the Department. All meters shall be and remain under the exclusive control of the Department.

§ 204-32. Purchase, installation, inspection and maintenance of meters.

Every meter must be purchased by the owner from the Department and, in the case of a meter with a one-and-one-half-inch or less inlet, be installed by the Department at the expense of the owner and, in the case of a meter with a greater than one-and-one-half-inch inlet, be installed by the owner with prior Department approval and under Department supervision. A pressure-reducing valve must be installed in conjunction with all meters to reduce the water pressure prior to measurement by the meter. Every meter with a greater than one-and-one-half-inch inlet shall be inspected, adjusted and calibrated at least once during each twelve-month period by the Department or by an independent contractor, company or individual retained by the Department to perform such service. The cost of such inspection, adjustment or calibration and any maintenance or repairs performed pursuant thereto shall be charged to the user as an inspection and maintenance charge and shall be payable to the Department as a miscellaneous charge.

§ 204-33. Cost of meters.

The cost for each meter shall be in accordance with the fee schedule adopted by Town Board resolution and filed in the Town Clerk's office.

§ 204-34. Determination of charge upon failure of meter; testing.

If a meter, at any time, fails to accurately record the amount of water used, the quantity used shall be determined and the charge made based on the average amount registered during any two full billing periods during which water service was provided, preceding the date of failure. The accuracy of any installed meter on any property will be tested by the Department upon written request of the owner of the property, who shall be charged a service charge therefor if such meter is found to be accurate but shall be exempted from such charge if such meter is found to be inaccurate.

§ 204-35. Removal of meter for testing.

Meters may be removed by the Department for testing purposes.

§ 204-36. Tampering with meters or meter seals.

- A. No person not a duly authorized representative, agent or employee of the Department shall tamper with, change the location of, disconnect, modify or remove any water meter or the valve or any fittings connected therewith without the prior permission of the Department.
- B. No person not a duly authorized representative, agent or employee of the Department shall break, open, remove, replace, modify or tamper with any water meter seal, and there shall be established hereby a presumption that the seal upon any meter was intact and unbroken upon installation or following servicing by the Department.

§ 204-37. Charge for meter repair and replacement.

- A. Any repair charge for any damage which any meter may sustain by reasons of carelessness of the owner, his representatives, agents, servants, employees, tenants, lessees or occupants or from the neglect of any of them to properly protect the same, including any damage or injury that may result from allowing the meter to become frozen or to be injured by hot water, shall be paid to the Department by the owner of the premises. If such payment is not made, the water service may be turned off from such premises and shall not be turned on again until such charges have been paid. Any meter damage due to the fault of the Department shall be repaired by the Department without charge.
- B. The owner of the lands and premises shall bear the cost of materials and labor for the replacement of any damaged meter installed thereon, except any damage due to the fault of the Department.

§ 204-38. Removal of meter for storage.

Meters may be removed by the Department upon request of the owner for storage purposes, and a charge shall be made therefor.

ARTICLE V
Charges/Billing

§ 204-39. Water service billing periods.

The billing periods for water service rates or charges to all users who are connected shall be quarterly. The Town Board shall establish by resolution the specific service and billing periods for water service. The Town Board may change said periods from time to time by resolution.

§ 204-40. Consumption charges and rates.

Charges and rates for water service for each quarterly billing period shall be in accordance with the rates and fees as established and amended from time to time by Town Board resolution.

A. Unmetered service rates.

- (1) **Applicability.** These rates shall apply to general water service supplied to any customer served by the Department in the Town of Warrensburg at premises without a water meter.
- (2) Rates shall be imposed on a water rent rate schedule adopted by Town Board resolution which will be on file in the Town Clerk's office. The Water District reserves the right to make separate contracts for any consumer using over 200,000 gallons per six months. Rates for tapping or other costs incurred under this chapter shall be as set forth from time to time by Town Board resolution.

B. General metered service rates.

- (1) **Applicability.** These rates shall apply to the use of water supplied through meters for general water service to any customer served by the Department in the Town of Warrensburg.
- (2) Rates shall be imposed on a water rate schedule adopted by Town Board resolution which will be on file in the Town Clerk's office. Such rates shall be based upon each 1,000 gallons consumed per quarter. Unpaid water charges shall be a lien against the real property.

C. Outside district rates.

- (1) **Applicability.** These rates shall apply to the use of water supplied through meters to users outside the Water District of the Town of Warrensburg for resale.
- (2) Rates shall be imposed on a water rate schedule adopted by Town Board resolution which will be on file in the Town Clerk's office. For metered users, such rates shall be based upon each 1,000 gallons consumed per quarter. Unpaid water charges shall be a lien against the real property.

D. Other water service charges.

- (1) The charges for the reinstallation or changing of a meter when removed because damaged in any way due to negligence of customer and such additional charges for testing and/or repairing of any damaged meter shall be as set forth from time to time by Town Board resolution.
- (2) The Town will replace defective meters at its own cost. Any other replacement shall be charged to the customer according to the fee schedule established by the Town Board.
- (3) On each occasion that service is requested to be connected or disconnected, the property owner or consumer will make application to the Town of Warrensburg.

- (4) Miscellaneous charges. Charges for the following, as set forth in the fee schedule established by Town Board resolution, are to be made to the owner receiving water service for the service provided:
- (a) To turn on or off at the curb stop previously authorized and operating water service, seasonally or otherwise.
 - (b) To store a meter.
 - (c) To test a meter which tests shows the same to be accurate.
 - (d) To turn on at the curb stop a previously authorized and operating water service which has been turned off by the Department by reason of prior unpaid and delinquent charges or for cause.
 - (e) Inspection and maintenance of meter with a greater than one-and-one-half-inch inlet.

§ 204-41. Payee of charges.

The Department shall be paid all rates, charges, fees, costs, expenses, deposits and earned interest required to be paid hereunder by such payment being delivered to the Tax Collector of the Town upon presentation of a bill by the Department in all instances where a payment is required or due. In the case of payment upon submission of an application or other request, payment shall accompany such application or request or the same shall not be received or acted upon by the Department.

§ 204-42. Claims for adjustment of charges.

Adjustment of charges may be made at the discretion of the Town Board or by personal application only of the owner of the lands and premises charged, and all claims for adjustment must be presented, in writing, to the Tax Collector of the Town within 30 days from the date of the bill for the period in which the adjustment is claimed, setting forth full particulars upon which such adjustment is sought.

§ 204-43. Owner responsible for charges.

When water service is supplied for more than one occupant of any lands and premises as a user from the same service pipe, the charge for the whole supply of water furnished by such service pipe shall be made to the owner, and, in case of nonpayment of any rate, charge, cost or expense, the water may be turned off, although some of such occupants or users may have made settlement therefor with the owner.

§ 204-44. Payment of charges; delinquent charges.

All water service rates, charges, costs, fees, expenses, deposits and earned interest shall be paid to the Department by payment to the Town Tax Collector according to the billing periods and due dates established by Town Board resolution. Upon expiration of a bill payment due

date, any outstanding amounts shall become a municipal lien, together with subsequently accruing interest, upon the lands and premises to which the water service was provided and shall be collectible by the Tax Collector in the same manner as provided for the collection of delinquent real estate taxes. Any amounts remaining unpaid after a given due date shall earn interest at a rate established by Town Board resolution, computed from, on and after the due date, with the minimum delinquent charge to be as set forth by Town Board resolution.

§ 204-45. Payment for services; late charges; lien.

All water rents are payable to the Town Tax Collector at the Town Clerk's office, 3797 Main Street, Warrensburg, New York. All water rents and other charges for service within the corporate limits of the Town not paid on or before November 1 of each year will be relieved on the Town tax roll.

ARTICLE VI

Water Turn-On and Shut-Off

§ 204-46. Opening or closing of valves.

- A. No person except the Water Department Senior Operator or the Town-Board-appointed designee or other person authorized by such Water Department Senior Operator or the Town-Board-appointed designee shall open or close the stopcocks or valves in any of the water mains or any service pipes at the curb stop, except where the water service is turned off at the curb stop under emergency conditions by the owner, occupant or plumber due to water pipe breakage, leakage or freezing temperature and for the emergency repairs only by the user, owner or occupant, and the same shall immediately be turned on by such person upon repair or correction of the emergency conditions.
- B. Only Department personnel shall turn on or shut off water service. Any other turning on or shutting off of water service, or any other tampering with water meters or the Town water system shall be a violation of this chapter. Any person, owner, caretaker, plumber or tenant in possession of the property violating this section is guilty of a misdemeanor and shall be dealt with according to the Penal Law and be declared a disorderly person and may be punished by a fine of \$500 or imprisonment for six months, or both.

§ 204-47. Water turn-off or turn-on; turn-off for unfit buildings.

- A. To have the water service turned off or on, a request, in writing, shall be made by the owner and the charge therefor paid in advance with such request. No turnoff shall be made if the Department determines that the water service is supplying a residential unit occupied by any lessee or tenant who does not concur, in writing, with such request.
- B. The Department may turn off the water service to any building or structure upon the request of the Municipal Building Inspector, Zoning Administrator, Code Enforcement Officer or Health Officer, in the event that such official, in the pursuance of his office, has determined the same to be unfit for human habitation or other occupancy or use and advises that such condition remains uncorrected, repaired, altered or improved following

issuance of a notice and order upon the owner thereof. The Department shall follow the procedure contained in § 204-48 as to the recording of such event and turn on upon rectification of the conditions necessitating the turn off and payment of the charges for the use of water and in turning the same on and off as therein mentioned.

§ 204-48. Turning off water service for cause.

A. The Department may turn off the water service to any lands and premises for the following causes:

- (1) Nonpayment of any charge and the interest due thereon;
- (2) Any fraudulent representation to the Department;
- (3) Use of water other than as represented in the application;
- (4) Tampering with or in any way interfering with an installed meter or any part of such meter upon the lands and premises of such owner, occupant or user;
- (5) Willful waste of water through improper and imperfect pipes or otherwise;
- (6) Refusal or neglect to immediately repair any leaky pipe, fixture or attachment from the curb stop location to and upon the lands and premises of the user;
- (7) Tampering with any service pipe, seal, meter, curb box, curb stop or any other appliance of the Town;
- (8) Cross-connection of a service pipe as defined under § 204-4 of this chapter, unless expressly authorized by the Department and done so in accordance with Department rules and regulations;
- (9) Refusal of reasonable access to the property for the purpose of inspecting fixtures or piping; or
- (10) Any violation whatsoever of rules and regulations of the Department as herein set forth or hereafter adopted, amended and supplemented by the Department.

B. When the water service has been so turned off for any cause, the Department shall record such event, and the water service will not be turned on again except upon proper rectification of the cause or causes for withholding the water service and until all charges for the use of water, which in no case will be less than the minimum quarterly rate, whether any water has passed through the meter or not, and all other charges in making proper and necessary repairs and in turning off and turning on said water have been paid. Where the supply of water which has been turned off and has been so recorded is at any time found turned on without the permission and authorization of the Department, such water service shall be turned off and sealed or turned off at the main by the Department in such a manner as to ensure against its unauthorized turning on a second time and a charge made to the owner for such action by the Department. Before service will be restored, the consumer shall pay \$250 for the turn-on charge and sign an application for service.

§ 204-49. Shut-off of joint services.

Where two or more premises are supplied with water through one service pipe under the control of one curb stop, if any of the parties so supplied violates any Department rule or requirement, the Town reserves the right to shut off the joint service line.

§ 204-50. Charge for excavations to turn off water.

If it is necessary for the Department to excavate in any street to turn off the water service at the main, costs of such excavating and street replacement will be charged to the owner to whose lands and premises to which the particular service pipe and service line is connected. Such charges shall be in addition to any of the other expenses involved in the usual turn off of water service at the curb stop. Any excavation necessitated by any reason or cause not attributable to the owner, occupant or user shall not be charged to said owner.

ARTICLE VII
General Provisions

§ 204-51. Copy available.

A copy of this chapter will be available to each consumer, if requested.

§ 204-52. Promulgation of additional rules and regulations; amendments.

The Town Board, in consultation with the Water Department, may make, from time to time, such additional, supplemental and amendatory rules and regulations to those contained herein as may be expedient for the proper and efficient providing of water service to users within and outside the Town, by resolution of the Town Board. This shall include, but is not limited to, the Town Board's ability to establish, and amend from time to time, a Cross-Connection Control Program, water service billing cycles and water rates and charges. Any such rules and regulations shall become effective following adoption of such resolution and shall thereupon have the full force and effect as the rules and regulations contained herein. This chapter shall be amended as revised only upon the Town Board duly adopting a local law doing so.

§ 204-53. Consent required to take water from hydrants.

No person shall take water from any public fire hydrant, except by written consent of the Department and in accordance with Department rules and regulations. Rates for such water use shall be in accordance with the fee schedules adopted by Town Board resolution.

§ 204-54. Access to equipment by Department.

The Department, Town Board and their representatives, agents or employees may at all reasonable hours have free access to the service pipe, curb stop, curb box, service line, water pipes, fixtures and meters upon the lands and premises and within any building or structure of any owner, occupant or user for the purpose of inspection, repairing and reading of meters and for any other purpose pertaining to their duties. All representatives, agents or employees

shall be provided by the Town Board with a badge or certificate evidencing their position or authority.

§ 204-55. Exceptions.

The Town Board may grant relief to any person from the strict application of the terms hereof when, in its discretion and judgment, special exceptions are justified or strict application would cause extreme hardship to any person or such relief would be in the best interest of the Town.

**ARTICLE VIII
Enforcement**

§ 204-56. Penalties for offenses.

Any violation of this chapter, or Department rules and regulations as established in accordance with § 204-52, shall be punishable, for each violation, by a fine of up to \$250 for the first offense; up to \$500 for a second offense; and up to \$995 for any additional violations. Each day shall constitute a separate violation.

Chapter 211

ZONING

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[HISTORY: Adopted by the Town Board of the Town of Warrensburg 5-9-2012.
Amendments noted where applicable.]

ARTICLE I
Introductory Provisions

§ 211-1. Title.

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

§ 211-2. Enactment and authority.

Enactment of this chapter 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 chapter. The Town Law provisions intended to be superseded include those portions of Article 16, § 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.

§ 211-3. Purpose and 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.

§ 211-4. Applicability.

- A. 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 chapter. All development, new use or change in use shall require a land use and development permit unless otherwise expressly provided herein.
- B. Notwithstanding any other provision of this chapter, any action proposed or undertaken by the Town of Warrensburg, or on behalf of the Town with the Town's authorization, shall be exempt from the provisions of this chapter. Notwithstanding this exemption, the Town Board may seek nonbinding advisory review from the Town Planning Board and/or Zoning Board of Appeals for any such proposed Town action. This exemption specifically does not apply to the provisions of the State Environmental Review Act (SEQRA), the Adirondack Park Agency (APA) Act or other state or federal

requirements, but is limited only to requirements of the Town of Warrensburg. **[Added 5-8-2013 by L.L. No. 2-2013]**

§ 211-5. 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.

§ 211-6. Authority of the Adirondack Park Agency.

Nothing in this chapter shall be deemed to supersede, alter or impair the jurisdiction of the Adirondack Park Agency, pursuant to the Adirondack Park Agency Act,¹ 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 and Map

§ 211-7. Purpose.

It is the objective of this chapter 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.

§ 211-8. Districts classification.

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

- A. 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.
- B. 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

1. Editor's Note: See Article 27 of the New York State Executive Law.

districts. These areas are walkable and are primarily residential, but may also include a limited mix of office and commercial.

- C. 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.
- D. 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.
- E. Business/Industrial (BI). The purpose of this district is to encourage industrial and business uses.
- F. 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.
- G. 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. The following APA land use classifications exist: Hamlet; Moderate Intensity; Low Intensity; Rural Use; Resources Management; Wild Forest; and State Administrative.

§ 211-9. 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. 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,² 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 chapter;
 - (2) The total number of principal buildings permitted for the entire parcel as determined by the Dimensional Table of this chapter 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 chapter³ 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 § 805 of the Adirondack Park Agency Act⁴ and incorporated into this chapter 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.
- (1) 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

2. Editor's Note: Said table is included at the end of this chapter.

3. Editor's Note: Said table is included at the end of this chapter.

4. Editor's Note: See Article 27 of the New York State Executive Law.

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 Map pursuant to Subdivision 2 of § 805 of the Adirondack Park Agency Act⁵ shall take effect for the purposes of this chapter concurrently with that amendment without further action.

- (2) The amendment provisions of this chapter 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.

ARTICLE III Use Regulations

§ 211-10. Permitted uses.

- A. All uses listed in the use table below⁶ shall be permitted in each zoning district as a permissible use for that district, provided that all other requirements of this chapter are met.
- B. 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.
- C. All permitted uses are indicated by "P." All uses requiring site plan review are indicated by "S." All uses requiring a special use permit are indicated by "SP." Uses requiring a special use permit also require site plan review. Those uses with "accessory" as part of their name shall only be permitted as an accessory use and not as a principal use. [Amended 4-14-2021 by L.L. No. 5-2021]
- D. 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.
- E. Any use may require Class A regional project review depending on location and size of project as determined by APA thresholds.

§ 211-11. Mobile Home Overlay (MHO).

- A. 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.

5. Editor's Note: See Article 27 of the New York State Executive Law.

6. Editor's Note: Said table is included at the end of this chapter.

- B. All other buildings, structures and uses are subject to the use and dimensional requirements of the underlying district.

§ 211-12. Waterfront uses.

- A. All waterfront-related uses and intensive waterfront-related uses are permitted and shall be subject to site plan review.
- B. Waterfront-related uses are permitted within 250 feet of the mean high water mark of the Hudson River and Schroon River.
- C. Intensive waterfront-related uses are permitted within 250 feet of the mean high water mark of the Hudson River and Schroon River 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.

§ 211-13. Permitted uses in the Business/Industrial (BI) District.

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

§ 211-14. Permitted uses in the Outside Hamlet (OH) District.

- A. Within the OH District, uses are regulated by APA.
- B. Site plan review is required for all uses over 4,000 square feet, except single-family homes.
- C. All uses are permitted provided a land use and development permit has been issued from the Zoning Administrator.

§ 211-15. Prohibited uses.

Any use not listed in the following table⁷ is deemed prohibited unless such principal use is expressly permitted elsewhere by this chapter or a use variance is granted in accordance with the provisions of this chapter.

§ 211-16. Permitted accessory uses. [Amended 10-11-2023 by L.L. No. 2-2023]

- A. 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.
- B. Fowl.

7. Editor's Note: Said table is included at the end of this chapter.

- (1) The keeping and raising of fowl is a lawful use when accessory to a lawful single-family or two-family residential use or a lawful small-scale agricultural use, whether such residential or agricultural uses are lawful by virtue of being appropriately zoned or whether by virtue of their pre-existing, nonconfirming status. In the event of the latter, the keeping of fowl shall not be deemed an expansion of such use.
- (2) Male fowl shall not be permitted under this section, except in the Outside Hamlet Zoning District (OH). In all other locations in which fowl are permitted hereunder, only females are permitted.
- (3) Fowl shall not be permitted to enter upon any property other than that owned by the owner of the fowl and/or one who is housing the fowl. Adequate fencing is required to keep all fowl on the subject property and all such fencing shall be of a condition, size, style and location as to comply with the requirements and limitations set forth in § 211-18 of this chapter.
- (4) On every property on which fowl are kept, there shall be appropriate housing provided for them to protect them from the elements. Each coop or other structure shall be of at least common construction or type and shall be kept in good repair and shall not be permitted to become dilapidated. The coop or other structure shall be considered a part of the premises for purposes of Chapter 145 and shall be kept in a clean and sanitary condition. Such structures are not "storage sheds" for purposes of § 211-26 of this chapter.
- (5) All coops or other structures shall be kept a minimum of 25 feet from any boundary line of the property.
- (6) This subsection permits the keeping and raising of fowl, but does not permit or make lawful the on-site butchering or processing of fowl for sale or trade.
- (7) Notwithstanding any provision to the contrary, properties within an Agricultural District, as that term is defined in Article 25-AA of the New York State Agriculture and Markets Law, shall not be subject to the limitations on sex of fowl set forth in this subsection.
- (8) Provided that the primary use is allowed (whether as of right or with one or more land use approvals), the keeping of fowl in accordance with the requirements and limitations of this subsection will not trigger the need for any additional approvals.

ARTICLE IV
Dimensional Requirements

§ 211-17. Density and lot calculation.

Dimensional Table. Regulations governing lot area are specified in this Dimensional Table⁸ and in the additional regulations of this article, and are supplemented by the regulations of other sections of this chapter.

ARTICLE V
General Regulations

§ 211-18. 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 feet in side yards and six feet in rear yards. The height of fences and all walls shall not exceed four 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 two 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.

8. Editor's Note: Said table is included at the end of this chapter.

§ 211-19. Height exceptions.

The height limitations of this chapter, as shown on the dimensional table,⁹ 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.

§ 211-20. 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 footcandles.
 - (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 feet.
 - (2) Parking lot light poles shall be no higher than 20 feet or the height of the primary structure, whichever is less.

§ 211-21. 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

9. Editor's Note: Said table is included at the end of this chapter.

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.

§ 211-22. Number of principal buildings.

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

§ 211-23. 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 nonresidential uses and apartment buildings located within 50 feet of single-family, two-family or multifamily 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 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.
 - (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 inches caliper.
 - (2) Flowering tree: 2-1/2 inches caliper.
 - (3) Evergreen tree: 4 to 6 feet in height.
 - (4) Shrub: 2 to 3 feet in height or spread.
- G. Parking space size.
- (1) Perpendicular parking (90°).
 - (a) Each parking space shall be a minimum of nine feet by 18 feet.
 - (b) The minimum aisle width shall be 24 feet for two-way traffic.
 - (c) The minimum aisle width shall be 22 feet for one-way traffic.
 - (2) Angled parking 60°.
 - (a) Each parking space shall be nine feet by 22 feet.
 - (b) The minimum aisle width shall be 23 feet for two-way traffic.
 - (c) The minimum aisle width shall be 18 feet for one-way traffic.

§ 211-24. 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.

§ 211-25. Site improvements and screening.

Fencing and screen-planting may be required according to the following:

- A. Any use required by this chapter 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.
- B. Plans and site design for the installation of such fencing or screening as are required by this chapter shall be reviewed and approved by the Planning Board prior to authorization of a permit.
- C. Any fencing or screening installed in accordance with this chapter shall be maintained in good order. Failure to maintain required fencing and screening shall be considered a violation of this chapter.

§ 211-26. Storage sheds.

The following shall apply to storage sheds in all districts:

- A. All front yard setbacks shall apply.
- B. For storage sheds 250 square feet or less, a five-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.
- C. The height shall not exceed 14 feet.
- D. The roof pitch shall be no less than 3/12.
- E. There shall be a maximum of two sheds per parcel.
- F. Plumbing within a storage shed is prohibited.
- G. 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.

§ 211-27. Swimming pools.

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

- A. 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.
- B. 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.
- C. Pools and pool equipment shall be installed in compliance with the setbacks of this chapter.
- D. 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.
- E. Provisions for drainage from the pool will be adequate.
- F. 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.

§ 211-28. Temporary structures. [Amended 4-14-2021 by L.L. No. 1-2021]

- A. 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 nonpermanent 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 thereunder 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 chapter.
- B. Temporary tents/pop-ups shall be exempt from a permit requirement and may be used for a total of not more than 14 days per calendar year. There shall be no more than one temporary tent/pop-up for each parcel of land.
- C. Temporary storage structures shall be exempt from a permit requirement, maintained in good condition and replaced as needed. There shall be no more than one temporary storage structure for each parcel of land.

§ 211-29. 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 circle area formed 30 feet distant from the intersecting street lines. 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.

§ 211-30. 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, the owner shall decide (when applying for a building permit) which side shall be the front 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.

§ 211-31. Supplemental use regulations.

- A. Agriculture.
 - (1) 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.
 - (2) In any zone in the Town wherein the keeping of livestock is allowed, the following regulations shall be complied with:
 - (a) A lot or parcel of at least one acre shall be required for the keeping of horses, ponies or other livestock.
 - (b) 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.
 - (3) Location.

- (a) 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 feet from the road center line or shoreline, or any neighboring dwelling.
 - (b) Pasture or field fencing may be placed at any point up to the property line. Said fencing shall be a minimum of 50 feet from a neighboring dwelling.
 - (4) 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.
 - (5) All fences, barns, three-sided lean-tos or similar structures must be maintained in a state of repair.
 - (6) Stables and similar enclosures must be built and maintained to avoid the creation of offensive odors, fly breeding or other nuisances.
 - (7) 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.
- B. Cemetery. 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 10 acres shall be required for the purpose of a cemetery.
- C. 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:
- (1) Accessory dwelling units shall be no larger than the principal dwelling.
 - (2) The owner(s) of the lot upon which the accessory dwelling unit is located shall reside within the principle or accessory dwelling unit.
 - (3) A homeowner of a lawful single-family use shall be permitted one accessory dwelling unit where permitted according to the Use Table.¹⁰
 - (4) Any individual septic system must meet New York State Health Department requirements.
 - (5) One off-street parking space required per accessory dwelling unit.
 - (6) An accessory dwelling unit shall constitute a principal building and shall be consistent with the Dimensional Table of this chapter.¹¹
- D. Farm stand.
- (1) There shall be no sales of fuel and related products, tobacco products, alcoholic beverages, lottery tickets, vehicles or related products.

10. Editor's Note: Said table is included at the end of this chapter.

11. Editor's Note: Said table is included at the end of this chapter.

- (2) Food franchises are prohibited in any roadside stand or farm market operation.
 - (3) 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 turnaround. Parking spaces are exclusive of driveways and turnarounds.
 - (4) Seasonal signs are allowed, but cannot be placed anywhere it would create a traffic hazard. All other Town signage regulations may apply.
 - (5) No outdoor lighting shall produce glare beyond the boundary of the property. No rotating or flashing lights on advertising signage may be permitted.
- E. Game preserves. 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 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 feet from center line of any roadway, 100 feet from any side or rear lot line. A two-hundred-foot setback shall be required from any existing occupied structure on an adjoining parcel.
- F. Home occupation. Home occupations are permitted as shown on the Use Table,¹² in existing and new homes, in outbuildings and in garages, subject to the following criteria and standards.
- (1) Regulations.
 - (a) All home occupations shall:
 - [1] Obtain a land development permit from the Zoning Administrator;
 - [2] Be conducted by a resident of the lot;
 - [3] Be compatible with the other uses allowed in the district;
 - [4] Maintain the character of the neighborhood;
 - [5] Ensure the peace, privacy, quiet, and dignity of the area; and
 - [6] Avoid excessive noise, traffic, nuisance, fire hazard, and other adverse effects of business uses.
 - (b) Home occupations shall be conducted in a manner which does not give the outward appearance of a business.

12. Editor's Note: Said table is included at the end of this chapter.

- (c) Home occupations shall be conducted within the home or accessory structure. Such use shall not alter the external appearance from a residential character.
 - (d) 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 per lot and shall not have any nonresident 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 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 square feet.
 - (d) Home occupations shall allow no more than two nonresident 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.
- G. Light manufacturing/industry.
- (1) Materials stored outside shall be screened and buffered so as to not be visible from the public right-of-way.
 - (2) 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.

- H. 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:
- (1) 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.
 - (2) 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.
 - (3) 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.
 - (4) 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.
 - (5) Excavation.
 - (a) Slopes caused by the excavation shall not exceed 30%.
 - (b) Depth of excavation shall approach no closer than five feet to the average high point of the groundwater table measured annually.
 - (c) Stockpiled material shall not exceed 35 feet in height.
 - (d) The entry into the excavated area shall be curved so as to prevent a direct view from the public right-of-way.
 - (6) Buffer zones.
 - (a) A one-hundred-foot no-cut buffer zone shall surround the excavation within the limits of the property.
 - (b) A one-hundred-foot no-cut buffer zone shall separate the excavation from any streambed.
- I. Mobile homes. Mobile homes shall be subject to the following requirements:
- (1) New and/or replacement mobile homes shall be subject to the following requirements:
 - (a) Each mobile home shall be located on:
 - [1] A permanent, continuous masonry foundation; or
 - [2] 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.

- (b) Provisions shall be made for the embedding of tie-down bolts sufficient to prevent movement or dislodgment of the mobile home.
 - (c) 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.
 - (d) 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.
- (2) 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.
- (3) Option to upgrade.
- (a) In addition to the requirements listed in Subsection I(1) above, the following standards shall be met:
 - [1] Tongue and wheels shall either be removed from the mobile home or used as an integral part of the upgrade.
 - [2] 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.
 - [3] Roof.
 - [4] 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.
 - [5] Projection. The roof overhang must be a minimum of 12 inches measured from the vertical side of the mobile home.
 - (b) 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 Article XI, Administration and Enforcement, of this chapter.
- J. Mobile home parks. Each mobile home park shall meet all of the requirements of the 10 NYCRR Part 17, Mobile Home Parks, as amended.
- K. Restaurant.
- (1) 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.

- (2) Dumpsters shall not be located within 20 feet of any property lines.

L. Veterinary hospital and kennel.

- (1) 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.
- (2) 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.
- (3) All veterinary hospitals and kennels shall not be less than 200 feet from center line of any roadway, 100 feet from any side or rear lot line. A two-hundred-foot setback shall be required from any existing occupied structure on an adjoining parcel.

M. Waterfront-related use, intensive.

- (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 River and Schroon River.
- (3) Intensive waterfront-related uses are permitted within 250 feet of the mean high water mark of the Hudson River and Schroon River 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.
- (4) The minimum lot width along the shoreline shall be 150 feet.
- (5) The setback of all principal and accessory buildings or structures in excess of 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.
- (6) Cutting restrictions on shoreline lots.
 - (a) 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.
 - (b) 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.
 - (c) 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

§ 211-32. 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.

§ 211-33. General provisions.

A. Construction.

- (1) All signs shall be constructed of durable materials, maintained in good condition and not allowed to become dilapidated or in a state of disrepair.
- (2) The back or reverse side of a single-face sign visible from any public right-of-way shall be finished.

B. Location.

- (1) 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 feet beyond property lines when attached to a facade.
- (2) No sign shall be located within 10 feet of any side or rear lot line, except where such sign is attached to and does not project more than 18 inches from the face of the building.
- (3) 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 25 feet in both directions from a street corner and a distance of 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.
- (4) 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.
- (5) 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.

§ 211-34. Temporary signs not requiring a land use and development permit.

- A. 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.

- B. 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 15 square feet with no single dimension greater than five feet, shall be permitted for no more than 14 consecutive days within any thirty-day time period.
- C. Temporary commercial directional signs.
 - (1) Such signs shall be removed within 24 hours after the event or purpose for which they were displayed has been terminated.
 - (2) 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.
 - (3) Each business storefront is allowed only three such signs at a time.
- D. Temporary municipal signs indicating a public event.

§ 211-35. 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:

- A. Each land use and development permit shall not exceed 30 days.
- B. The sign shall be no more than 24 square feet with no single dimension greater than six feet.
- C. 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.
- D. 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.
- E. Placement of temporary signs shall not hinder pedestrian traffic.
- F. 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.

§ 211-36. Signs not requiring land use and development permit.

The following signs do not require a land use and development permit from the Town:

- A. Any sign required by New York State law.
- B. 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.
- C. Directional signs.

- (1) 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.
 - (2) 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 square feet in area and shall not extend over any property line or over any public road or public or private right-of-way.
- D. 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 club, institution or other nonresidential building, may be erected without a land use and development permit, provided that such sign shall not exceed two square feet.
- E. Real estate signs.
- (1) Not more than one sign 12 square feet in area located on the individual lot and/or building and/or buildings being offered for sale or lease thereof.
 - (2) Real estate signs advertising property for sale shall be removed within 30 days of the sale of the property.
- F. 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 consecutive days.
- G. "Warning," "Private Drive," "Posted" or "No Trespassing" signs, not to exceed two square feet.
- H. Historical tablets, memorial plaques or emblems installed by governmental agencies or religious or legally recognized not-for-profit.
- I. 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.
- J. Signs designating credit cards accepted may be displayed, but such signs shall not occupy more than two square feet of the building facade.
- K. Portable signs. One portable sign (sandwich board), one- or two-sided, not exceeding 10 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 nonbusiness hours.

§ 211-37. Signs requiring a land use and development permit.

The following signs require a land use and development permit subject to the limitations provided below.

- A. Wall signs. Total wall signage shall not exceed 1 1/2 square feet per linear foot of building frontage, 10% of the total area of the building facade, or 25 square feet, whichever is less.
- B. Projecting signs.
 - (1) Size. The maximum size of any projecting sign shall be no more than five square feet.
 - (2) Lighting. Projecting signs may be externally illuminated and may not be internally illuminated.
 - (3) Attachment. Signs shall be perpendicular to and attached to the building face of the premises which they advertise.
 - (4) Projection. Signs shall have a minimum projection of six inches and a maximum projection of three feet six inches from the building face.
 - (5) 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.
 - (6) Encroachment. No sign shall be permitted to overhang the vehicular travel way of any highway, street or other vehicular public right-of-way.
- C. 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.
- D. Freestanding signs.
 - (1) Freestanding signs shall not be permitted in a front or side yard where the building in that yard is set back less than 10 feet from the property line.
 - (2) Freestanding signs larger than eight square feet are subject to the side and rear setback yard provisions in the dimensional table of this chapter.
 - (3) No freestanding sign shall be erected or maintained where any part of the sign is closer than five feet to any existing building.
 - (4) No freestanding 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.
 - (5) No freestanding sign or its support shall exceed a height of 16 feet.
- E. Illuminated signs.
 - (1) 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.

- (2) All exterior lighting shall be downward-facing with the light source shielded.
- (3) 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.
- (4) 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.
- (5) Back-lighted signs shall be prohibited except for businesses fronting Main Street.

F. Off-premises signs.

- (1) Such use must be in conjunction with a business whose access does not abut a state or county highway.
- (2) Any such business will be limited to one off-premises sign, no larger than 16 square feet in area.
- (3) Off-premises signs are only permitted in the HMU district.
- (4) An off-premises sign shall not be located closer than 75 feet from any other business sign on the same side of the highway.
- (5) No more than one off-premises sign may be located on any individual lot.
- (6) A home occupation would not be allowed any off-premises sign other than those which are permitted by the New York State DOT.

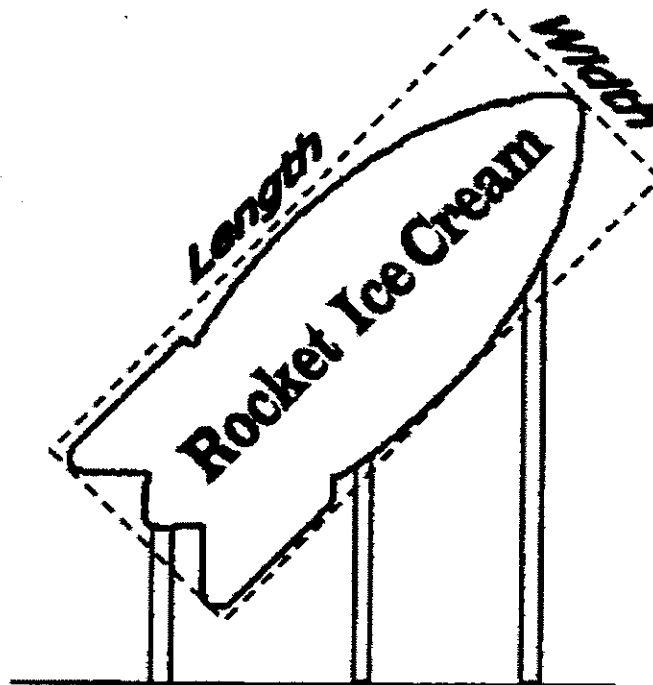
§ 211-38. Placement and number of permitted signs.

- A. Businesses may be granted a land use and development permit for two signs, one freestanding double-faced sign and one sign attached to a building, or two signs attached to a building (wall or projecting).
- B. 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.
- C. 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.
- D. 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.

§ 211-39. Measurement of sign display area.

In measuring the square foot area of signs permitted under this chapter, 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 side of double faced signs shall be measured when determining the area.



§ 211-40. Sign removal.

- A. 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 chapter 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.
- B. The business, property and/or sign owner of any noncomplying sign shall be in violation until such sign(s) is removed or repaired.

- C. 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.

ARTICLE VII
Telecommunications Facilities

§ 211-41. 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.

§ 211-42. 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:

- A. 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.
- B. Preliminary report prepared by a licensed professional engineer describing:
- (1) Feasibility of co-location on existing structures and telecommunications towers.
 - (2) Applicant's full map and grid coverage in the Town of Warrensburg and adjoining towns.
 - (3) Surrounding topography and relation to line of sight transmission.
 - (4) Available road access, electric power and land-based telephone lines and/or microwave link capability.
 - (5) Required improvements or construction activities, including those within the public right-of-way or lands owned or controlled by the Town of Warrensburg.
 - (6) Identity of location, ownership and usage of currently existing telecommunications facilities within the Town of Warrensburg and adjoining towns.
 - (7) Plans for construction of telecommunications accessory equipment building or structure and landscaping plan.
 - (8) Proposed mitigation measures for visual impacts.
 - (9) Proposed safety measures.
 - (10) Compatibility with existing telecommunications networks, and public safety.

- (11) Emergency networks, such as fire, ambulance, police and 911.
- C. In the case of an application for a telecommunications tower, additional information shall be provided describing the 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.
 - D. 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.
 - E. Demonstration that the proposed site is the most appropriate available site, based on technological feasibility, for the location of the telecommunications facility.
 - F. 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.
 - G. Proof of certified mail announcements to all other telecommunications providers in the area declaring the applicant's sharing capabilities and/or siting needs.
 - H. 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.
 - I. 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.
 - J. Such other information as may be required by the Planning Board or its engineer.

§ 211-43. General requirements.

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

- C. 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.
- D. Lighting. Telecommunications towers shall not be artificially lighted unless otherwise required by the Federal Aviation Administration or other federal, state or local authority.
- E. 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 nonreflective and of the appropriate color to blend with their background.
- F. Screening.
 - (1) 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.
 - (2) Architectural screening. Creative design measures, to camouflage facilities by integrating them with existing buildings and among other existing uses, are preferred.
- G. Height. The size of telecommunications sites shall be limited to the minimum required to provide the proposed area telecommunications services.
- H. Access road. Existing roadways shall be used for access to the site whenever possible.
- I. 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.
- J. 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.
- K. Utility service. Electrical and land-based telephone utilities extended to service telecommunications sites shall be underground.
- L. 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.

- M. 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.
- N. Noise. Noise-producing equipment and towers shall be sited, constructed and/or insulated to minimize noise impacts on adjacent properties.
- O. 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.
- P. Removal. If the use of the tower for the authorized cellular telephone, voice, data or other forms of 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 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.
- Q. 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.
- R. 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.

§ 211-44. 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

§ 211-45. Nonconforming uses.

A. Continuation.

- (1) Any nonconforming use which existed lawfully at the date of enactment of this chapter 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 chapter shall be deemed conforming and not subject to discontinuance.
- B. Expansion. A nonconforming use which existed lawfully prior to adoption of this chapter 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 Subsection 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 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.

§ 211-46. Nonconforming buildings and structures.

A. Continuation.

- (1) Any nonconforming building or structure which existed lawfully at the time of adoption of this chapter may be maintained.
- (2) Any building or structure for which a valid building permit was lawfully issued prior to the adoption of this chapter 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 and development permit issued within one year with a one-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 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.

§ 211-47. 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.

§ 211-48. Documentation of nonconforming status.

- A. Purpose. The Town of Warrensburg acknowledges that amending land use regulations may cause certain uses, structures, and/or lots to become nonconforming. The following

process provides a means by which a landowner or business owner may document the nonconforming status of a use, structure, or lot.

B. Procedure.

- (1) Application for documentation of nonconforming status shall be made to the Zoning Administrator and shall include:
 - (a) Submission of a written application on a form provided by the Zoning Administrator.
 - (b) Payment of the application fee; this fee shall be waived if the applicant submits the application within 18 months of the adoption of this chapter.
 - (c) 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 evidence, sworn statements or any other documentary evidence.
 - (d) The Zoning Administrator shall refer the application to the Zoning Board of Appeals with a recommendation stating whether or not the nonconformity was legally established prior to the adoption of this chapter.
- (2) The Zoning Board of Appeals shall make a determination as to the prior legal nonconforming 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 nonconforming 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.
 - (a) The Zoning Board of Appeals may hold a public hearing to gather additional information and evidence relevant to the prior nonconforming 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.
 - (b) 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.
 - (c) A copy of the determination of nonconforming status shall be mailed to the applicant and recorded with the Zoning Board of Appeals Clerk and filed in the office of the Zoning Administrator.
- (3) A positive determination of nonconforming status by the Zoning Board of Appeals shall create a conclusive presumption of legal nonconforming status.

- C. 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

§ 211-49. Purpose.

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:

- A. The objectives of the Town of Warrensburg Land Use Code and substantial conformance with the Comprehensive Plan.
- B. Their effect on surrounding properties.
- C. 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.

§ 211-50. Applicability.

Uses requiring site plan approval.

- A. New use as designated in the Use Table.¹³
- B. Change in use when new use is designated in the Use Table.
- C. Single-family dwellings shall not be subject to site plan review.
- D. Multiple principal buildings within the same lot.
- E. 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.
- F. 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.
- G. Uses requiring a special use permit as designated in the Use Table. **[Added 4-14-2021 by L.L. No. 5-2021]**

13. Editor's Note: Said table is included at the end of this chapter.

§ 211-51. Site plan review procedure.

- A. Application shall be made to the Planning Board using forms supplied.
- B. Prior to formal submission of a detailed site plan, applicants may schedule an optional sketch plan conference.
- C. 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:
 - (1) 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.
 - (2) 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.
 - (3) A topographic or contour map of adequate scale and detail to show site topography.
- D. 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.
- E. If additional information is requested by the Planning Board after the sketch plan conference, a complete application shall be submitted to the Zoning Administrator.

§ 211-52. Application content.

- A. 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 they deem 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.
- B. 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.
- C. The proposed site plan shall show the information requested by the Planning Board.
- D. Site plan checklist:
 - (1) Existing conditions.
 - (a) 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.
- (b) 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, streams, rivers and depth to groundwater.
- (c) 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.
- (2) New conditions.
- (a) 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.

- (b) Any other requirements which the Planning Board might deem necessary, including but not limited to a licensed survey.
- (c) 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.
- (d) 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.

§ 211-53. Planning Board action.

- A. 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.
- B. Notices. Applications that meet the criteria of General Municipal Law (GML) § 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.
- C. The Planning Board shall comply with the State Environmental Quality Review Act.
- D. 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.
- E. Public hearing notice. The Planning Board shall notice the public hearing by publication in the official newspaper at least 10 days prior to the date of the public hearing.
- F. 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 chapter. 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.
- G. 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 chapter. 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.

- H. Filing of decision. The decision of the Planning Board shall be filed within five 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 chapter.

§ 211-54. Criteria for site plan review.

- A. 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.
- (1) The application complies with all other requirements of this chapter and all codes of the Town of Warrensburg, including the dimensional regulations of the zoning district in which it is proposed to be located;
 - (2) The project would be in harmony with the general purpose and intent of this chapter 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;
 - (3) 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;
 - (4) 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 chapter; and
 - (5) 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.

B. In considering the approval of the site plan, the Planning Board shall find that the proposed development meets all the following standards and requirements.

- (1) Relationship to adjacent and nearby land uses both public and private.
- (2) Location, arrangement, size, design and general site compatibility of buildings, lighting and signs.
- (3) Visual compatibility with surroundings and aesthetics.
- (4) Adequacy and arrangement of vehicular traffic access and circulation, including intersections, road widths, pavement surfaces, dividers and traffic controls. Whenever possible access management techniques, such as those recommended by the Adirondack Glens Falls Transportation Council or similar agencies, should be applied to improve the movement of traffic (motorized and nonmotorized) and reduce vehicle conflicts.
- (5) Location, arrangement, appearance and sufficiency of off-street parking and loading.
- (6) Adequacy and arrangement of pedestrian traffic access and circulation, walkway structures, control of intersections with vehicular traffic, and overall pedestrian convenience.
- (7) Adequacy of stormwater and drainage facilities.
- (8) Adequacy of water supply and sewage disposal facilities including the relationship to existing and proposed water supply, sewage disposal.
- (9) 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.
- (10) Adequacy of fire lanes and other emergency zones and the provision of fire hydrants.
- (11) Relationship to the community's ability to provide adequate recreation, education, fire protection and similar facilities and services to its residents and visitors.
- (12) 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.
- (13) Effect on energy consumption and conservation.

ARTICLE IXA

Special Use Permits**[Added 4-14-2021 by L.L. No. 5-2021]****§ 211-54.1. Intent.**

Certain land uses have been designated as requiring a special use permit (and thereby also requiring site plan review and approval) pursuant to § 211-10 of this chapter. These uses may be permitted in a zoning district subject to specific requirements imposed to assure that the proposed use is in harmony with the Zoning Law and will not adversely affect the neighborhood if these requirements are met. The primary purpose of special use permit review is to ensure that these designated uses are compatible with the surrounding properties and that adverse impacts are avoided or mitigated.

§ 211-54.2. Applicability.

A special use permit may only be issued for a use that is specifically listed as a use requiring a special use permit in Chapter 211 Attachment 1, Use Regulations, for the zoning district where the use is proposed.

§ 211-54.3. Authorization of Planning Board.

- A. The Planning Board is hereby authorized to approve, with or without conditions, or deny an application for a special use permit in accordance with the procedures of this article for any use identified as requiring such a permit in § 211-10 of this chapter.
- B. If an application is for more than one use requiring a special use permit on a single parcel, the applicant may submit a single application for a group of related special uses that are components of a single project. However, the Planning Board may grant approval for some proposed uses and deny others. For purposes of reviewing an application, all proposed uses on a parcel shall be considered together.

§ 211-54.4. Site plan review required.

Site plan review in accordance with the requirements and procedures of Article IX, Site Plan Review, is required for all uses that require a special use permit. Such review shall occur concurrently with special use permit review. Separate applications and separate application fees are required for each review.

§ 211-54.5. Nonappellate application for area variance.

Notwithstanding any provision of law to the contrary, if a proposed special use permit application contains one or more features which do not comply with the area or dimensional requirements of this chapter, application may be made to the Zoning Board of Appeals for an area variance pursuant to Article X without the necessity of a decision or determination of the Zoning Administrator.

§ 211-54.6. Application for special use permit.

- A. It shall be the duty of the Zoning Administrator to refer applicants to the Planning Board for all uses identified in § 211-10 which require special use permits. Application for a special use permit shall be made to the Planning Board using forms provided by the Zoning Administrator. Applications shall include the following:
- (1) Parcel number, a complete, accurate diagram of the size of the lot and the area of the lot where the special use permit shall apply.
 - (2) A detailed drawing of all structures, future or current, with specific measurements of size, number of floors, and specific use of the property to which the special use permit shall apply.
 - (3) Detailed information regarding all setbacks, green space, lighting, vegetation, parking, access (roadway), drainage, garbage, hours and days of operation, waste removal from the site, buffer space from neighboring properties and structure design, including the exterior appearance, which shall be established and approved by the Planning Board. All distances shall be exact and described in feet.
 - (4) Proof of ownership and the date of purchase of the property where the special use permit is applied for.
 - (5) A statement from the local fire and emergency services organizations that they have acceptable access to this location and a source of water is readily available. The requirement of a hydrant to supply ample water, if required, would be the responsibility of the property owner.
- B. The Planning Board may waive or add any requirement for a complete application if it deems such waived or added requirement is appropriate in order to accomplish the purposes of this article and this chapter.
- C. The Planning Board shall determine whether the application is complete for purposes of commencing the formal review process. If an application is determined to be incomplete, the Planning Board shall advise the applicant as to what aspects are lacking or otherwise insufficient. The time frames for holding a hearing or for any Planning Board action shall not commence until the determination by the Planning Board that the application is complete.
- D. The Planning Board shall, at its discretion, be allowed access to the site with the applicant or their designated representative to obtain a physical overview of the property, surrounding properties and the overall zone where the special use is proposed.

§ 211-54.7. Compliance with State Environmental Quality Review Act.

The Planning Board shall initiate the New York State Environmental Quality Review Act (SEQRA) process upon its determination that the application is complete unless SEQRA review has already been commenced pursuant to the site plan review process for the same project.

§ 211-54.8. Referrals.

Applications that meet the criteria of General Municipal Law (GML) § 239-m shall be referred 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.

§ 211-54.9. Public hearing.

- A. The Planning Board shall conduct a public hearing within 62 days from the date an application for a special use permit is determined to be complete.
- B. Public notice of the hearing shall be published in a newspaper of general circulation in the Town at least five days but not more than 30 days prior to the date thereof. If the public hearing on the related site plan application will occur at the same time, only one advertisement specifying both reviews is required.
- C. Such notice shall also be mailed by certified mail to all adjacent and across-the-street landowners at least 15 days but not more than 30 days prior to the public hearing date. If the public hearing on the related site plan application will occur at the same time, only one notice specifying both reviews is required.
- D. In the case of a hearing held on an application on a property that is located within 500 feet of an adjacent municipality, the Planning Board shall give notice of the hearing to the Clerk of the municipality by either mail or electronic transmission at least 10 days prior to the hearing, pursuant to General Municipal Law § 239-nn.

§ 211-54.10. General criteria for special use permit approval.

After considering the evidence presented at the public hearing and after making any further investigations considered necessary to ensure compliance with this chapter, the Planning Board shall determine whether to grant a special use permit for the proposed use. The Planning Board shall not approve an application unless it first determines that the application meets the following general criteria:

- A. The proposed use shall be in harmony with the general purposes and intent of the Comprehensive Plan and this chapter.
- B. Operation of the proposed use will not be more objectionable to nearby properties by reason of noise, fumes, vibration, lighting or other potential nuisance than the operation of any permitted use in the particular district.
- C. The proposed use shall be compatible with and appropriately protect environmental and natural resources, including the environmental and physical suitability of the site for development, and the general landscaping, screening and buffering shall be in character with the surrounding areas.
- D. The risk of fire, flood or erosion and impacts such as emissions of electrical charges, air pollution, light, vibration or noise detrimental to the public health, safety and welfare will be minimized to the maximum extent practicable.

- E. Appropriate screening, landscaping, exterior lighting, signs and architectural designs compatible with the neighborhood will be provided to protect neighborhood properties from any adverse impacts that might result from the proposed use.
- F. Community infrastructure and services, including but not limited to protective services, roadways, garbage collection, schools and water and sewer facilities, are currently or will be of adequate capacity to accommodate the proposed use.
- G. The proposed site possesses adequate soil capacity and natural features to safely support the proposed facilities and structures, including water and sanitary sewer or individual septic services at the site.
- H. There will be sufficient infrastructure and services, including utilities, public facilities and services, available for the proposed use.
- I. Vehicular and pedestrian traffic patterns associated with the proposed use will be sufficient and appropriately managed for the area involved, including turning movements in relation to traffic flow, proximity to and relationship to intersections, adequacy of sight distances, location and access of off-street parking, provision for pedestrian traffic, capacity of existing roads and minimizing pedestrian-vehicular circulation conflicts.
- J. The proposed use will have safe and efficient off-road parking and loading areas and the interior circulation system will be adequate to provide safe accessibility to all parking spaces and ensure the adequate and safe integration of pedestrian and vehicular movement.
- K. Landscaping will be provided to adequately define street edges, buffer adjacent properties and break up parking areas.
- L. The proposed use will be compatible with the character of the neighborhood, the area, the zoning district and the community surrounding the location of the proposed use and will not unduly prohibit or discourage appropriate development of the surrounding area.
- M. The proposed location and height of buildings or structures, walls and fences, parking, loading and landscaping will not interfere or discourage appropriate development of land adjacent to the proposed site or adversely affect its value.
- N. The scale, design and material of the proposed structure(s) will be compatible with existing structures in close proximity to the site.
- O. Development will be situated in a way which respects the site's natural characteristics. Development will be concentrated in those portions of the site that have the most suitable conditions for development while environmentally sensitive areas, such as wetlands, steep slopes, floodplains and unique natural features, will be maintained and preserved.
- P. The existing landscape will be preserved in its natural state insofar as practical by minimizing tree removal, disturbance and compaction of soil.
- Q. The applicant will implement facilities and services to appropriately control any potential nuisances from the operation of the use, such as litter or trash, loitering, crime

prevention and any other features or aspects of the operation of the proposed use that may affect the public health, safety and general welfare.

§ 211-54.11. Additional criteria for special use permit approval for specific uses.

A special use permit shall not be granted until the Planning Board finds that the following additional criteria have been met for certain specific uses:

A. Storage facility, commercial.

- (1) The use shall be limited to storage of personal property, and any commercial storage or garage, wholesale or retail sales are prohibited.
- (2) The storage facility shall be screened on all sides by a twenty-five-foot-wide landscaped buffer consisting of a densely planted barrier along all four sides of the property, as determined by the Planning Board, which limits the view of the structure(s). Setbacks shall comply with the requirements for the underlying zone.
- (3) The exterior walls of the proposed structure(s) shall be of textured or masonry construction and of neutral tones.
- (4) Storage facility buildings must have a permanent foundation, and the placement of storage containers is prohibited.
- (5) All stored items, including boats, vacant trailers and vehicles, shall be stored inside the storage facility.

§ 211-54.12. Decision.

The Planning Board shall decide upon the application within 62 days after the close of the public hearing. The time within which the Planning Board must render its decision may be extended by mutual consent of the applicant and the Board. The decision of the Planning Board shall be filed in the office of the Town Clerk and the Zoning Administrator within five business days after the decision is rendered and a copy shall be mailed to the applicant.

- A. Denial. If the Planning Board determines that the proposed use would not comply with the requirements of this chapter and, in particular, with the general criteria and applicable specific standards stated in §§ 211-54.10 and 211-54.11, it shall deny the application.
- B. Approval. If the Planning Board determines that the proposed use would comply with this chapter and in particular with the general criteria and applicable specific standards stated in §§ 211-54.10 and 211-54.11 of this article, the Board shall grant a special use permit for the proposed use.

§ 211-54.13. Conditions.

In rendering its decision, the Board may include conditions reasonably related to the proposed use which are intended to prevent or minimize potential adverse impacts of the proposed use on adjacent property or the surrounding neighborhood. The Planning Board may

require the posting of financial security in the form of bond, letter of credit or other instrument in order to ensure that improvements are carried out as specified in the plans and approvals.

§ 211-54.14. Expiration.

Unless otherwise specified or extended by the Planning Board, the special use permit shall expire if the applicant fails to undertake the proposed action or project within one year from the filing date of the Planning Board's decision.

§ 211-54.15. Term of special use permit.

- A. As a condition of granting any special permit, the Planning Board may specify one of the following terms of validity.
- (1) Permanent: allows a specific use to continue indefinitely until the specific use ceases for any reason for a period of six consecutive months.
 - (2) Temporary: allows a specific use to continue until a specified date, at which time the special use permit shall automatically terminate and the use shall be permanently discontinued. This type shall not be extendable.
 - (3) Renewable: allows a specific use to continue until a specific date, unless renewed or extended by the Planning Board for an additional period of time. If not extended, the use shall be permanently discontinued. It is the responsibility of the applicant, and not the Town of Warrensburg or any board, officer or employee thereof, to initiate the request for the renewal or extension prior to the expiration of the original term of such renewable special use permit. If not extended or renewed prior to the date of expiration, the right to continue such special use shall terminate on such expiration date. An application for the extension or renewal of a renewable special use permit shall be made in accordance with the applicable provisions then applying to special use permits, as if it was an original request.
- B. Any applicant who receives a temporary or renewable special use permit and who decides to proceed with the special use does so with full understanding and acknowledgment that the temporary special use permit has a fixed duration, that all rights to continue that use terminate upon the expiration of the specified time and that a renewable special use permit may not be extended beyond its original term without approval pursuant to this section. In accepting a temporary or renewable special use permit, the permittee acknowledges and agrees that such special use permit confers no rights or privileges other than those specifically contained therein.

§ 211-54.16. Fees.

In addition to the fee listed on the schedule of fees, the Planning Board may charge a fee to developers of projects requiring legal and technical review, provided that the fee charged reflects the actual cost of legal and technical assistance to the Planning Board. This fee is not to exceed \$1,000 without notice to the applicant.

§ 211-54.17. Revocation of permit.

A special use permit may be revoked by the Planning Board if it determines that operation of the use is not in conformity with the contents of an application on the basis of which the permit was issued or that there has been a material failure to comply with any of the terms, conditions, limitations or requirements imposed by the permit or as otherwise provided under Article XI, Administration and Enforcement, of this chapter.

§ 211-54.18. Enforcement.

All special use permits shall be subject to the provisions of Article XI, Administration and Enforcement, of this chapter.

§ 211-54.19. Amendment.

The terms and conditions of any special use permit may be amended only in the same manner as required to grant a special use permit, following the criteria and procedures of this article. Any enlargement, alteration, or change of use or structure allowed under a special use permit or addition of a new use or structure on a property that received a special use permit shall require an amendment of the special use permit.

ARTICLE X**Variance and Appeals****§ 211-55. Variances and appeals.**

- A. Area variance. The Zoning Board of Appeals has the power to grant variances from the area or dimensional requirements of this chapter. 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 chapter. 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 chapter 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 chapter, and to that end shall assume all the powers of the administrative official from whose order, requirement, decision or determination the appeal is taken.

§ 211-56. Application.

- A. Applications shall be in writing and must be filed with the Zoning Board of Appeals within 60 days after the order, requirement, decision, interpretation, or determination being appealed. Such application shall refer to the specific provisions of this chapter 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:
- (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.

§ 211-57. Hearing on appeal.

- A. The Zoning Board of Appeals shall fix a reasonable time within 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 and no more than 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 landowners of all parcels located directly adjacent to and across a street or public right-of-way from the subject property at least 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 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 chapter. 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 chapter 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 chapter, 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 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.

§ 211-58. 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 chapter, to grant area variances from the area or dimensional requirements of this chapter.
- 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.

§ 211-59. 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 chapter, 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 chapter.
- 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.

ARTICLE XI**Administration and Enforcement****§ 211-60. 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 chapter, New York State Town Law or SEQRA shall be published once in the official newspaper of the Town and at Town Hall at least five and no more than 30 days prior to the date of the hearing.
 - (2) Such notice of hearing shall also be mailed by the Town to all landowners of all parcels located directly adjacent to and across a street or public right-of-way at least 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 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 seven 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) The 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 500 feet of an adjacent municipality;
 - (b) Site plan review and approval on property that is within 500 feet of an adjacent municipality; or
 - (c) A subdivision review and approval on property that is within 500 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 10 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 chapter shall be promptly furnished by the Zoning Administrator to the Town Clerk within five days of the decision and retained as a permanent Town public record.
 - E. Assistance to boards. The 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 therefor 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 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 8 of the Environmental Conservation Law and its implementing regulations as codified in Title 6, Part 617 of the New York Codes, Rules and Regulations.

§ 211-61. Zoning Administrator.

- A. Zoning Administrator. The Zoning Administrator shall have the power and duty to administer and enforce the provisions of this chapter. 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 chapter 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 this chapter.
- (2) Conduct preapplication 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 chapter.
 - (b) Distribute 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 chapter.
- (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.
- (7) Receive complaints of zoning violations from residents using affidavit if possible. Investigate alleged violations of this chapter. 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 chapter 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 chapter 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 chapter 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 chapter.
- (16) Develop recommendations regarding zoning amendments, fee structures, and application forms; and may propose solutions to any problem encountered in administering this chapter.
- (17) Create a written punchlist of approval conditions for applicant. Facilitate certificate of compliance with Warren County Building Department.
- (18) The Zoning Administrator shall also maintain records, open to the public, including the Zoning Map, text, and office records. 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.

§ 211-62. 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 chapter. The Planning Board shall have original jurisdiction for all matters pertaining to this chapter 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. 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 noncompliance 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 chapter 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 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 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.

§ 211-63. 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 chapter. The Zoning Board of Appeals shall have appellate jurisdiction for all matters pertaining to this chapter.
- (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.
- (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 noncompliance 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 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.

§ 211-64. Fines; penalties for offenses. [Amended 10-11-2023 by L.L. No. 2-2023]

- 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, Code Enforcement Officer or any agent 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, Code Enforcement Officer or any agent thereof with the time fixed for compliance, and any owner, builder, architect, contractor, subcontractor, construction superintendent or 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 this chapter 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.

§ 211-65. 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.

§ 211-66. Stop-work order. [Amended 10-11-2023 by L.L. No. 2-2023]

- A. The Town Board for the Town of Warrensburg hereby grants the Zoning Administrator and Code Enforcement Officer 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 or Code Enforcement Officer 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 may not pursue enforcement unless first notifying 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 or her 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, Code Enforcement Officer 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, Code Enforcement Officer or agent shall conform or terminate the stop-work order in accordance with the requirements mandated by the Zoning Board of Appeals.

§ 211-67. Suspension of administrative review. [Amended 10-11-2023 by L.L. No. 2-2023]

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, Code Enforcement Officer 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, Code Enforcement Officer or agent may suspend review of an application.

§ 211-68. 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

§ 211-69. Terms defined.

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

ACCESSORY STRUCTURE — Any structure or object not defined as a temporary tent/pop-up or temporary storage structure which is placed, installed or constructed on the lot where a primary structure exists, which will be used in association with the use or uses of the primary structure, is raised at least six inches in height above the ground and is in excess of 144 square feet. Typically these would be storage sheds, out-buildings or garages constructed of conventional building materials. Accessory structures shall require a permit from the office of the Zoning Administrator and site plan review where applicable. [Added 4-14-2021 by L.L. No. 1-2021]

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.

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.

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 10 or less.

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

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. This also includes summer camps.

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.

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

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 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 structure designed or used principally as the living quarters for one or more families. "Dwelling" shall not include a rooming house or other accommodations used for more or less transient occupancy or any form of recreational camper, whether towed or powered, including, but not limited to, camper, recreational vehicle (RV) and motor home. **[Amended 4-14-2021 by L.L. No. 3-2021]**

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.

DWELLING, MULTIFAMILY — A structure which is or was built by one of any conventional methods or means, containing a minimum of three and a maximum of five separate dwelling units, designed to be occupied by between three and five families, one family per dwelling unit, which meets the standards set forth under the definition of a "dwelling unit" for each section of a multifamily structure. **[Amended 4-14-2021 by L.L. No. 3-2021]**

DWELLING, SINGLE-FAMILY — A structure which is or was built by one of any conventional methods or means, meets the standards set forth under the definition of "dwelling unit" and was designed with the intent to be a single-family residential unit. **[Amended 4-14-2021 by L.L. No. 3-2021]**

DWELLING, TWO-FAMILY — A structure which is or was built by one of any conventional methods or means which meets the standards set forth under the definition of "dwelling unit" for each section of a two-family unit. **[Amended 4-14-2021 by L.L. No. 3-2021]**

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.

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.

FOWL — Wherever the keeping of fowl is authorized by this chapter, "fowl" shall mean chickens, ducks, guinea fowl, turkeys and quail. Whether kept indoors or outdoors, fowl shall not be considered "household pets" as that term is defined in this chapter. **[Added 10-11-2023 by L.L. No. 2-2023]**

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.

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.

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.

HEALTH-RELATED FACILITY — A facility that is a minimum of 6,000 square feet 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 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, 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 and tourist cabins. (Excluding travel trailers, travel vehicles or motor homes.)

HOUSE TRAILER — See "mobile home."

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

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 more than 12 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, or 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 of garbage, sewage, trash, refuse, junk, discarded machinery, vehicles or parts thereof or waste material of any kind.

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.

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

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

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 chapter.

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

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

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 truck 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 of 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 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 the New York State Agriculture and Markets Law, as amended.

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.

MOBILE/MANUFACTURED HOME — A structure which was built prior to or after the standards of the 1974 National Mobile Home Construction and Safety Standards Act [42 U.S.C.A. § 5403(d)], which was renamed in 1975 to the National Manufactured Housing Construction and Safety Standards Act, and complies with HUD Code Part 3280, which became effective July 15, 1976, and not with the New York State Uniform Fire Prevention and Building Codes (Uniform Code) as defined in Executive Law § 372(8), having dimensional restrictions and a permanent chassis to which wheels are attached to tow the

home to its site which is an integral part of the structure and is not or cannot be removed when the structure is placed on a lot. This definition shall apply to single- and double-wide mobile/manufactured homes. **[Amended 4-14-2021 by L.L. No. 3-2021]**

MODULAR/FACTORY-MANUFACTURED HOME — A structure manufactured under controlled conditions with no dimensional restrictions and considered a building under the New York State Uniform Fire Prevention and Building Codes (Uniform Code) as defined in Executive Law § 372(8) which is constructed by a method or system of construction whereby the structure or its components are wholly or in substantial part manufactured in a manufacturing facility and intended or designed for permanent installation or assembly on a building site for residential occupancy. **[Amended 4-14-2021 by L.L. No. 3-2021]**

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, nonprofit 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 7 or Article 8 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, 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 of origin.

SENIOR HOUSING — A multifamily 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, rest rooms, 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).

TEMPORARY STORAGE STRUCTURE — A structure consisting of a frame made of, but not limited to, wood, metal, aluminum, plastic or fiberglass which is covered with the same type and color of material on the top, sides or both consisting of, but not limited to, vinyl, canvas, nylon, plastic or other materials not exceeding 144 square feet which is erected, placed, set or moved onto private property or a business owner's property solely for storage. A temporary storage structure would typically be used for, but not limited to, lawn care equipment, mowers, snowblowers, snowmobiles, motorcycles, boats, household items, wood and/or a motor vehicle. **[Added 4-14-2021 by L.L. No. 1-2021]**

TEMPORARY TENT/POP-UP — A structure consisting of poles and/or a framework made of, but not limited to, wood, metal, aluminum, fiberglass or plastic which is covered with the same type and color of material on the top, sides or both consisting of, but not limited to, vinyl, canvas, nylon, plastic or other materials not exceeding 144 square feet which is erected, placed, set or moved onto private property or the property of a business owner for the purpose of selling or displaying merchandise. **[Added 4-14-2021 by L.L. No. 1-2021]**

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.

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

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.

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 the front yard (or from the front lot line, if there is no required front yard) to the front of the rear yard.

ZONING

211 Attachment 1

Town of Warrensburg

Use Regulations
[Amended 4-14-2021 by L.L. No. 5-2021]

KEY:

- P = Permitted uses
- S = Uses subject to site plan review
- SP = Uses requiring special use permit and site plan review
- A = Permitted accessory uses
- = Uses not permitted

Gen. Regs.	Uses	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
	Apartment buildings	—	—	—	S	—
	Artist studio and craft shops	—	S	S	P	P
	Automobile sales	—	—	—	—	S
	Automobile service	—	—	—	—	S
	Bar/tavern	—	—	—	S	S
	Bed-and-breakfast	S	S	S	S	—
	Campground	S	—	—	—	—
	Car wash	—	—	—	—	S
X	Ceneteries	S	S	S	S	—
	Community service organizations	S	S	S	S	S
	Contracting business	—	—	—	—	S
	Day-care center	—	—	S	—	—

WARRENSBURG CODE

Gen. Regs.	Uses	Residential/ Recreation (RR)	Residential Mixed Use (RMU)	Hamlet Mixed Use (HMU)	Core Commercial (CC)	Business/ Industrial (BI) ¹
X	Dwelling, accessory	P	P	P	P	S
	Dwelling, multifamily	---	S	P	P	---
	Dwelling, single-family	P	P	P	P	---
	Dwelling, two-family	S	P	P	P	---
	Educational institutions	S	S	S	S	S
X	Farm stand	P	P	P	P	P
	Funeral home	---	---	S	---	---
X	Game preserves	S	---	---	---	---
	Gas station	---	---	---	---	S
	Greenhouses, nurseries, lawn and garden shops, commercial	---	---	---	---	S
	Health-related facilities	---	---	S	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

ZONING

Gen. Regs.	Uses	Residential/ Recreation (RR)	Residential Mixed Use (RMU)	Hamlet Mixed Use (HMU)	Core Commercial (CC)	Business/ Industrial (BI) ¹
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
	Storage facility, commercial	—	—	SP	—	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

NOTES:

¹ Within 250 feet 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.

ZONING

211 Attachment 2

Town of Warrensburg

Dimensional Table

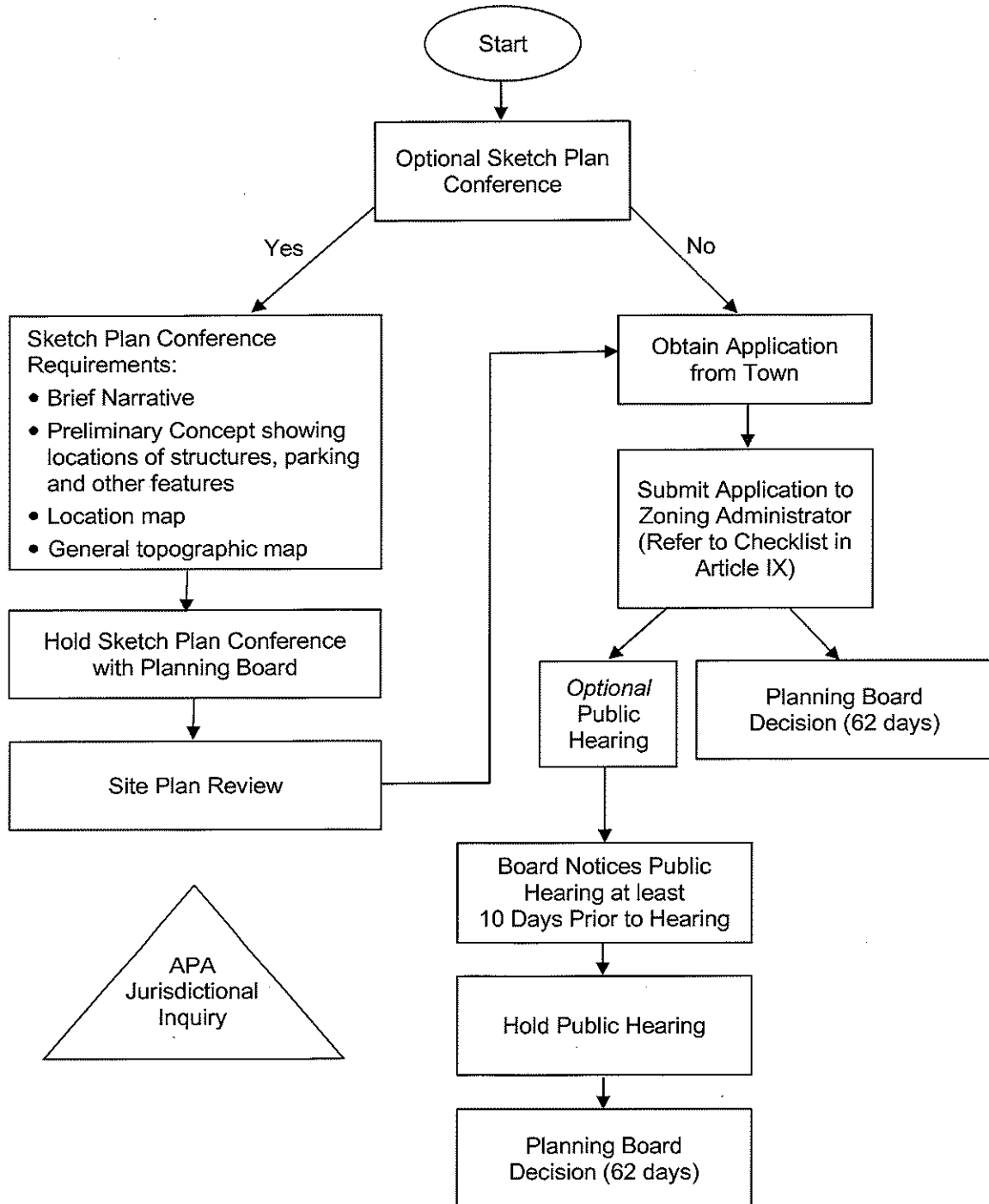
District	Density: Number of Principal Buildings per Acre (See Def.)	Minimum Lot Size		Minimum Yard Setbacks (feet)			Minimum % of Lot to be Permeable	Maximum Building Height (feet)
		Lot Area (square feet)	Lot Width (feet)	Front	Rear	Side		
Residential/Recreation (RR)	2	20,000	100	20	15	10	40%	40
Residential 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

ZONING

211 Attachment 3

Town of Warrensburg

Site Plan Review Process Chart



APPENDIX

**DISPOSITION
LIST**

Chapter DL

DISPOSITION LIST

§ DL-1. Disposition of legislation.

The following is a chronological listing of legislation of the Town of Warrensburg adopted since the 1996 publication of the Code, indicating its inclusion in the Code or the reason for its exclusion. [Enabling legislation which is not general and permanent in nature is considered to be non-Code material (NCM).] Information regarding legislation which is not included in the Code nor on this list is available from the office of the Town Clerk. The last legislation reviewed for the 2013 republication of the Code was L.L. No. 3-2013, adopted 5-8-2013.

§ DL-1. Disposition of legislation.

Enactment	Adoption Date	Subject	Disposition
---	6-12-1996	Vehicles and traffic amendment	Superseded by L.L. No. 2-1999
---	6-12-1996	Sewers amendment	Repealed 7-10-1996
---	7-10-1996	Sewers amendment	Repealer only
---	7-10-1996	Sewers amendment	Ch. 157
L.L. No. 1-1996	7-10-1996	Adoption of Code	Ch. 1, Art. I
---	7-10-1996	Fees: Codebooks and pamphlets	Ch. 113, Art. I
---	7-10-1996	Fees: supplementation of Code	Ch. 113, Art. II
---	9-11-1996	Vehicles and traffic amendment	Superseded by L.L. No. 2-1999
---	10-9-1996	Grants: review by attorney	Ch. 25, Art. I
---	5-22-1997	Drug-free school zones	Ch. 19
---	6-11-1997	Parks and beaches amendment	Repealed 7-9-1997
---	7-9-1997	Vehicles and traffic amendment	Superseded by L.L. No. 2-1999
---	7-9-1997	Parks and beaches amendment	Repealer only
---	8-13-1997	Parks and beaches amendment	Ch. 137
---	9-10-1997	Parks and beaches amendment	Ch. 137
L.L. No. 1-1997	10-8-1997	Dog license fees	Ch. 77, Art. V
---	10-8-1997	Zoning amendment	Ch. 211
---	4-15-1998	Procurement Policy amendment	Ch. 49
---	6-10-1998	Solid waste: transfer station amendment	Ch. 170, Art. I

Enactment	Adoption Date	Subject	Disposition
---	6-10-1998	Water meters amendment	Repealed by L.L. No. 2-2009
---	9-9-1998	Control of dogs amendment	Ch. 77, Art. III
L.L. No. 1-1999	1-13-1999	Planning Board amendment	Ch. 46
L.L. No. 2-1999	4-14-1999	Vehicles and traffic	Ch. 198
L.L. No.3-1999	5-12-1999	Drug paraphernalia	Repealed by L.L. No. 3-2018
---	6-9-1999	Private road sign policy	NCM
L.L. No. 4-1999	8-11-1999	Terms of office: Town Supervisor	Ch. 63, Art. IV
L.L. No. 5-1999	10-13-1999	Zoning amendment	Ch. 211
Res. No. 74-00	3-8-2000	Vehicles and traffic amendment	Ch. 198
----	3-8-2000	Zoning administration: filing of orders and decisions	Ch. 70, Art. I
L.L. No. 1-2000	5-10-2000	Zoning amendment	Ch. 211
----	6-14-2000	Vehicles and traffic amendment	Ch. 198
----	8-9-2000	Water meters amendment	Repealed by L.L. No. 2-2009
----	12-13-2000	Vehicles and traffic amendment	Ch. 198
L.L. No. 1-2001	7-11-2001	Planning Board: alternate members	Ch. 46, Art. II
L.L. No. 2-2001	10-10-2001	Water: rules and regulations amendment	Repealed by L.L. No. 2-2009
----	4-11-2001	Employee policy	Ch. 21
L.L. No. 1-2003	12-10-2003	Zoning amendment	Ch. 211
L.L. No. 2-2003	12-10-2003	Curfew	Ch. 101
Res. No. 77-04	2-19-2004	Police Department	Ch. 47, Art. I
Res. No. 114-04	6-9-2004	Police Commissioner	Ch. 47, Art. II
Res. No. 32-05	1-3-2005	Appointment of Police Chief	Ch 47 (Editor's Note only)
L.L. No. 1-2005	4-13-2005	Zoning amendment	Ch. 211
L.L. No. 2-2005	4-13-2005	Peddling and soliciting amendment	Ch. 141
L.L. No. 3-2005	4-13-2005	Transient merchants	Ch. 141
L.L. No. 4-2005	4-13-2005	Curfew amendment	Ch. 101
L.L. No. 5-2005	4-13-2005	Gold Star parent tax exemption	Ch. 185, Art. IV
Res. No. 103-06	3-8-2006	Computer System Security Breach Notification Policy	See Ch. 16 (reference only)

Enactment	Adoption Date	Subject	Disposition
L.L. No. 1-2006	3-29-2006	Vehicles and traffic amendment	Ch. 198
L.L. No. 2-2006	3-29-2006	Vehicles and traffic amendment	Ch. 198
L.L. No. 3-2006	3-29-2006	Veterans tax exemption	Ch. 185, Art. V
L.L. No. 4-2006	4-12-2006	Outdoor burning	Ch. 98
L.L. No. 5-2006	4-19-2006	Peddling and soliciting amendment	Ch. 141
L.L. No. 6-2006	6-14-2006	Vehicles and traffic amendment	Ch. 198
L.L. No. 1-2007	4-11-2007	Peddling and soliciting amendment	Ch. 141
L.L. No. 2-2007	12-12-2007	Vehicles and traffic amendment	Ch. 198
L.L. No. 1-2008	8-13-2008	Vehicles and traffic amendment	Ch. 198
L.L. No. 2-2008	9-10-2008	Veterans tax exemption amendment	Ch. 185, Art. V
L.L. No. 1-2009	4-22-2009	Peddling and soliciting amendment	Ch. 141
L.L. No. 2-2009	10-14-2009	Water	Repealed by L.L. No. L-2013
L.L. No. 1-2010	6-9-2010	Vehicles and traffic amendment	Ch. 198
L.L. No. 2-2010	7-14-2010	Hotels and motels: registered sex offender occupancy license	Ch. 125, Art. I
L.L. No. 3-2010	10-27-2010	Control and licensing of dogs amendment; dog license fees repealer	Ch. 77, Art. III; Ch. 77, Art. IV, footnote only
L.L. No. 1-2011	1-12-2011	Sewers: general usage amendment	Ch. 157, Part 2
L.L. No. 2-2011	1-12-2011	Water amendment	Repealed by L.L. No. L-2013
L.L. No. 3-2011	6-8-2011	Peddling and soliciting amendment	Ch. 141
L.L. No. 1-2012	1-11-2012	Water amendment	Repealed by L.L. No. 1-2013
L.L. No. 2-2012	1-11-2012	Obstruction of streets, sidewalks and public property	Ch. 174, Art. III
----	5-9-2012	Planning Board repealer; zoning	Ch. 46 (footnote only); Ch. 211
L.L. No. 3-2012	10-10-2012	Property maintenance	Ch. 145

Enactment	Adoption Date	Subject	Disposition
Res. No. 196-12	11-14-2012	Parks and beaches: tobacco-free policy	Ch. 137, Art. III
Res. No. 40-13	2-13-2013	Subdivision of land amendment	Ch. 178
Res. No. 58-13	3-13-2013	Senior citizens tax exemption amendment	Repealed by Res. No. 75-13
L.L. No. 1-2013	4-10-2013	Water	Ch. 204
Res. No. 75-13	4-10-2013	Senior citizens tax exemption repealer	Repealer only
L.L. No. 2-2013	5-8-2013	Subdivision of land amendment; zoning amendment	Ch. 178; Ch. 211
L.L. No. 3-2013	5-8-2013	Senior citizens tax exemption amendment	Ch. 185; Art. III
L.L. No. 1-2014	7-9-2014	Procurement policy repealer	Ch. 49, reference only
L.L. No. 2-2014	7-9-2014	Contracts: best value	Ch. 17, Art. I
L.L. No. 1-2015	8-12-2015	Smoking repealer	Ch. 57, reference only
Res. No. 90-17	7-12-2017	Vehicles and Traffic Amendment	Ch. 198
L.L. No. 1-2018	1-10-2018	Officers and Employees: Residency Requirements	Ch. 42, Art. I
L.L. No. 2-2018	7-11-2018	Fireworks	Ch. 115
L.L. No. 3-2018	9-12-2018	Drug Paraphernalia Repealer	Ch. 104
L.L. No. 4-2018	9-12-2018	Peddling and Soliciting Amendment	Superseded by Ord. No. 3-2019
L.L. No. 5-2018	4-16-2018	Planning Board Amendment	Ch. A64
L.L. No. 6-2018	4-16-2018	Zoning Board of Appeals, Rules of Amendment	Ch. A66
L.L. No. 7-2018	6-18-2018	Zoning Amendment; Subdivision of Land Regulations Amendment	Ch. 57; Ch. A65
L.L. No. 1-2019	2-25-2019	Vehicles and Traffic Amendment	Ch. 51
L.L. No. 2-2019	3-18-2019	Ethics, Code of	Ch. 4
L.L. No. 3-2019	4-1-2019	Peddling and Solicitation Amendment	Ch. 35

Enactment	Adoption Date	Subject	Disposition	Supp. No.
L.L. No. 4-2019	9-10-2019	Water and Sewer Billing and Accounting	Ch. 67	5

Enactment	Adoption Date	Subject	Disposition	Supp. No.
L.L. No. 5-2019	11-13-2019	Constabulary Department	Repealed by L.L. 3-2023	5
L.L. No. 1-2021	4-14-2021	Zoning Amendment	Ch. 211	5
L.L. No. 2-2021	4-14-2021	Streets and Sidewalks: Obstruction of Streets, Sidewalks and Public Property Amendment	Ch. 174, Art. III	5
L.L. No. 3-2021	4-14-2021	Zoning Amendment	Ch. 211	5
L.L. No. 4-2021	4-14-2021	Donation Bins	Ch. 102	5
L.L. No. 5-2021	4-14-2021	Zoning Amendment	Ch. 211	5
L.L. No. 1-2022	10-12-2022	Tax Levy Limit Override	NCM	6
L.L. No. 1-2023	3-8-2023	Taxation: Exemption for Volunteer Firefighters and Volunteer Ambulance Workers	Ch. 185, Art. VI	6
L.L. No. 2-2023	10-11-2023	Zoning Amendment	Ch. 211	6
L.L. No. 3-2023	11-8-2023	Constabulary Department Repealer	Ch. 16A, reference only	6

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