

# TOWN OF WARNER, NEW HAMPSHIRE ZONING ORDINANCE

Amended March 12, 2019



Adopted March 11, 1969

**AMENDED:**

March 5, 1974	March 10, 1998	March 10, 2009
March 13, 1979	March 9, 1999	March 9, 2010
March 8, 1983	March 14, 2000	March 8, 2011
March 11, 1986	March 13, 2001	March 13, 2012
March 14, 1989	March 12, 2002	March 11, 2014
March 13, 1990	March 11, 2003	March 10, 2015
March 12, 1991	March 9, 2004	March 8, 2016
March 10, 1992	March 8, 2005	March 14, 2017
March 8, 1994	March 14, 2006	March 17, 2018
March 12, 1996	March 13, 2007	March 12, 2019

*(Signed by Michele Courser, Town Clerk)*

*Certification:* \_\_\_\_\_

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## **ARTICLE I**

### **PREAMBLE**

Pursuant to the authority conferred by applicable Sections of Chapters 673 through 677, New Hampshire Revised Statutes, 1983, as amended, in accordance with an adopted Master Plan, as may be amended from time to time, and for the purpose of promoting the health, safety, and welfare of the inhabitants, and preserving the values and charm now attached to the town, the following ordinance is hereby adopted by the Town of Warner, New Hampshire, in Town Meeting convened.

## **ARTICLE II**

### **DISTRICTS**

- A. For the purposes of this ordinance, the Town of Warner is to be divided into the following districts as shown on the official zoning map filed with the Town Clerk and dated January 15, 1969, and as subsequently amended: *[map amended March 10, 2015]*

VILLAGE RESIDENTIAL DISTRICT R-1

MEDIUM DENSITY RESIDENTIAL DISTRICT R-2

LOW DENSITY RESIDENTIAL DISTRICT R-3

OPEN CONSERVATION DISTRICT OC-1

OPEN RECREATION DISTRICT OR-1

BUSINESS DISTRICT B-1

COMMERCIAL DISTRICT C-1

WARNER INTERVALE OVERLAY DISTRICT INT

- B. Amendments to the Official Zoning Map:

Whenever amendment(s) are adopted that change(s) District boundary(s), whether a Base or Overlay District, the Official Zoning Map shall be revised to reflect such amendments, and the date of adoption shall be duly noted on said Map. The Town Clerk shall seal, sign and date the Official Map. *[Amended March 2015]*

- C. Interpretation of District Boundaries

1. The location of District boundaries shall be as shown or described on the Official Zoning Map, or as otherwise described in this Ordinance.
2. Where a lot is located within more than one Zoning District all the relevant Zoning Ordinance requirements pertaining to each Zoning District type shall remain for each corresponding area of the lot.
3. Where any uncertainty exists with respect to the boundary of any District as shown on the Official Zoning Map, the following rules shall apply:

- a. Where a boundary is indicated as a highway, road, street, alley, railroad, or Town Boundary, it shall be construed to be the edge of right-of-way thereof or such Town Boundary; and
- b. Where a boundary is indicated as a waterway it shall be construed to be the centerline thereof; and
- c. Where a boundary is indicated as approximately parallel to a highway, road, street, alley, railroad, or Town Boundary, it shall be construed as parallel thereto and such distance from the edge of right-of-way thereof as shown on the Official Zoning Map; and
- d. If no dimension or description is given on the Official Zoning Map, the location of any boundary shall be determined by use of the scale shown on the Official Zoning Map, the location of any boundary shall be determined by use of the scale shown on the Official Zoning Map, by using the more detailed reference map when scaling; and
- e. All boundary questions not covered by (a) through (d) above shall be resolved by the Planning Board. *[Amended March 2015]*

### **ARTICLE III**

#### **DEFINITIONS**

**“Abutter”** as defined in RSA 672:3 *[Amended March 2019]*

**“Accessory apartment”** means a residential living unit that is appurtenant to a single-family dwelling, and that provides independent living facilities for one or more persons, including provisions for sleeping, eating, cooking, and sanitation on the same parcel of land as the principal dwelling unit it accompanies. An accessory dwelling unit may be within or attached to the principal dwelling unit. *[Amended March 2017]*

**“Accessory building”** means a detached building, the use of which is customarily incidental and subordinate to that of the principal building, and which is located on the same lot as that occupied by the principal building.

**“Accessory use”** means a use incidental and subordinate to the principal use of a structure or lot or a use, nor the principal use, which is located on the same lot as the principal use.

**“Adult sheltered care facility”** means a place which is operated on a 24 hourly basis to provide residential accommodations, personal care, social, occupational and recreational services or training to persons whose health and safety require continual supervision. (New Hampshire Code of Administrative Rules, Chapter He-P 804.)

**“Agriculture”** as defined in RSA 21:34-a,II *[Amended March 2019]*

**“Buffer from Existing Highway”** means open space that is preserved between the boundary of the right of way of a town or state highway existing as of the date of enactment of this amendment to the Zoning Ordinance and the nearest boundary of any new developable lot. Buffer area is part of common open space. *[Approved March 2005]*

**“Buildable Area”** means total acreage of the parcel or lot *minus* the following:

1. Slopes in excess of 25%;

2. Waterways, including streams, rivers, ponds, lakes and other water course or water bodies;
3. Wetlands;
4. Poorly drained or very poorly drained soils as defined by the New Hampshire Department of Environmental Services Water Division;
5. Land within existing highway or utility rights of way;
6. Land within a 100 year floodplain or floodway as determined by the Federal Emergency Management Agency;
7. Areas which are subject to an easement or a right of way that limits building or development, in favor of the Town, County, State, or Federal Government, or any third party. *[Approved March 2005]*

**"Building"** means any combination of materials constructed for the shelter of persons, animals or property and is not temporary in nature. *[Amended March 2009]*

**"Child Day Care Home"** means a Home Occupation not required to be licensed by the State of New Hampshire, providing care and supervision in a dwelling unit to not more than three (3) children from one or more families for periods of time not to exceed 24 consecutive hours and excluding members of the family in the dwelling. (See RSA 672:1) *[Adopted March 2012]*

**"Common Open Space"** means land and water that is not subdivided for development but is permanently preserved by one of the options specified in Article XIV of this ordinance. Common open space shall not include private lot areas, street and highway rights of way (public or private), utility rights of way, or parking areas. *[Approved March 2005]*

**"Dwelling unit"** means one or more living or sleeping rooms arranged for the use of one or more individuals living as a single housekeeping unit, with cooking, living, sanitary and sleeping facilities.

**"Essential Services"** means services provided by public utility or government agencies through erection, construction or maintenance of underground or overhead gas, electrical, steam or water transmission and distribution systems, and collection, communications, supply or disposal systems. Facilities necessary for the provision of essential services including poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants and other similar equipment and accessories in connection therewith. *[Amended March 2018]*

**"Fast-Food or Drive-in Restaurant"** means an establishment whose principal business is the sale in disposable packaging of already prepared or rapidly prepared food directly to the customer in a ready-to-consume state for consumption either within the restaurant building or off premises. Neither a delicatessen with twelve or fewer seats nor a bakeshop with eight or fewer seats shall be construed to be a "fast-food restaurant". *[Approved March 2001]*

**"Formula Business"** means a business that is required by contractual or other arrangement to maintain any of the following: standardized services, décor, uniforms, architecture, signs or other similar features. This shall include but not be limited to retail sales and service, visitor accommodations, wholesale and industrial operations. *[Approved March 2001]*

**"Formula Restaurant"** means a restaurant devoted to the preparation and offering of food and beverage for sale to the public for consumption either on or off the premises and which is required by contractual or other arrangement to offer any of the following: standardized menus, ingredients, food preparation, décor, uniforms, architecture, or similar standardized features. *[Approved March 2001.]*

**"Frontage"** means the continuous length of a lot bordering on a Class I, II, III, or V highway (as

defined in RSA 229:5) or an approved subdivision road, or in the case of an existing lot of record, a Class VI highway, provided the provisions of RSA 674:41 are met.

**"Front yard"** means a space extending for the full width of a lot between the extreme front line of a building and the nearest side of the public right of way.

**"Gross Floor Area"** means the sum of the horizontal area of the floor or floors of a building as measured from the exterior faces of exterior walls or from the centerline of walls separating two buildings, but not to include attached or built in garages, porches or terraces, basements or unfinished floor area, including attics, having a clear head room of less than seven (7) feet. *(Approved March 2001.)*

**"Height"** means the vertical distance between the average finished grade within 5 feet of the building and the highest point of the building.

**"Home Occupation"** shall mean any business or profession conducted entirely within a dwelling, or an accessory building located on the same premises as the dwelling. *[Amended March 2015]*

**"Home produce"** means and includes everything of an agricultural nature grown, produced, conditioned or otherwise carried on the property of the resident; also such articles as are manufactured or altered by members of the household of the bona fide resident of the property.

**"Legal Resident"** shall mean the person living at a permanent fixed place, domicile, or abode at a specific address to which they intend to return despite temporary absences. *(Amended March 2015)*

**"Livestock"** shall include but not be limited to, dairy cows and the production of milk, beef animals, swine, sheep, goats, as well as domesticated strains of buffalo or bison, llamas, alpacas, emus, ostriches, yaks, elk (*Cervus elephus Canadensis*), fallow deer (*Dama dama*), red deer (*Cervus elephus*), and reindeer (*Rangifer tarandus*). *[Approved March 2000]*

**"Lot"** means a parcel or portion of land separated from other parcels or portions of land by description as on a subdivision or survey map, or by metes and bounds, for purposes of sale, lease, rent, condominium conveyance, building development or any other reason.

**"Lot of record"** means land designated as a separate and distinct parcel in a legally recorded deed and/or plan filed in the records of Merrimack County, New Hampshire.

**"Major Subdivision"** means any subdivision which creates 4 or more lots within a 5 year period or which requires the construction of a new street or the extension of municipal facilities. *[Amended March 2014]*

**"Minor Subdivision"** means any subdivision which creates three (3) or fewer lots or condominium units which does not require the construction of any new street or the extension of municipal facilities, and which is not in conflict with any duly accepted or approved street, plan or map. *[Approved March 2005]*

**"Municipal system"** means a water and/or sewerage system which is owned and operated by the Town of Warner or state-chartered water precinct.

**"Non-conforming use"** means a use of any building, structure or land, which does not conform to the use regulations of the district in which such use exists at the time of enactment of this ordinance or any of its amendments.

**"Open space"** means the portion of a lot upon which no buildings, parking lots, or roads are located.

**"Person"** as defined in RSA 21:9 *[Amended March 2019]*

**"Parking space"** means an off-street space, whether inside or outside of a structure, to be used primarily as parking area for a vehicle.

**"Planning Board"** means the Planning Board of the Town of Warner.

**"Premises"** means a lot including its buildings. *[Adopted March 2012]*

**"Principal building"** means a building in which is conducted the principal use of the lot on which it is located.

**"Principal use"** means the main or primary purpose for which a structure or lot is designed, arranged, or intended, or for which it may be used, occupied or maintained.

**"Right of way"** means and includes all town, state, and federal highways, rights of way dedicated to public use, and the land on either side of same as covered by statute to determine the widths of rights of way.

**"Sign"** means a structure, building wall or other outdoor surface or device used for visual communication which is to be used for the purpose of bringing the subject thereof to the attention of the public; or to display, identify and publicize the name and product or service of any person.

**"Sign, area of"** means the entire surface area of a sign within a single continuous perimeter enclosing the extreme limits of writing, representation, emblem, or figure but excluding the supports on which the sign is placed. The area of one side of a double-faced sign shall be regarded as total area of the sign.

**"Structure"** means that which is built or constructed. *[Amended March 2007]*

**"Storage Container"** means any truck trailer, box trailer, school bus, mobile home, or other similar facility used for storage or other purposes. *[Amended March 1999]*

**"Subdivision"** as defined in RSA 672:14 *[Amended March 1999]*

## ARTICLE IV

### GENERAL PROVISIONS

The following provisions shall apply to all districts:

- A. No owner of land in any district shall permit fire or other ruins to be left, but within one year shall remove or refill the same to clear ground level, or shall repair, replace or rebuild the structure.
- B. Refer to Earth Excavation Regulations adopted November 8, 2006. *[Amended March 2007]*
- C. Any junkyard or place for the storage of unregistered vehicles or other scrap material shall be maintained in accordance with the standards set and enforced by RSA 236:111-129, as amended.
- D. Sanitary systems shall be constructed and maintained in accordance with standards set and enforced by the New Hampshire Department of Environmental Services.
- E. No land in any district shall be used for storage or disposal of junk as described in the state laws; nor discarded machinery, metal scrap, old bottles, other solid textile waste, unfinished cloth or other textile mill yarns, old paper products, old rubber products, old plastic products, old wood products, and other second hand or waste articles, the accumulation of which is detrimental or injurious to the neighborhood.

- F. Use Permit: No permit for the erection, exterior alteration, moving or repair of any building shall be issued until an application has been made for the certificate of zoning compliance, and the certificate shall be issued in conformity with the provisions of this ordinance.
- G. Construction of new streets, drainage facilities, sidewalks and curbs must be done under the supervision of, or with the approval of the Road Agent and the Board of Selectmen of the Town of Warner.
- H. Nuisance provision: Any use that may be obnoxious or injurious by reason of production, emission of odor, dust, smoke, refuse matter, fumes, noise vibration or similar conditions, or that is dangerous to the comfort, peace, health or safety of the community or tending to its disturbance or annoyance, is prohibited.
  - 1. Noise related complaints will be handled by the Warner Police Department according to NH State Statute 644:2-Disorderly Conduct. *[Amended March 2012]*
- I. Height Regulations: No structure shall exceed 35 feet in height except 45 feet in height is allowed in the C-1 and B-1 Districts, unless approved by the Board of Adjustment. The Board may authorize a "Special Exception " to the height regulations in any district if:
  - 1. All front, side and rear yard depths are increased one foot for each additional foot of height; and fire protection is adequately provided for, or
  - 2. The structure is any of the following and does not constitute a hazard to an established airport: television and radio towers, church spires, belfries, monuments, tanks, water and fire towers, stage towers and scenery lofts, barns, silos, cooling towers, ornamental towers and spires, chimneys, elevator bulkheads, smokestacks, conveyors, and flagpoles.
- J. Warner River, bodies of water and waterways: Any lot bordering the Warner River shall have a minimum frontage of 100 feet. All buildings, including storage tanks, shall be set back a minimum of 75 feet from the Warner River, ponds greater than 10 acres and all other perennial waterways and streams as shown on standard 7 1/2 minute USGS quadrangle maps. In addition a minimum of 50% of the existing natural vegetation shall remain as a buffer.
- K. Multi-Family Development: In districts where multi-family development is permitted, the minimum Buildable Area shall be increased by 1/2 the minimum Buildable Area for single family dwellings in that particular district for each dwelling unit in excess of one (1), up to a maximum of four (4) dwelling units in any one building.
- L. Residential Structures Per Lot: Subject to other provisions contained within this Ordinance, not more than one permanent structure containing residences shall be permitted on a single lot.
- M. Storage Containers, whether registered or not, whether mobile or stationary, are not allowed on a permanent basis in any zoning district within the Town of Warner. A storage container is permitted for storage purposes only, for a period of up to one year, with the approval of the Selectmen, provided said storage container(s) complies with all setback requirements. The temporary use of construction trailer(s) at a building site is exempt from this Section. Existing storage containers at the time of adoption of this Section are subject to the provisions of Article XV, Non-Conforming Use.
- N. If a building currently exists on the property and is closer to the abutter's property line or Public Right-of-Way than the yard requirements for that District, an addition may be added to this building as long as the new construction is no closer to that abutter's property line or that Public Right-of-Way than the present construction. *[Amended March 1999]*



O. DELETED *[March 2012]*P. Home Occupation:

1. The Town of Warner recognizes that some citizens utilize their residence for limited business use; however the Town believes that it is important to protect the residential character of its neighborhoods. Therefore, the purpose of this section is to allow a limited business use in a residential area only to the extent that the business use does not detract from the appearance, character or condition of the residence or surrounding area. (*Amended March 2015*)

No new Home Occupation may be conducted or existing legally established Home Occupation expanded without first obtaining a *Conditional Use Permit* from the Planning Board. Review item P.4 in this section for some home situations not considered a Home Occupation.

2. All Home Occupation types must meet the following:
  - a. The use does not change either the character of the dwelling as a residence or the character of the neighborhood in which the Home Occupation is established;
  - b. The use shall be carried out entirely within the dwelling or an accessory building located on the same premises as the dwelling.
  - c. The use is capable of being unobtrusively pursued;
  - d. The use is clearly incidental and subordinate to the dwelling use;
  - e. The use is conducted by the legal resident of the dwelling;
  - f. The use utilizes an area (either in the dwelling or in an accessory building) of not more than twenty-five (25%) of the total floor area of the dwelling (including any functional basement).
  - g. There shall be no display of goods or wares visible from the street.
  - h. No outside storage of equipment shall be allowed in connection with the Home Occupation.
  - i. The dwelling or accessory building in which the Home Occupation is conducted shall not be rendered objectionable to the neighborhood because of exterior appearance, emission of odors, gas, smoke, dust, noise, electrical disturbance, hours of operation or in any other way.
  - j. There are no on-premise contractors related to the occupation use
  - k. In a multi-family dwelling, the Home Occupation uses shall in no way become objectionable or detrimental to any residential use within the multi-family dwelling. The use shall not include features of design not customary in buildings for residential use.
  - l. The use creates no nuisance nor any environmental, health or safety concerns;
  - m. The use shall not create a traffic safety hazard, nor shall it result in a substantial increase in the level of traffic congestion in the vicinity of the dwelling.
  - n. The use shall not involve the use, production, or storage of any hazardous (as defined by the State of New Hampshire) materials.
  - o. All Building Code requirements shall be met;
  - p. The Septic system shall meet NH State and Town of Warner requirements.
  - q. The Conditional Use Permit for a Home Occupation shall be nontransferable, and

shall automatically expire when the applicant(s) is no longer the legal resident of the dwelling.

- r. A nonconforming Home Occupation use must have been legally established prior to any zoning ordinance that restricts such use.
  - s. Childcare may be permitted as a Home Occupation but shall also comply with other requirements of this Ordinance.
  - t. The sales, rental, maintenance or repair of automobiles, motor vehicles or small engines shall not be permitted as a Home Occupation.
  - u. Restaurants or onsite purchase of meals are not permitted as a Home Occupation.
3. Home Occupation Plan Review with a public hearing **is** required for all Home Occupation types where any of the following occur. All other requirements of item #P.2 not addressed as follows shall also be met:
- a. The use entails contact with the general public or clients at the premises. Provide off-street parking for customer/clients and non-resident employees.
  - b. The use has on-premise employees, however it shall not employ more than the equivalent of one full time (40 Hours) person not dwelling on the premises.
  - c. There is Home Occupation signage (not to exceed 2 foot by 2 foot in size) complying with this Ordinance.
  - d. There are commercial vehicles in connection with the Home Occupation stored on the premises. In connection with Site Plan Review, the Planning Board may require that any parking area associated with or needed for the Home Occupation be effectively screened from abutting and facing residential properties by appropriate fencing or landscaping.
  - e. For the Home Occupation Plan Review provide as applicable a scaled sketch layout of the site, building elevations or pictures, floor plan, sign locations, vehicle information, use description, exterior changes, abutters list, and any other pertinent information. Pay for abutter's notifications, advertising, and scheduled fees prior to the public hearing.
4. Home Occupation Plan Review or Conditional Use Permit **is not** required for a home office, hand craft creation, or telecommuting type uses provided all the following are met:
- a. All the requirements of item #P.2 are met
  - b. The use is a home office, hand craft creation, or telecommuting
  - c. There are no on-premise public, clients, or employees not dwelling in the home
  - d. The use is conducted by the resident of the dwelling
  - e. There is no signage related to its use
  - f. There are no regular deliveries/pick-ups
  - g. There are no business or commercial vehicles (*Amended March 2015*)

Q. Driveways: Where driveways intersect with a road with a speed limit of 40 miles per hour (MPH) or greater, whether public or not, the slope shall not exceed five (5) percent within thirty (30) feet of the intersection so as to ensure that vehicles will have adequate distance to stop during icy conditions prior to reaching the intersection. [*Approved March 2004*]

R. Adult Uses/Sexually Oriented Business: [*Approved March 2004*]

- 1. It is the purpose of this section to regulate the adverse secondary effects of sexually oriented businesses in the interest of the public health, safety and welfare including, but

- not limited to, protection of property values, separation of incompatible land uses, and prevention of blight and crime;
2. The terms “Adult Use” and “Sexually Oriented Business” shall mean and include any business where more than twenty-five percent (25%) of the goods or other items on display are characterized by depiction, description or display of, or used in connection with “sexual conduct” as defined in RSA 650:1, or where more than twenty-five percent (25%) of the revenue of the business is from such goods or presentations. Such goods or other items include, but are not limited to, theaters, motion picture displays, night clubs, bars or similar establishments, nude modeling studios, massage parlors, or escort agencies;
  3. Adult Uses or Sexually Oriented Business shall be permitted in the B-1 and C-1 Districts, but shall not be permitted on any parcel located 1,000 feet or less from the boundaries of the Village Residential (R-1), Medium Density Residential (R-2) and Low Density Residential (R-3) Districts or within 1,000 feet of a parcel on which another Adult Use or Sexually Oriented Business is located;
  4. Adult Uses or Sexually Oriented Businesses shall not be permitted within 1,000 feet of the property line of a church, cemetery, school or day care center;
  5. No sexually explicit materials shall be visible from outside the building housing such use.
- S. If Workforce Housing is under consideration, Article XIV-A – Workforce Housing shall be used per State of New Hampshire RSA 674:58-61.
- T. Child Day Care Home operations may operate out of a private dwelling if they comply with the following: *[Adopted March 2012]*
1. The operation may involve a household’s own children and up to three (3) children who do not live in the dwelling unit.
  2. Only one (1) Child Day Care Home operation is allowed per premises.
  3. The operation must comply with all federal, state, and local health and building codes.
  4. The operation must satisfy the applicable criteria as set forth in RSA 170-E and the rules of the New Hampshire Department of Health and Human Services.
  5. The operation is considered a Home Occupation and must comply as set forth in that provision of this Zoning Ordinance; however supervised outside playtime shall be permitted and the operation does not require a Site Plan Review.
  6. Any child care operation involving four (4) or more children, not including the household’s own children, is not considered a Home Occupation and must obtain a Special Exception (See TABLE 1 – USE REGULATIONS), a Site Plan Review, and a State License.
- U. Solar Energy Systems: Solar energy systems installations shall be allowed in all zoning districts and be allowed adequate access to direct sunlight per RSA 672:1 subject to the following: *[Adopted March 2014]*
- a. Systems shall be mounted no higher than the ridgeline of a pitched roof building and no higher than 5 feet above the high point of a building (within compliance with height limits) with a flat roof unless a Special Exception is granted by the Zoning Board of Adjustment providing it can be proven there is no other practicable location on the lot.
  - b. Solar energy systems may not be installed within the lot yard setback to abutters or right-of-way areas unless a Special Exception is granted by the Zoning Board of Adjustment providing that the following criteria are met: it can be proven there is no other practicable location on the lot; year round screening landscaping and/or screening fence is provided;

street access sighting of vehicle traffic from a driveway is not impaired; glare or reflection is avoided; and the system is no more than eight (8) feet high.

## **ARTICLE V**

### **VILLAGE RESIDENTIAL DISTRICT R-1**

The Village Residential District R-1 is designated for residential uses and those uses normally associated with residential neighborhoods such as schools, churches, and parks. It is designated for land where central water and sewer facilities are available or where the installation of those facilities is feasible.

The following provisions shall apply to the R-1 District:

- A. Uses permitted by right shall be those designated by the letter P in column R-1 of Table I, that table with column R-1 only hereby being made a part of this ordinance.
- B. Uses permitted by special exception shall be those designated by the letter S in column R-1 of Table I.
- C. Frontage, lot, and yard requirements:
  - 1. Frontage and minimum Buildable Area: Every lot shall have a minimum frontage of one hundred (100) feet, and a minimum Buildable Area of not less than twenty thousand (20,000) square feet except if such dwelling is not served by a municipal sewer system, in which case the frontage shall be not less than one hundred fifty (150) feet and the minimum Buildable Area shall not be less than forty thousand (40,000) square feet.
  - 2. Yard requirements: No building shall be located nearer than fifteen (15) feet to an abutter's property line and thirty (30) feet from the edge of a public right of way.

## **ARTICLE VI**

### **MEDIUM DENSITY RESIDENTIAL DISTRICT R-2**

The Medium Density Residential District R-2 is designated for residential and limited agricultural uses. This District includes planned growth areas adjacent to the village center or where appropriate transportation or other services may exist. Where extension of municipal water and sewer service is possible, this District is designed to accommodate related changes in development density. Uses normally associated with residential neighborhoods such as churches, schools and parks are permitted, as are certain businesses by special exception.

The following provisions shall apply to the R-2 District:

- A. Uses permitted by right shall be those designated by the letter P in column R-2 of Table I, that table with column R-2 only being hereby made a part of this ordinance.
- B. Uses permitted by special exception shall be those designated by the letter S in column R-2 of Table I.
- C. Frontage, lot, and yard requirements:
  - 1. Lots created by Minor Subdivision shall be subject to the following requirements:  
*[Amended March 2005]*
    - a. Frontage and minimum Buildable Area: Every lot shall have a minimum frontage of two hundred (200) feet and a minimum Buildable Area of at least two (2) acres, unless the lot

is served by a municipal sewer system in which case the frontage shall not be less than one hundred twenty (120) feet and the minimum Buildable Area shall not be less than forty thousand (40,000) square feet. Any lot bordering the shoreline of any public lake or pond shall not have less than one hundred (100) feet of shoreline.

- b. Yard requirements: No building shall be located nearer than twenty five (25) feet to an abutter's property line and forty (40) feet from the edge of any public right of way, except, if a building currently exists on the property and is closer to the abutters property line or public right-of-way (as described above in yard requirements) an addition may be added to any present building as long as the new construction is no closer to the abutters property line or public right-of-way than the present construction.
2. Lots created by Major Subdivision shall be subject to the requirements of Article XIV, "Open Space Development." *[Adopted March 2005]*

## **ARTICLE VII**

### **LOW DENSITY RESIDENTIAL DISTRICT R-3**

The Low Density Residential District R-3 is designated for residential and agricultural uses on land remote from municipal water and sewer services and which because of its character requires large minimum lot sizes to handle the individual family's water and sewer disposal needs. Uses normally associated with residential neighborhoods such as schools, churches and parks are permitted and certain business uses are permitted by special exception.

The following provisions shall apply to the R-3 District:

- A. Uses permitted by right shall be that designated by the Letter P in the column R-3 of Table I, that table with column R-3 only being hereby made a part of this ordinance.
- B. Uses permitted by special exception shall be those designated by the letter S in column R-3 of Table I.
- C. Frontage, lot, and yard requirements:
  1. Lots created by Minor Subdivision shall be subject to the following requirements: *[Amended March 2005]*
    - a. Frontage and minimum Buildable Area: Every lot shall have a minimum lot frontage of two hundred fifty (250) feet, and a minimum Buildable Area of at least three (3) acres. Any building lot bordering the shore line of any public lake or pond shall have not less than one hundred (100) feet of shore line.
    - b. Yard requirements: No building shall be located nearer than forty (40) feet from an abutter's property line and fifty (50) feet from the edge of any public right of way.
  2. Lots created by Major Subdivision shall be subject to the requirements of Article XIV, "Open Space Development." *[Adopted March 2005]*

## **ARTICLE VIII**

### **OPEN CONSERVATION DISTRICT OC-1**

The Open Conservation District OC-1 is designated for agricultural, forestry, and very limited residential uses on inaccessible land, which because of steepness of slope, poor drainage, or periodic flooding shall not be intensively developed.

The following provisions apply to the OC-1 District:

- A. Uses permitted by right shall be those designated by the letter P in column OC-1 of Table I, that table with column OC-1 only being hereby made a part of this ordinance.
- B. Uses permitted by special exception shall be those designated by the letter S in column OC-1 of Table I.
- C. Frontage, lot, and yard requirements.
  - 1. Lots created by Minor Subdivision shall be subject to the following requirements:  
*[Amended March 2005]*
    - a. Frontage and minimum Buildable Area: Every lot shall have a minimum frontage of three hundred (300) feet, and a minimum Buildable Area of at least five (5) acres. Any such lot bordering the shoreline of any public lake or pond shall have not less than two hundred (200) feet of shoreline.
    - b. Yard requirements: No building shall be located nearer than fifty (50) feet from an abutter's property line and fifty (50) feet from the edge of any public right of way.
  - 2. Lots created by Major Subdivision shall be subject to the requirements of Article XIV, "Open Space Development." *[Adopted March 2005]*

## **ARTICLE IX**

### **OPEN RECREATION DISTRICT OR-1**

The Open Recreation District OR-1 is designated to preserve large open land areas in essentially their natural state for their recreational and scenic value to the community. This District encompasses the mountainous areas of Warner, including Kearsarge and the Mink Hills which are an essential part of the Town's identity.

The following provisions shall apply to the OR-1 District:

- A. Uses permitted by right shall be those designated in column OR-1 of Table I, that table with column OR-1 only hereby being made a part of this ordinance.
- B. Uses permitted by special exception shall be those designated by the letter S in column OR-1 of Table I.
- C. Frontage, lot, and yard requirements.
  - 1. Lots created by Minor Subdivision shall be subject to the following requirements:  
*[Amended March 2005]*
    - a. Frontage and minimum Buildable Area: Every lot shall have a frontage of not less than five hundred (500) feet and a minimum Buildable Area of not less than five (5) acres. Any such lot bordering the shoreline of any public lake or pond shall have not less than 200 feet of shoreline.
    - b. Yard requirements: No building shall be located nearer than one hundred (100) feet from an abutter's property line and fifty (50) feet from the edge of a public right of way.
  - 2. Lots created by Major Subdivision shall be subject to the requirements of Article XIV, "Open Space Development." *[Adopted March 2005]*

## **ARTICLE X**

### **BUSINESS DISTRICT B-1**

The "Business District" is limited to certain businesses and residential uses and made subject to certain architectural requirements with the intent of preserving the "village atmosphere" of the district. The following provisions shall apply to the B-1 District:

- A. Uses permitted by right shall be those designated by a letter P in the column B-1 of Table I, and that Table with column B-1 only is hereby made a part of this ordinance.
- B. Uses permitted only by special exception shall be those designated by a letter S in column B-1 of Table I.
- C. Frontage, lot, and yard requirements:
  - 1. Frontage and minimum Buildable Area: Every lot shall have a minimum lot frontage of one hundred (100) feet and a minimum Buildable Area of not less than ten thousand (10,000) square feet.
  - 2. Yard requirements: No building shall be located nearer than fifteen (15) feet to an abutter's property line and thirty (30) feet from the edge of a public right of way.
- D. Architectural requirements:
  - 1. Exteriors of buildings in this district are to be so styled architecturally as to not detract from the general existing style of the district nor to be greatly at variance thereto.
- E. Careful review of both site and architectural elements is intended in this and other commercial districts to enhance the overall quality of site development and to promote architectural design that is compatible with the overall character of the Village and Town of Warner. *[Approved March 2001.]*
- F. The maximum gross floor area shall be 4,000 square feet for new construction as permitted in Table 1 of the Use Regulations. Existing buildings may be expanded to include a total of 4,000 square feet. Adequate parking must be provided. *[Approved March 2010.]*
- G. The standard design package for any formula business or formula restaurant shall be subject to modification to comply with the architectural and site plan standards of the Town of Warner so as to achieve the community's land use and design objectives as set forth in the Master Plan and incorporated in the Site Plan Review Regulations. *[Approved March 2001.]*

## **ARTICLE XI**

### **COMMERCIAL DISTRICT C-1**

The "Commercial District" permits business and commercial establishments as well as certain dwelling and light industrial uses. The purpose of this district is to encourage growth of this type in the proximity of the interstate highway interchanges. It is important to the economic success of Warner that the appearance of the town be perceived as an attractive commercial environment that reflects and compliments its heritage. Restrictions on building height and lot coverage, coupled with careful review of both site and architectural elements during site plan review, is intended to promote a scale and quality of development compatible with the rural character of the community. *[Amended March 2001.]*

The following provisions shall apply to the C-1 District:

- A. Uses permitted by right shall be those designated by a letter P in the column C-1 of Table I, and that Table with column C-1 only is hereby made a part of this ordinance.
- B. Uses permitted only by special exception of the Zoning Board of Adjustment shall be those designated by a letter S in column C-1 of Table I.
- C. Frontage, lot, and yard requirements:
  - 1. Lots developed for commercial purposes:
    - a. Frontage and minimum Buildable Area: Every lot shall have a minimum lot frontage of two hundred (200) feet and a minimum Buildable Area of not less than forty thousand (40,000) square feet.
    - b. Yard requirements: No building shall be located nearer than twenty-five (25) feet to an abutter's property line and forty (40) feet to the edge of a public right of way.
  - 2. Lots developed for residential use within the C-1 District shall be subject to the frontage, lot and yard requirements specified in Article VI-C of this ordinance. [*Amended March 2005*]
  - 3. The Planning Board may reduce front setback requirements to not less than 50% of that which is allowed in the underlying zoning district for applicants, provided the following conditions are met: [*Approved March 2006*]
    - a. Parking and circulation are located to the side and rear of proposed buildings(s). No parking may be located within the front yard of the building(s) excepting handicapped parking convenient to a building entrance;
    - b. On-site shared access arrangements with adjoining properties, for both vehicular and pedestrian movements, are made and sufficient documents have been filed for review and approval of the Planning Board; and
    - c. The siting and orientation of the building(s) is determined by the Planning Board to be consistent with the scale and character of the Town of Warner. The applicant is encouraged to consult with the Planning Board in developing alternative site layouts to duplicate historic patterns of development and avoid conventional strip development patterns.
- D. Where a commercial or industrial use abuts a parcel of land in a residential or open space zoning district, a natural vegetative buffer of 25 feet is required. Where the natural vegetation does not provide an adequate buffer, the Planning Board, through Site Plan Review, may require plantings or fencing to meet the buffer requirement.
- E. Maximum Impermeable Coverage: No more than 70% of the lot may be covered by impermeable surfaces, such as buildings and paved areas. The Planning Board may increase the allowable maximum impermeable coverage up to 80% of the gross lot area, provided all landscape strips, parking lot landscape requirements, and other screening are provided as required by this ordinance, and provided the following three conditions are met: [*Amended March 2006*]
  - 1. Parking and circulation are located to the side and rear of proposed building(s). No parking may be located within the front yard of the building(s) with the exception of handicapped parking. [*Approved March 2006*]
  - 2. Where appropriate, on site shared access arrangements with adjoining properties, for both vehicular and pedestrian movements, are made and sufficient documents have been filed for review and approval of the Planning Board. [*Approved March 2006*]



3. The siting and orientation of the building(s) is determined by the Planning Board to be consistent with the scale and character of the Town of Warner. The applicant is encouraged to consult with the Planning Board in developing alternative site layouts to duplicate historic patterns of development and avoid conventional strip development patterns. *[Approved March 2006]*
- F. The maximum gross floor area for Retail and Service buildings indicated in Table 1 – Use Regulations shall be 40,000 square feet for an individual building on a lot. For buildings needing more area and/or for multiple buildings on a lot, the following requirements shall be met:
1. Multiple buildings, each with a maximum gross floor area of 40,000 square feet, may be grouped on the same lot if all the following requirements are met:
    - a. Buildings shall be separated from each other by a minimum of 75 feet; however buildings may be connected by a covered walkway.
    - b. A 75 foot landscaped green open space building setback shall be provided from residential and open district abutter’s lots.
    - c. Provide or facilitate shared driveway and cross lot traffic including provisions for easements for anticipated future access to adjacent lots.
    - d. In addition to the maximum impermeable coverage, provide landscaped green open space at least equal to one half the total gross floor area of all buildings on the lot. The green open space shall be intermixed within the building/parking areas to enhance the natural setting and reduce/breakup contiguous impervious surfaces.
    - e. Buildings shall be designed to provide multiple roof levels, wall alignments, and sight lines to help minimize the perception of mass and bulk.
  2. Additional building gross floor area of up to 20,000 square feet (maximum total gross floor area of 60,000 square feet) shall be allowed for each building on a lot if the following requirements are met:
    - a. A Special Exception shall be obtained from the Zoning Board of Adjustment.
    - b. All items required in section F.1 above shall be met.
    - c. Minimum building separation shall be increased from 75 feet to 125 feet.
    - d. All building setbacks shall be increased to 50 feet from an abutter’s lot and 65 feet from the edge of a public right-of-way.
  3. For existing buildings which exceed a gross floor area of 40,000 square feet as of March 8, 2011, an additional maximum gross floor area of 20,000 square feet shall be allowed if all items required in sections F.1 and F.2 above are met. *[Amended March 2011]*
- G. The inclusion of accessory recreational facilities or similar amusement areas, including tot lots, video games and the like, as part of a restaurant, shall be strictly prohibited. *[Approved March 2001)*
- H. DELETED *[March 2012]*
- I. The standard design package for any formula business or formula restaurant shall be subject to modification to comply with the architectural and site plan standards of the Town of Warner so as to achieve the community's land use and design objectives as set forth in the Master Plan and incorporated in the Site Plan Review Regulations. *[Approved March 2001)*

## **ARTICLE XI-A**

### **WARNER INTERVALE OVERLAY DISTRICT INT**

*[Approved March 2005]*

The Warner Intervale Overlay District encompasses that portion of Warner's commercial district to the east of and in immediate proximity to Interstate 89 Exit 9, between the Interstate and the intersection of State Route 103 and North Road (REF MAP). The purpose of the Intervale Overlay District is to provide a framework for development in this area as a commercial and social hub for the community, compatible with Warner's character as an historic New England town, and providing an appropriate entrance to the Village, which lies less than a mile to the south.

It is critical that development in this area reflect the character of the town as it has grown and developed for over 200 years, including elements of architecture, scale and setting of buildings and roadways into the landscape, landscaping features, and features that accommodate and encourage non-vehicular traffic.

At the same time, it is important to recognize the importance of the Intervale area as a major junction and stopping point for travelers and shoppers. Their needs must be accommodated, as must the realities of the high volume of traffic they bring to this area. It is important that development in the Intervale District be capable of safely handling this traffic, further enhancing visitors' and residents' experience of the Intervale area.

To achieve these goals, in addition to the provisions that apply to the C-1 District of which the Intervale Overlay District is a part, the following provisions shall apply to the Warner Intervale Overlay District:

- A. Uses permitted by right shall be those designated by the letter P in column INT of Table 1, and that Table with column INT only is hereby made a part of this Article.
- B. Uses permitted only by special exception of the Zoning Board of Adjustment shall be those designated by the letter S in column INT of Table 1.
- C. Accommodation shall be provided within and between developed parcels for non-vehicular travel, specifically including travel by foot and bicycle.

## **ARTICLE XII**

### **SIGN REGULATIONS**

*(Amended March 2016)*

Signs advertising or identifying the occupant or activity of a lot on which they are located shall be permitted in any district subject to the regulations contained in this Article. This ordinance does not regulate flags of National, State, or historical significance.

- A. The purpose of this article is to provide standards for the size and treatment of signs within the various zoning districts to protect against detrimental impact on the visual character of the community and on transportation safety. Signs should be consistent with the goals of Master Plan.
- B. SIGN STANDARDS. Any sign or use of signs shall conform to the following standards.
  - 1. All signs shall be designed, constructed and maintained in accordance with this Zoning Ordinance and the Town of Warner NH Building Code Ordinance. Signs shall be constructed of permanent materials and shall be properly attached to the ground, building, or other structure. Signs may also subject to State and Federal regulations.

2. **Sign Permit Process:**

- a. Sign configurations and location for all non-residential, multi-family, and home occupation uses shall be approved by the Planning Board to assure compliance with the Town of Warner Site Review Regulation, prior to submitting a Sign Construction Permit application to the Board of Selectmen or their Agent. Temporary signs as listed in this Article do not require Planning Board review.
  - b. A Sign Permit Application must be completed, submitted to the Board of Selectmen’s Office, and approved prior to erecting, altering, or relocating a sign.
  - c. Sign Permit Applications are approved by the Board of Selectmen if they find the proposed sign conforms to the town’s Zoning Ordinance and Regulations.
3. Signs shall be permitted in any district subject to the requirements contained in this Article.
  4. Temporary signs requirements are in the Temporary Sign section at the end of this Article.
  5. The height of any freestanding sign shall not exceed fifteen (15) feet. Building mounted signs shall be below the eave of a hip, gambrel, or other pitched roof building, or below the main roof deck line of a building with a mansard roof.
  6. SIGN AREA COMPUTATION –per Article III Definitions and as defined in this Article.
  7. The area of signs allowed in the Business Districts B-1 and Commercial District C-1 shall be per Section C and D of this Article.
  8. In all districts, one (1) sign shall be allowed on a premise for each residence. One (1) additional sign per premise shall be permitted in any district when there is an approved Home Occupation. Each Sign shall have a maximum area of four (4) square feet, shall be a maximum of six (6) feet high and may not be located within ten (10) feet of an abutter or public right-of-way.
  9. In order to maintain public safety, Permanent Directional Signs indicating the direction to a residence or business may be located off-site from the lot of the use. Directional Sign size shall not exceed two (2) square feet and be placed no closer than one (1) mile apart. Written permission is required from the adjacent land owner(s) on both sides of a road.
  10. Signs or lighting of signs shall not be placed in such a position as to endanger vehicular or pedestrian traffic by interfering with vision by obscuring a clear view or by confusion with official street signs or signals.
  11. On-site signs associated with a legal non-conforming use shall be maintained and may be replaced in kind if necessary. Non-conforming signs shall not be expanded.
  12. Signs for a business that has not operated within the previous ninety (90) days shall be removed within thirty (30) days. Seasonal businesses or businesses temporarily not in operation may be exempt from this requirement through the review and permit process. At their option, seasonal business may remove their sign at the end of the season and reinstall it at the start of the next season without needing a new permit.
  13. If a sign permit has been issued to a particular business and that business is sold, a new sign construction permit will not be required if the new company has the similar type of business, the sign is the same size, the sign and supports have the same materials, and the sign is in the same location.
14. **PROHIBITED SIGNS TYPES**
- a. Signs which flash, have motion, are animated, create an illusion of movement, or are internally illuminated, except for a Temporary Sign with a permit from the Board of Selectmen.
  - b. Signs attached to a tree or utility pole.
  - c. Signs that could be mistaken for traffic control signs or lights.
  - d. Signs on a vehicle or trailer located for the purpose to advertize the business on-site

- e. Signs that may project over a public right-of-way or sidewalk unless the situation is such that the building to which the sign is attached is closer than five (5) feet from the public way or sidewalk. In such situations the sign shall be at an adequate height so as not to be interfering with pedestrians, vehicular traffic, or snow removal.

15. SIGNS ALLOWED but EXEMPT from a SIGN PERMIT

- a. Signs required or erected by government agencies.
- b. Certain Temporary Signs where indicated in this Article.
- c. Signs indicating open, closed, sale or business hours located on premises and limited to one (1) square foot in area.
- d. Incidental signs on-site guiding traffic safely to parking spaces, loading spaces, stacking lanes, entry and exit drives, direction of traffic flow, and pedestrian ways on private property that do not exceed three (3) square feet and that bear no advertising.
- e. Residential identification and house number not exceeding two (2) square feet, and set a minimum of ten (10) feet from an abutter's property line.
- f. Signs regulating or defining access to private property when the signs are less than one (1) square feet in area. This includes (for example) signs such as those indicating whether or not someone could trespass, hunt, hike, bike, or snowmobile on private property.
- g. Signs indicating a State or National Register of Historic Places status of a property.

C. In the Business District B-1: *[Amended March 2012]*

Signs shall be permitted with a combined total maximum area of not more than thirty- two (32) square feet in surface and/or image area per premises.

- 1. The combined total sign area may be increased to a maximum of forty-six (46) square feet if there is a free standing sign of not more than twenty-four (24) square feet with the remaining sign area used for a building mounted sign(s).
- 2. Such signs may have continuous, non-flashing, external illumination provided that no such light illuminates the boundary of any residential property located in any other district after 11:00 P.M.

D. In the Commercial Districts C-1 and Intervale Overlay District INT: *[Amended March 2012]*

Signs shall be permitted with a combined total maximum area of-not more than sixty-four (64) square feet in surface and/or image area per premises.

- 1. For a single building with multiple businesses on one lot, a primary sign(s) shall be permitted totaling not more than sixty-four (64) square feet in area, with each additional business in that building permitted to have one additional sign of not more than twenty (20) square feet that is attached to the building.
- 2. Where more than one primary business building is on a lot, each primary business building sign(s) shall be permitted at least a total of not more than 32 square feet. The maximum total sign area per primary business building shall be not more than 5% of a building's total front side wall area up to 64 square feet per primary building.
- 3. Freestanding Signs:
  - a. Signs which are not attached to a building (freestanding signs) shall be no more than twenty-four (24) square feet in area. These areas shall be considered as part of the maximum sign area for that premises.
  - b. When multiple businesses occupy a single lot, no more than one freestanding sign encompassing all of the businesses on in the premises shall be permitted which is no larger than 24 square feet in area. These areas shall be considered as part of the maximum sign area for that premises.
  - c. When more than one primary business building is on a lot, each primary business building may have a free standing sign not larger than 24 square feet in sign area as a part of the maximum sign area allowed for that building.
  - d. Free standing signs shall be setback not less than ten (10) feet from any property lines.

4. Signs may have continuous, non-flashing, external illumination provided that no such light illuminates the boundary of any residential property located in any other district after 11:00 P.M.
5. Signs shall not be located in or extend over a public right of way or right of way easement.

E. **Temporary Signs** [Amended March 2016]

Temporary signs that comply with the following standards do not require a permit. All Temporary Signs that do not follow these standards shall require a Temporary Sign Permit from the Board of Selectmen.

1. **Definition Temporary Sign:**
  - a. A banner, pennant, poster or advertising display constructed of paper, cloth, canvas, plastic sheet, cardboard, wallboard, wood, metal or other like materials and that appears to be intended to be displayed for a reasonable short or definite limited period of time.
  - b. If the sign display area is permanent but the message displayed is subject to periodic manual changes, that sign shall not be regarded as a temporary sign.
2. All Temporary Signs shall be securely constructed and properly secured, and shall be placed in such a location as to not endanger vehicular or pedestrian traffic by obscuring a clear view or by creating confusion with official street signs or signals.
3. All temporary signs shall be located a minimum 10 feet from an abutter’s property line.
4. Temporary signs shall not be illuminated.
5. **Temporary Signs which are allowed:**
  - a. Signs erected on residential property by or with the consent of the property owner, where such signs coincide with the timing of a political campaign or other matter on which voters may vote, and where the combined area of such signs shall not exceed thirty-two (32) square feet.
  - b. In order to maintain public safety, temporary off-premise ground mounted Directional Signs are allowed in all districts to indicate the direction to a residence or business. Such signs shall have a maximum area of four (4) square feet and be located a minimum of one-quarter (1/4) mile apart. The signs shall be erected for no more than seven (7) days prior to an event and be removed no later than one (1) days after the event. The sign shall be located on land outside the traveled right-of-way and with the written permission of the adjacent land owner(s) on both sides of a road.

c. **Allowed at a residential premise:**

<u>Residential sign situation</u>	<b>max number &amp; square feet (SF) area</b>	<b>maximum duration (days)</b>
ground mounted sign	1 at 4 SF	90 days cumulative in a year
additional ground mounted sign when a onetime event	1 at 4 SF	14 days for onetime event
additional sign(s) when there is a construction project or maintenance	4 at 4 SF	from the issuing of the construction permit to completion or during maintenance
additional sign when lot is for sale, lease, or rent	1 at 5 SF	while for sale, lease or rent
additional ground mounted sign(s) when there is a yard sale	2 at 4 SF	7 days per sale

d. **Allowed at a commercial premise:** (non-residential and multi-family):

<b><u>Commercial sign situation</u></b>	<b>max number &amp; square feet (SF) area</b>	<b>maximum duration (days)</b>
a ground mounted sign when there is a onetime event	1 at 4 SF	14 days for onetime event.
a portable “sandwich board”	1 at 6 SF	when business is open
2 <sup>nd</sup> portable “sandwich board”	1 at 6 SF	for 14 days for a onetime event
a commercial flag	1 at 16 SF	when a business is open
a commercial banner only in B-1, C-1 & Int districts	1 at 16 SF top at 15 feet high	90 days cumulative in a year
additional sign when lot is for sale, lease or rent	1 at 5 SF*	while for sale, lease or rent
additional sign(s) when there is a construction project on the lot	Combined area of 16 SF **	from the issuing of the permit to 30 days after project completion
additional sign(s) during time of maintenance	4 at 4 SF	during the period of maintenance up to 7 days
Attached to interior of window or glass door	35% of total glass area visible from a public way	7 days

\*32 SF max in C-1 & Int

\*\*in the C-1 & Int district combined maximum area is 32 SF

**F. No Discrimination Against Non-Commercial Signs Or Speech.**

The owner of any sign which is otherwise allowed under this Article may substitute non-commercial copy in lieu of any other commercial or non-commercial copy. This substitution of copy may be made without any additional approval or permitting. The purpose of this provision is to prevent any inadvertent favoring of commercial speech over non-commercial speech, or favoring of any particular non-commercial message over any other non-commercial message. This provision prevails over any more specific provision to the contrary. This provision does not create a right to increase the total amount of signage on a parcel or allow the substitution of an off-site commercial message in place of an on-site commercial message.

**ARTICLE XIII**

**MANUFACTURED HOUSING**

*[Amended March 1999]*

**A. AUTHORITY**

This section is enacted in accordance with the provisions of RSA 674:32.

**B. PURPOSE**

The purpose of this section is to allow for the placement of manufactured housing within specific areas of the community and to provide for standards therefore.

**C. DEFINITIONS**

1. **Manufactured Housing** - Any structure, transportable in one or more sections, which in the traveling mode, is 8 body feet or more in width and 40 body feet or more in length, or when erected on site, is 320 square feet or more, and which is built on a permanent chassis and designed to be used as a dwelling unit with or without a permanent foundation when

connected to required utilities, which include plumbing, heating and electrical heating systems contained therein. (RSA 674:31)

2. **Manufactured Housing Park** - A parcel of land containing at least 10 acres, approved by the Planning Board pursuant to this section, for the placement of two or more manufactured houses or mobile homes which are intended to be parked for residential purposes. See Section D. of this Article for additional requirements.
3. **Manufactured Housing Subdivision** - A parcel of land containing at least 12 acres and consisting of two or more lots, pursuant to this section, for the placement of two or more manufactured houses for residential purposes.
4. **Mobile Home** - A manufactured house as defined above.
5. **Travel Trailer** - A mobile home designed to be used for temporary occupancy for travel, recreation or vacation use; with the manufacturers permanent identification "Travel Trailer" thereon; and when factory equipped for the road, being of any length provided its gross weight does not exceed forty five hundred (4,500) pounds, or being any weight provided its overall length does not exceed twenty eight (28) feet.

#### D. LIMITATIONS

After the effective date of this section, no manufactured housing shall be located other than in a manufactured housing park or manufactured housing subdivision approved pursuant to this section. A manufactured house lawfully existing as of the effective date of this Section on land outside of a manufactured housing park or subdivision, or a replacement thereof if such housing unit is destroyed by fire or casualty or is in a state of disrepair and its replacement is located on the land within 180 days after such fire or casualty, may be maintained as a non-conforming use, provided that when such use shall be discontinued by the removal of such housing unit for a period in excess of 180 days, the use of such land shall thereafter conform to the provisions of this ordinance.

#### E. MANUFACTURED HOUSING PARKS

1. **Where Allowed:** Manufactured housing parks shall be allowed in all but the commercial district (C-1) and Business district (B-1) and consist of a minimum of 10 acres and at least two (2) sites. The maximum number of sites shall not exceed 25. Housing sites shall not include wetlands, water bodies, roads, severe slopes or open space on individual sites.
2. **Approval:** Application for a site plan review must be submitted to the Planning Board. No manufactured housing park shall be established or operated without approval from the Planning Board of a site plan which clearly defines the area of the proposed park, all manufactured housing sites, water, sewer, and other information required by the site plan of the Town of Warner, as may be adopted from time to time. In addition the owner/developer must submit a design plan for the manufactured housing park addressing development, operation and management criteria including, but not limited to, park association bylaws/rules, lot size, setbacks, buffers, screening, parking, roadways, garbage and refuse disposal and additions/alterations to manufactured houses.
3. **Site Size:** Each individual house site must contain not less than 15,000 square feet and shall have a depth of at least 150 feet and a frontage of at least 100 feet on a public or private street.
4. **Placement:** No individual house site shall contain more than one manufactured housing unit. No manufactured housing unit shall be placed closer than 150 feet to an existing residence or state or Town road nor shall the unit be placed within fifty (50) feet of any

other boundaries of the park.

5. Marking: Each house site shall be clearly marked on the site plan.
6. Setbacks: Front yard setbacks shall be at least 25 feet. Rear yard setbacks shall be at least 20 feet. Side yard setbacks shall be at least 15 feet.
7. Other Uses: No other principal facility/business or building shall be located in a manufactured housing park except for laundry, recreation or other ancillary necessary buildings maintained in connection with the operation of the manufactured housing park.
8. Expansion: Expansions at the manufactured housing park, including but not limited to expansion or addition of roads, addition of nonresidential buildings or addition of house sites after the initial approval process, requires separate site plan approved by the Planning Board.
9. Vehicles/Parking/Watercraft: Manufactured housing parks must comply with all town ordinances with respect to vehicle/parking/watercraft issues. Each home site shall contain parking for at least 2 vehicles.
10. Roadways: All internal roadways within the park shall be designed and built to town specifications, privately maintained and/or must be approved by Town Selectmen/Town Road Agent.
11. Recreation: Any recreation areas within the park shall be restricted to actual recreation use and shall be protected from roadways and parking areas by adequate fencing, if deemed necessary by the Planning Board.
12. Garbage and Refuse Disposal: It shall be the responsibility and duty of the owner/manager of the park to see that all garbage and refuse is stored, collected and disposed of in a regular and sanitary manner and meets the approval of the Board of Selectmen or their agent.
13. Construction, Additions, Alterations: All manufactured housing units constructed as well as all additions and alterations to manufactured houses or other structures shall comply with this ordinance and the Town of Warner building code.
14. Buffer: The Planning Board will require a natural, vegetative buffer strip of 25 feet around all or part of the perimeter of the manufactured housing park. No housing site shall consist of any part of this buffer strip.

#### F. MANUFACTURED HOUSING SUBDIVISIONS

1. Where Allowed: Manufactured housing subdivisions, consist of a minimum of twelve (12) acres and two (2) lots, and shall meet all requirements of applicable zoning districts relative to frontage, lot and yard size.
2. Approval: Application for subdivision approval must be submitted to the Planning Board. The application must satisfy all requirements of the Subdivision Regulations of the Town of Warner as may be adopted from time to time. No manufactured housing may be placed on an existing subdivision unless such is specifically approved for the purpose of manufactured housing.
3. Maximum Number of Lots: The maximum number of lots in any manufactured housing subdivision shall not exceed 25. No lot shall contain more than one manufactured housing unit.
4. Cluster Development Option: A manufactured housing subdivision may be developed as a cluster development in accordance with Article XIV of this ordinance provided that all of the provisions of that Article are complied with. However, in no case shall manufactured housing in a cluster development be attached to create more than one dwelling unit per lot.



5. Labeling: If a plat is submitted with a request for approval for a manufactured housing subdivision and such plat is approved, the plat shall bear the legend that is "approved for manufactured housing."

#### G. GENERAL REQUIREMENTS OF ALL MANUFACTURED HOUSES

1. Prior to onsite assembly, placement and occupancy, manufactured housing shall be subject to the requirements for such Warner building and occupancy permits, inspections and certifications as are required for dwellings constructed on site.
2. Manufactured housing placed in a manufactured housing subdivision shall conform to the construction and safety standards established by the Federal Department of Housing and Urban Development. However, it is not required that they meet the Warner Building Code requirements for a permanent foundation and a minimum of 500 square feet of ground floor living area.
3. Travel trailers registered for use in New Hampshire may be parked on land owned by the registered owner of the travel trailer, provided that it is not occupied in such location more than thirty (30) consecutive days in any 12-month period and provided further that the location and condition of such trailer is not detrimental to the neighborhood or to property in the vicinity. A property owner may accommodate the travel trailer of a non-paying guest for a single period of not more than 90 days in any one period of 12 consecutive months.

### **ARTICLE XIV**

#### **OPEN SPACE DEVELOPMENT**

*[Approved March 2005]*

- A. Purpose: The purpose of this Article, in accordance with RSA 674-21-1, is to assist in preserving Warner's rural landscape character, natural resource areas, farmland, and other large areas of open land, while permitting residential development in an open space setting, located and designed to reduce the perceived intensity of development and provide privacy for dwellings. Specific objectives are as follows:
  1. To implement objectives of the Warner Master Plan.
  2. To maintain and protect Warner's rural character by preserving important landscape elements, including those areas containing unique and environmentally sensitive natural features such as woodlands, stream corridors, wetlands, floodplains, shorelands, ridge tops, steep slopes, critical species habitat, and sensitive natural areas.
  3. To preserve scenic views and to minimize views of new development from existing streets.
  4. To provide for the unified and planned development of major subdivisions for residential uses, incorporating large areas of permanently protected common open space.
  5. To encourage development that is consistent with Warner's historic land use patterns of village-like areas where buildings and residences are grouped, surrounded by areas of open space used for agriculture, forestry, recreation, and similar purposes.
  6. To provide for greater design flexibility in the siting of dwellings and other development features than would be permitted by the application of standard subdivision regulations, in order to minimize the disturbance of rural landscape elements, scenic quality, and overall aesthetic value of Warner's landscape.
  7. To increase flexibility and efficiency in the siting of services and infrastructure.
  8. To create groups of dwellings with direct visual and physical access to open space.

9. To permit recreational use of common open space.

B. Applicability. This Article shall apply to all building lots created by Major Subdivision in the R-2, R-3, OC-1 and OR-1 zones after the date of adoption of this Article.

1. Exceptions:

- a. In R-2 Zone, this article shall not apply to subdivision of lots with acreage less than 12 acres prior to subdivision. Such subdivisions shall be subject to the frontage, minimum Buildable Area and yard requirements specified in Article VI-C-1 of this Ordinance.
- b. In the R-3 Zone, this article shall not apply to subdivisions in which all lots in the completed subdivision have a minimum lot size of twelve (12) acres. Such subdivisions shall be subject to the frontage, minimum Buildable Area, and yard requirements specified in Article VII-C-1 of this Ordinance. Any lots created under this exception shall be prohibited from further subdivision.
- c. In the OC-1 Zone, this article shall not apply to subdivisions in which all lots in the completed subdivision have a minimum lot size of fifteen (15) acres. Such subdivisions shall be subject to the frontage, minimum Buildable Area, and yard requirements specified in Article VII-C-1 of this Ordinance. Any lots created under this exception shall be prohibited from further subdivision.
- d. In the OR-1 Zone, this article shall not apply to subdivisions in which all lots in the completed subdivision have a minimum lot size of twenty (20) acres. Such subdivisions shall be subject to the frontage, minimum Buildable Area, and yard requirements specified in Article IX-C-1 of this Ordinance. Any lots created under this exception shall be prohibited from further subdivision.
- e. This article shall not apply to subdivisions which are defined as Major subdivisions by virtue only of the fact that they require the construction of any new street or the extension of municipal facilities, but which do not result in the creation of more than three (3) new lots. Such subdivisions shall be subject to the frontage, minimum Buildable Area, and yard requirements specified in Article VI-C-1, VII-C-1, VIII-C-1, or IX-C-1 of this Ordinance, as appropriate to the Zone in which they are located.

C. Density and Dimensional Standards. The following density and dimensional standards shall apply to residential development that is subject to this Article.

**OPEN SPACE ZONING DENSITY AND DIMENSIONAL STANDARDS**

<b>ZONE</b>	<b>R-2</b>	<b>R-3</b>	<b>OC-1</b>	<b>OR-1</b>
Minimum Parcel Area before Subdivision (acres)	12	12	15	20
Maximum Density	1 unit per 2 acres of Buildable Area	1 unit per 3 acres of Buildable Area	1 unit per 5 acres of Buildable Area	1 unit per 5 acres of Buildable Area
Minimum Lot Area After Subdivision	1.0 acre	1.0 acre	1.5 acre	1.5 acre

Minimum Buffer from Existing Highway	75'	75'	75'	75'
Minimum Frontage Per Lot	100'	125'	150'	150'
Minimum Front Yard (to right-of-way)	30'	30'	40'	40'
Minimum Side Yard (to abutting property line)	15'	15'	25'	25'
Minimum Common Open Space (percentage of Gross Land Area; at least 25% of Common Open Space must be Buildable Area)				
Parcel size <= 40 acres	30%	50%	60%	60%
Parcel size > 40 acres	30%	60%	60%	60%

D. Ownership and Maintenance of Common Open Space. To restrict common open space from further subdivision and/or land development, and to ensure adequate planning for ownership and maintenance of open space, open space shall be owned and its management provided for by deed restriction, conservation easement, or other agreement as specified in this Section, in a form acceptable to the Planning Board upon recommendation of the Town Attorney and duly recorded in the office of the County Registry of Deeds.

1. Ownership. The following methods may be used, either alone or in combination, to own common open space.
  - a. Homeowners' Association or Condominium Association or similar form of common ownership set up by the developer and made a part of the deed or agreement for each lot or dwelling unit. This form of ownership may only be used where all common open space within the development is held in common.
  - b. Fee simple dedication to a private nonprofit organization such as a conservation trust or Society for the Protection of New Hampshire Forests.
  - c. Dedication of conservation easements to a public agency such as the Town of Warner.
  - d. Dedication of conservation easements to a private nonprofit organization such as a conservation trust or Society for the Protection of New Hampshire Forests.
  - e. Ownership retained by the original landowner. Ownership of common open space may be retained by the original landowner provided that the Town of Warner or another entity approved by the Planning Board shall hold conservation easements on the land protecting it from any further development.
  - f. Undivided fractional ownership by each development lot owner in the Common Open Space of the development as a right appurtenant to lot ownership which runs with the lot, subject to the restrictions on the Common Open Space.
  - g. Other methods acceptable to the Planning Board upon recommendation by the Town Attorney.

2. Transfer. Open space shall not be transferred or conveyed to another entity or method of ownership except for transfer to another method of ownership permitted under this Section.
  3. Approval. Prior to approval of subdivision of any parcel, the developer must submit documentation of the plan for ownership and management of common space in accordance with this section. All such documentation will be subject to review by legal counsel, the Central New Hampshire Regional Planning Commission, the Warner Conservation Commission, and any third parties named in such documentation as deemed appropriate by the Planning Board, and to review and approval by the Planning Board prior to approval of the proposed subdivision.
- E. Ownership and Maintenance of Common Areas or Components. In cases where the proposed development results in areas or project components (such as roads, driveways, or utilities) of common ownership, there shall be established procedures and responsibilities for perpetual maintenance of such areas or components by the inclusion of covenants running with the land in the deeds or other instruments of conveyance delineating such areas in accordance with RSA 479:A as from time to time amended; and
1. Obligating purchasers to participate in a Homeowners' Association, Condominium Association or similar form of common ownership (which participation shall be automatic upon conveyance of title or lease to individual dwelling units), and to support maintenance of the open areas by paying to the association assessments sufficient for such maintenance and subjecting their properties to a lien for enforcement of payment of the respective assessments;
  2. Obligating such an association to maintain the common areas and/or components;
  3. Empowering the Town, as well as other purchasers in the development, to enforce the covenants in the event of failure of compliance, and;
  4. Providing for agreements that, if the Town is required to perform any maintenance work on such areas or components, said purchasers would pay the cost thereof and that the same shall be a lien upon their properties until said cost has been paid.

Other equivalent provisions to assure adequate perpetual maintenance may be permitted if approved by the Planning Board;

F. OTHER REQUIREMENTS

1. Streets. Streets and/or common private driveways proposed to access lots within the subdivision shall conform to the requirements of Warner's Subdivision Regulations. If any common private roads or driveways are proposed, provision for their maintenance shall be made in the Subdivision Plan and shall be subject to approval by the Planning Board.

## **ARTICLE XIV-A**

### **WORKFORCE HOUSING**

#### **INCLUSIONARY HOUSING ACCOMMODATION INCENTIVE SYSTEM**

*[Approved March 2010]*

The Town of Warner recognizes the importance and benefit to the community and its citizens in the establishment of suitable opportunities for Workforce Housing. The Town recognizes that there are some situations in which normal Zoning, Site Plan Review and/or Subdivision requirements may be waived without sacrificing public health, safety and welfare so long as proper safeguards are

maintained. Accordingly, it has been deemed advisable to adopt Workforce Housing in accordance with 674:58-61.

#### Purpose Statement

The purposes of this Article are as follows:

1. To encourage and provide for the development of affordable workforce housing within Warner;
2. To ensure the continued availability of a diverse supply of home ownership and rental opportunities for low to moderate income households;
3. To meet the goals related to affordable and workforce housing provisions set forth in the town's Master Plan.

In the course of implementing this ordinance, the Town of Warner has considered the region's affordable housing needs as described in the Central New Hampshire Planning Commission's Housing Needs Assessment and the Regional Fair Share Analysis.

A. Authority: This innovative land use control Article is adopted under the authority of RSA 674:21, and is intended as an "Inclusionary Zoning" provision as defined in RSA 674:21(I)(k) and 674:21(IV)(a).

#### B. Definitions

1. **Affordable:** means housing with combined rental and utility costs or combined mortgage loan debt services, property taxes, and required insurance that do not exceed 30 percent of a household's gross annual income. The calculation of housing costs shall be based on current taxes, a 30 year fixed rate mortgage, a 5 percent down payment, and prevailing mortgage rates within the region.
2. **Workforce Housing:** means housing which is intended for sale and which is affordable to a household with an income of no more than 100 percent of the median income for a 4-person household for the metropolitan area or county in which the housing is located as published annually by the United States Department of Housing and Urban Development. "Workforce housing" also means rental housing which is affordable to a household with an income of no more than 60 percent of the median income for a 3-person household for the metropolitan area or county in which the housing is located as published annually by the United States Department of Housing and Urban Development. Housing developments that exclude minor children from more than 20 percent of the units, or in which more than 50 percent of the dwelling units have fewer than two bedrooms, shall not constitute workforce housing for the purposes of this Article.
3. **Area Median Income (AMI):** the median income of the greater region HUD Fair Market Area to which Warner belongs, as is established and updated annually by HUD.
4. **Assets:** as defined as "Net Family Assets" by 24 CFR Part 5 Subpart F, and as amended from time to time.
5. **Income:** as defined as "Annual Income" by 24 CFR Part 5 Subpart F, and as amended from time to time.
6. **Market Rate Housing:** any dwelling unit within a development, whether the unit is to be owner or renter occupied, this is intended to be available for sale or occupancy at the prevailing market value for the area similar to comparable real estate transactions.

### C. Workforce Housing Categories and Incentive System

Warner Zoning Districts eligible for consideration under this Article are shown as hatched on the Overlay Map at the end of this Article.

1. Multifamily Housing shall be eligible in R-1, R-2 and B-1.
2. A site plan or subdivision plan that will guarantee a designated percentage of dwelling units, reserved as workforce housing, may be approved with an increase in the density of the site and a reduction of the minimum site frontage as is set forth in the appropriate section of the Zoning Ordinance. The Planning Board may allow a reduction of the minimum lot size to accommodate the increased site density.
3. A site plan or subdivision plan can mix housing types and accumulate density bonus to a maximum bonus equal to 30 percent where municipal sewer and water are available or in areas without water and sewer service to the maximum density permitted by on-site well and septic standards of the New Hampshire Department of Environmental Services as applied to the site. When mixing dwelling unit types, the designated percentage for each individual affordable housing type may be less than that required but shall total at least 30%. The density bonus is then proportioned to the actual percentage of designated workforce dwelling units provided, so that if the applicant provides only one-half of the required designation of one type of affordable housing they will receive one-half of the density bonuses. The combined total of all workforce housing types must equal a 15 percent designation of workforce dwelling units, at a minimum.
4. Planning Board and Zoning Board application fees except direct expenses may be waived at the discretion of the Board.
5. Building Standards:
  - a. Dwelling units designed and designated for the accommodation of workforce housing shall meet the use provisions of the underlying zoning district.
  - b. Where acreage meets size requirements, the development shall be reviewed as an Open Space Development. Manufactured housing is acceptable for workforce housing accommodation provided they meet current local, state, and federal codes and regulations.
  - c. All developments qualifying for review as workforce housing shall be compatible but need not be identical in architectural style and exterior appearance with the market rate dwelling units. The workforce housing dwelling units must be interspersed with market rate dwelling units of the same type.

### D. General Requirements of Workforce Dwelling Units

1. To ensure that the project is completed as permitted, the dwelling units qualifying as workforce housing shall be made available for occupancy on approximately the same schedule as a project's market dwelling units, except that the certificates of occupancy for the last 10 percent of the market rate units shall be withheld until certificates of occupancy have been issued for all the dwelling units. The first third of the market rate dwelling units may be completed first to assist in the viability of the project. A schedule setting forth the phasing of the required housing dwelling units shall be established prior to the issuance of a building permit for any development subject to the provisions of this Article.
2. To ensure that only eligible households purchase/rent the designated workforce housing dwelling units, the purchaser/renter of a workforce dwelling unit must submit written

certification verifying their annual income level, combined with household assets, does not exceed the maximum level as established by this Article. The written certification of income and assets must be submitted to the developer of the dwelling units, or the developer's agent, prior to the transfer of title with a copy given to the Board of Selectmen. A written certification of income and assets must be submitted to all parties charged with administering and monitoring this ordinance, as set forth in sections of this Article, within 30 days following transfer of title.

3. All applicants under this Article must submit the following data to ensure project affordability:
  - a. Calculation of the number of Workforce Housing dwelling units provided under this Article and how it relates to the Ordinance provisions.
  - b. Project Cost Estimate including land, development and construction costs; financing, profit, and sales costs; and other cost factors.
  - c. Description of each dwelling unit's size, type, estimated cost and other relevant data.
  - d. Documentation of household eligibility as required in sections of this Article.
  - e. All agreements established as part of this Article.
  - f. List of required variances, conditional use permits, and special exceptions including justification of their necessity and effectiveness in contributing to affordability.

#### E. Assurance of Continued Affordability

In order to qualify as workforce housing under this Article, the developer must make a binding commitment that the workforce housing units will remain affordable for a period of 30 years. This shall be enforced through a deed restriction; restrictive covenant; or a contractual arrangement through a local, state or federal housing authority or other non-profit housing trust or agency. The 30-year term, the deed restriction, restrictive covenant, or contractual arrangement established to meet this criterion must make the following continued affordability commitments:

1. Workforce housing dwelling units offered for sale shall require a lien, granted to Warner, be placed on each unit. The value of the dwelling unit and its reduced "affordable" sale price, which is indexed according to the qualifying income standards. The municipality's lien is inflated over time at a rate equal to the Consumer Price Index (CPI). Future maximum resale values shall be calculated as the fair market value minus the CPI adjusted lien value. Subsequent sales are not limited based on income targets, but the combination of maintenance of the municipality's lien and adherence to the Article's Definition of Workforce Owner-Occupied Housing for a period of 30 Years.
2. Workforce housing rental dwelling units shall limit annual rent increases to the percentage increase in the area median income, except to the extent that further increases are made necessary by hardship or other unusual conditions.
3. Deed restrictions, restrictive covenants, or contractual arrangements related to dwelling units established under this Article must be documented on all plans filed with the Warner Planning Board and the Merrimack County Registry of Deeds.

#### F. Administration, Compliance and Monitoring

1. This article shall be administered by the Planning Board. Applications for the provisions provided under this article shall be made to the Planning Board and shall be part of the submission of an application for site plan or subdivision plan approval.

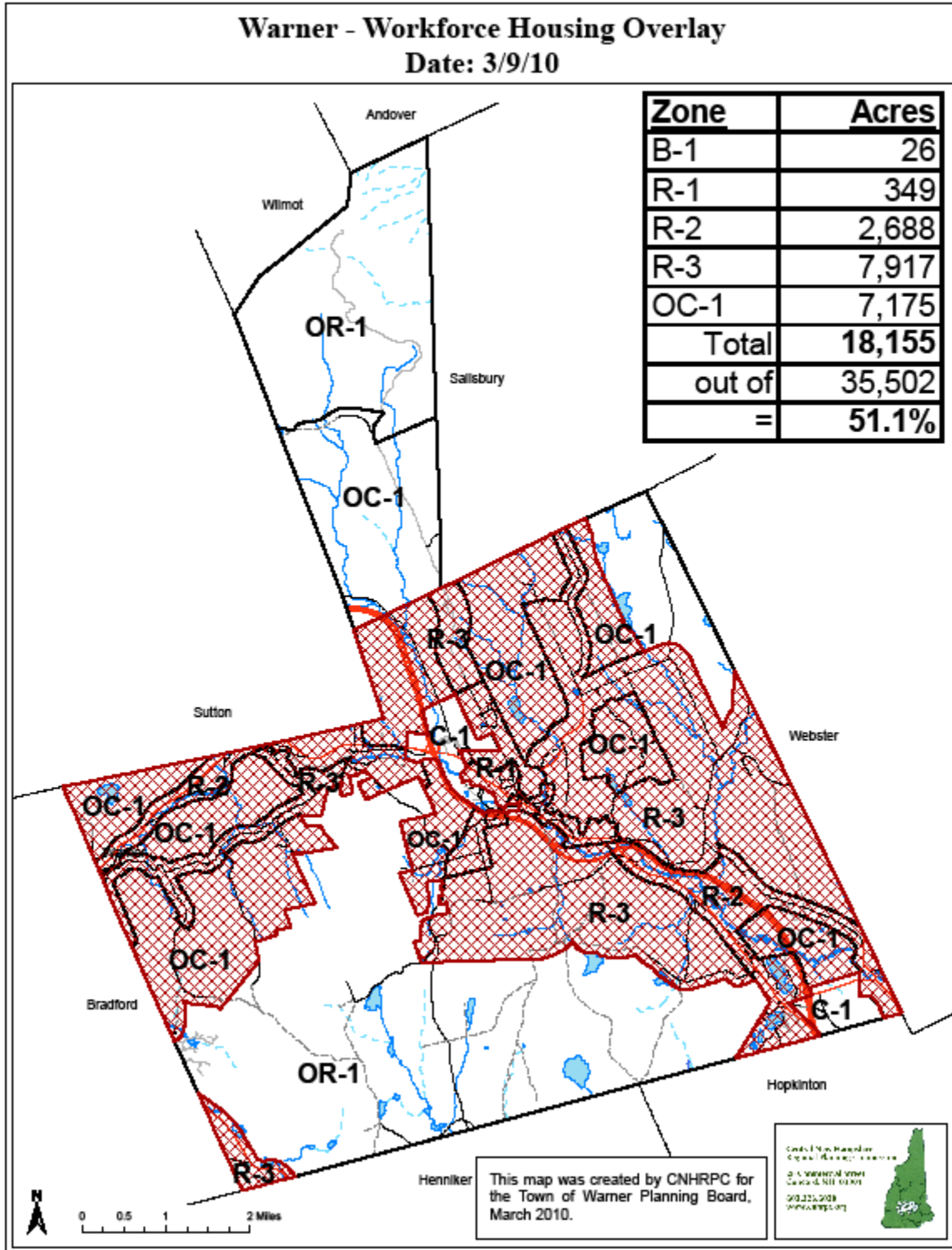
2. No certificate of occupancy shall be issued for a workforce housing unit without written confirmation of the income eligibility of the tenant or buyer of the workforce housing dwelling unit and confirmation of the rent or price of the workforce housing dwelling unit as documented by an executed lease or purchase and sale agreement.
3. On-going responsibility for monitoring the compliance with resale and rental restrictions on workforce dwelling units shall be the responsibility of the Board of Selectmen or their designee.
4. The owner of a project containing workforce dwelling units for rent shall prepare an annual report, due on April 30, certifying that the gross rents of workforce dwelling units and the household income of tenants of workforce units have been maintained in accordance with this article. Such reports shall be submitted to the Board of Selectmen or their designee and shall list the contract rent and occupant household incomes of all workforce housing units for the calendar year.

G. Relationship to Other Ordinances and Regulations

1. No portion of this Article shall nullify the provisions of any other Town ordinance provisions which relate to environmental protection, water supply, sanitary disposal, traffic safety, and fire and life protection.
2. If any provision of this Article is in conflict with the provisions of other Ordinances, the more restrictive provision shall apply, except for any provision relating to lot size, setbacks, or density, in which case the provisions of this Article shall apply.

H. Attached Workforce Housing Overlay Map:





**ARTICLE XIV-B**  
**ACCESSORY APARTMENT**  
*[Adopted March 2012]*

**Requirements for Accessory Apartment:**

1. The accessory apartment shall be clearly incidental to the primary use of the property. The apartment shall be a completely separate housekeeping unit that can be isolated from the primary dwelling unit but shall have an interior door connecting it to the primary dwelling unit. *[Amended March 2017]*
2. Only one accessory apartment may be created within or attached to a single-family dwelling or accessory building per lot.
3. Any accessory apartment whether an addition to or contained within the single-family dwelling or accessory building, shall have an area of no less than 300 square feet, no more than 50% of the heated and finished floor area of the primary dwelling unit, and a maximum of 1,000 square feet of gross floor area.
4. All applicable regulations of the Town of Warner shall be met before an accessory apartment is permitted. The capacity/design of the septic system shall be verified.
5. Accessory apartments are not intended for individual ownership. The title shall be inseparable from the primary dwelling.
6. Accessory apartments may be located in a detached accessory building where allowed in TABLE 1 – USE REGULATIONS of this Zoning Ordinance only if the detached accessory building contains another use by the primary dwelling such as a garage with an apartment loft or section of a storage/barn building.
7. The owner shall not separately lease both the primary dwelling unit and the accessory apartment at the same time.
8. Accessory apartments may not be established in association with manufactured housing or townhouse-style dwelling units (i.e., attached single family dwellings). *[Amended March 17, 2018.]*

**ARTICLE XV**  
**NON-CONFORMING USE**

- A. When a non-conforming use (existing) of land or buildings has been discontinued for a year, the land or buildings shall be used thereafter only in conformity to this ordinance.
- B. A non-conforming lot may be built upon, for residential purposes only, if, at the time of the enactment of this Ordinance (or any amendment thereto if it is such amendment that renders the lot non-conforming), (a) the owner or owners of the lot owned no contiguous land, and (b) it has a frontage of at least fifty (50) feet, and (c) the lot is able to sustain a state approved waste disposal system or connect to municipal sewage.

**ARTICLE XVI**  
**ENFORCEMENT**

- A. It shall be the duty of the Board of Selectmen, and the Board is hereby given the power and authority to enforce the provisions of this ordinance.

- B. Upon any well founded information that this ordinance is being violated, the Board of Selectmen shall take immediate steps to enforce the provisions of this ordinance by seeking an injunction in the superior court or by any other legal action.

## **ARTICLE XVII**

### **BOARD OF ADJUSTMENT**

*[Amended March 2006]*

- A. Establishment of Board/Appointment and Terms: Pursuant to RSA 673:3, 5 and 6, Local land Use Boards, the Boards shall be established and all appointments made by the Board of Selectmen for the positions of regular and alternate members. Membership shall consist of five members, and up to five alternate members, for three-year terms to hear appeals from the provisions or administration of this Ordinance. Alternate members may fulfill the duties and responsibilities of a regular member when a regular member is not present or is disqualified from consideration of a particular application.
- B. Duties and Powers of the Board of Adjustment (Board): Subject to the provisions as outlined, the Board shall:
  - 1. Hear and decide appeals of administrative officials where it is alleged there is error in any order, requirement, decision, or determination made by an administrative official in the enforcement of the Zoning Ordinance. The Board may reverse or affirm, wholly or in part, or may modify the order, requirement, decision, or determination appealed from and may make such order, or decision, as ought to be made and to that end shall have all the powers of the administrative official from whom the appeal is taken;
  - 2. Hear and decide Special Exceptions to the terms of this Ordinance;
  - 3. Grant a Variance only where it confirms in writing that each and every one of the Variance criteria have been met;
  - 4. DELETED *[March 2014]*;
  - 5. Evaluate Equitable Waivers of Dimensional Requirements: The Board shall have the authority to grant equitable waivers of dimensional requirements pursuant to the provisions and requirements of RSA 674:33 (a); and
  - 6. Act and hear appeals as per RSA 673:1(v), as amended, as the Building Code Board of Appeals; and Act and hear appeals as per RSA 675:5(III), as amended, of any decision made by the Planning Board regarding specific terms of this Ordinance.
- C. Application Requirements
  - 1. An application to the Board shall include a completed application form, plans, and supplemental information as may be required for the specific type of appeal.
  - 2. A completed application (fees, abutter list, etc.) must be submitted to the Zoning Board Secretary during regular office hours at least (15) days prior to the meeting at which the application is to be officially submitted.
  - 3. Applications and appeals to the Board shall be taken according to the rules set by State Statutes.
  - 4. A nonrefundable fee shall be submitted with the application materials and other supporting evidence to be considered as part of the application.

5. Burden of Applicant: The applicant shall provide and bear the burden of presenting sufficient evidence to allow the Board to make findings pertaining to all conditions and findings of fact required in granting a Variance or Special Exception.
- D. Granting of Variances: Upon appeal in specific cases, the Board may grant a variance from the terms of this Ordinance for a particular use, a parcel of land, an existing building, or a proposed building pursuant to RSA 674:33, as may be amended.

The Board may grant a Variance from this Ordinance only after the applicant has demonstrated to the Board all of the following. Each of the following conditions must be found in order for a Variance to be legally granted, as confirmed in writing by the Board. All five Variance criteria must be met for the Variance to be granted:

1. Granting the variance will not be contrary to the public interest.
2. Granting the variance would not be contrary to the spirit of the ordinance.
3. By granting the variance, substantial justice is done.
4. By granting the variance the values of surrounding properties are not diminished.
5. Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship.
  - A. For purposes of this subparagraph, “unnecessary hardship” means that, owing to special conditions of the property that distinguish it from other properties in the area:
    - i. No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property; and
    - ii. The proposed use is a reasonable one.
  - B. If the criteria in subparagraph (A) are not established, an unnecessary hardship will be deemed to exist if, and only if, owing to special conditions of the property that distinguish it from other properties in the area, the property cannot be reasonably used in strict conformance with the ordinance, and a variance is therefore necessary to enable a reasonable use of it.

The definition of “unnecessary hardship” set forth in subparagraph (5) shall apply whether the provision of the ordinance from which a variance is sought is a restriction on use, a dimensional or other limitation on a permitted use, or any other requirement of the ordinance.

- E. Granting of Special Exceptions
  1. The Board shall hear and decide requests for a Special Exception and shall grant a Special Exception only when it finds that each of the following criteria has been met:
    - a. The use requested is identified in the Use Table of the Zoning Ordinance as a Special Exception in that respective zoning district, or as otherwise stated in the Zoning Ordinance.
    - b. The requested use is essential or desirable to the public convenience or welfare.
    - c. The requested use will not impair the integrity or character of the district or adjoining districts, nor be detrimental to the health, morals or welfare.

- d. In OC-1 and OR-1 zoning districts only: Use of structures must conform to road access and availability of all services to that parcel at the time the Special exception is requested.
2. In granting a Special Exception, the Board of Adjustment may attach appropriate conditions to assure that the general criteria can be met and enforced, including but not limited to:
  - a. Increasing setback and yard dimensions, which are greater than the minimum requirements.
  - b. Modifications of the external features of the building or structures, and limiting the lot coverage or building height and dimensions.
  - c. Requiring suitable landscaping, screening and maintenance or restoration of natural buffer areas where necessary to reduce noise and glare.
  - d. The removal or modification of non-conforming uses, signs, buildings or structures.
  - e. Professional or technical studies or the funding thereof, for the purpose of monitoring compliance of specific elements regarding the site, and to verify the impact of the use on municipal services, traffic, and public safety, noise, air quality, and ground and surface water quality.
  - f. Limiting the number of occupants and methods and time of operation of the proposed use.
  - g. Specifying the numbers and locations of driveways, and accesses for the requested use and property.
  - h. Reducing the number, size and illumination of signs.
- F. Special Exception or Variance Time Limits
  - a. A Special Exception or Variance approved by the Board will expire after two years from the date of the Board's decision if the use or construction authorized by the Special Exception or Variance has not commenced. This two-year limit may be extended by the Board for good cause. No Special Exception or Variance will expire until one year after the resolution of an application to the Planning Board filed in reliance on the Special Exception or Variance.
  - b. If the use or construction authorized by a Special Exception or Variance is abandoned for at least two years, then the Special Exception or Variance cannot be reestablished without a new application and approval by the Board. *[Amended March 2017]*

## **ARTICLE XVIII**

### **AMENDMENTS**

This ordinance may be amended in accordance with applicable sections of Chapter 674, New Hampshire Revised Statutes Annotated, 1983, as amended.

## **ARTICLE XIX**

### **PENALTY**

Any person who violates any provision of the ordinance shall be subject to penalties in accordance with RSA 676:17. *[Approved March 2004]*

**ARTICLE XX**

SAVING CLAUSE

The invalidity of any provision of this ordinance shall not in any way affect the validity of any other provision.

**ARTICLE XXI**

APPEAL PROCEDURE

Any person aggrieved by a decision of the Board of Selectmen made under this ordinance may appeal such decision to the Board of Adjustment in accordance with Chapter 677:1-4 of the New Hampshire Revised Statutes Annotated, 1983, as amended.

**ARTICLE XXII**

WHEN EFFECTIVE

This ordinance shall take effect upon its passage.

## **TABLE I**

### **USE REGULATIONS**

#### **RESIDENTIAL**

<b>USES</b>	<b>R-1</b>	<b>R-2</b>	<b>R-3</b>	<b>B-1</b>	<b>C-1</b>	<b>OC-1</b>	<b>INT</b>	<b>OR</b>
1. One-family detached dwelling <i>[Amended March 2012]</i>	P	P	P	P	S	P		P
2. Two-family dwelling <i>[Amended March 2012]</i>	P	P	S	P	S			
3. Multi-family dwelling <i>[Amended March 2012]</i>	P	P	S	P	S			
4. Conversion of existing dwelling structure to multifamily dwelling	P	P	S	P	P	S		
4. Accessory Apartment <i>[Adopted March 2012]</i>	P	P	P	P		P		P

**S (Special Exception) P (Permitted)**

#### **COMMUNITY FACILITIES**

<b>USES</b>	<b>R-1</b>	<b>R-2</b>	<b>R-3</b>	<b>B-1</b>	<b>C-1</b>	<b>OC-1</b>	<b>INT</b>	<b>OR</b>
1. Church or other religious purposes	P	P	P	P				
2. Educational purposes which are religious sectarian, denominational or public	S	S	S	S	S			
3. Public park, conservation area and preserved open spaces including areas for passive recreation, but not including active recreational facilities	P	P	P	P	S	P	S	P
4. Nonprofit recreational facility, not including membership club	P	P	P			S		S
5. Nonprofit country, hunting, fishing, tennis, or golf club		S	S			S		S
6. Nonprofit day camp or other nonprofit camp		S	S			S		S
7. Town building except equipment garage	P	P	P	P	P	P	P	P
8. Town cemetery, including any crematory therein	S	S	S	S	S	S		S
9. Public libraries, museums, historical association or society	P	S	S	P	P			
10. Hospital, sanitarium, or philanthropic institutions		S	S	S	S		S	
11. Nursing, rest or convalescent home		S	S	S		S		
12. Town equipment garage		S	S		S			
13. Public utility except power or gas plant, water filter plant, sewage treatment plant and refuse facility	P	P	P	P	P	P	P	P

<b>USES</b>	<b>R-1</b>	<b>R-2</b>	<b>R-3</b>	<b>B-1</b>	<b>C-1</b>	<b>OC-1</b>	<b>INT</b>	<b>OR</b>
14. Town owned and operated power plant, water filter plant, sewage treatment plant, and refuse facility		S	S	S	S	S	S	S
15. Essential services	S	S	S	S	S	S	S	

S (Special Exception) P (Permitted)

**AGRICULTURAL**

<b>USES</b>	<b>R-1</b>	<b>R-2</b>	<b>R-3</b>	<b>B-1</b>	<b>C-1</b>	<b>OC-1</b>	<b>INT</b>	<b>OR</b>
1. Agriculture, aquaculture, horticulture, commercial forestry, and floriculture except a greenhouse or stand for retail sale	S	P	P		S	P		P
2. Year-round greenhouse or stand for wholesale and retail sale of agricultural, aquaculture or farm products	S	S	S		P	S	S	
3. Temporary (not to exceed erection or use for a period exceeding <u>six</u> months in any one year) greenhouse or stand for sale of agricultural or farm products raised primarily on the same premises[Amended March 2011]	P	P	P	P	P	P	S	P
4. Raising and/or keeping of livestock, horses and poultry primarily for personal or family use.	P	P	P	S	S	P		P
5. Raising and keeping of livestock, poultry or fur bearing animals for commercial use.		S	S		S	S		S
6. Commercial stables, kennels or veterinary hospital in which all animals, fowl or other forms of life are completely enclosed in pens or other structures		S	P		S	S		
7. Noncommercial forestry and growing of all vegetation	P	P	P	P	P	P	P	P

S (Special Exception) P (Permitted)

**RETAIL AND SERVICES**

<b>USES</b>	<b>R-1</b>	<b>R-2</b>	<b>R-3</b>	<b>B-1</b>	<b>C-1</b>	<b>OC-1</b>	<b>INT</b>	<b>OR</b>
1. Retail establishments selling principally convenience goods including, but not limited to food, drugs, and propriety goods				P	P		P	
2. Retail establishment selling or renting general merchandise, including, but not limited to: dry goods, apparel and accessories, furniture and home furnishing, home equipment, small wares, and hardware and including discount and limited price variety stores (Amended March 2015)		S	S	P	P		P	
3. Eating and drinking places not including drive-in establishments		S	S	P	P		P	



<b>USES</b>	<b>R-1</b>	<b>R-2</b>	<b>R-3</b>	<b>B-1</b>	<b>C-1</b>	<b>OC-1</b>	<b>INT</b>	<b>OR</b>
4. Drive-in eating establishments					S		S	
5. Sales by vending machines as a principal use					S			
6. Establishment selling or renting new or new and used automobiles and trucks, new automobile tires and other accessories, aircraft, boats, motorcycles and household trailers <i>(Amended March 2015)</i>					P			
7. Hotels and motels					P		P	
8. Lodging house or bed and breakfast Inn	S	S	S	S	S	S		S
9. Personal and consumer service establishment				P	P		P	
10. Funeral establishment	S			S	P			
11. Membership club		S	S	S	P			
12. Country, hunting, fishing, tennis or golf clubs for profit		S	S		P	S		S
13. Professional and business offices and services	S	S	S	P	P		P	
14. Automotive repair, automobile service station or garage				S	P			
15. Miscellaneous business repair services		S	S	S	P		S	
16. Motor vehicle, machinery or other junkyard						S		
17. Motion picture establishment, outdoor					S			
18. Motion picture establishment, indoor					P		P	
19. Other amusement and recreation service, event venue and function services, outdoor; including camping groups <i>(Amended March 2017)</i>		S	S			S		S
19-a. Other amusement and recreation service, event venue and function services outdoor; excluding camping groups <i>(Amended March 2017)</i>					S			
20. Other amusement and recreation service, event venue and function services indoor <i>(Amended March 2017)</i>				S	S		S	
21. Communications and television tower		S	S		S		S	S
22. Commercial parking lot or structure					S		S	
23. Adult Sheltered Care facility, as defined by NH Code of Administrative Rules, Chapter He-P 804 and RSA 151:2	S	S	S	S	S	S		S

**S (Special Exception) P (Permitted)**

**WHOLESALE, TRANSPORTATION AND INDUSTRIAL**

<b>USES</b>	<b>R-1</b>	<b>R-2</b>	<b>R-3</b>	<b>B-1</b>	<b>C-1</b>	<b>OC-1</b>	<b>INT</b>	<b>OR</b>
1. Construction industry including suppliers		S			P			
2. Bakery, laundry, or dry cleaning plant				S	P			
3. Motor freight terminal and warehousing					S			
4. Bus passenger terminal				P	P		S	
5. Wholesale trade and distribution				S	P			
6. Open storage of raw materials, finished goods, or construction equipment and structures for storing such equipment		S			S			
7. Research offices or establishments devoted to research and development activities		S	S	S	P		S	
8. Portable saw mills		S	S		S	P		P
9. Light industrial firms such as, but not restricted to: electronics assembly, machine shop, woodworking, computer and technology, etc.				S	P		S	

**S (Special Exception) P (Permitted)**

**ACCESSORY**

<b>USES</b>	<b>R-1</b>	<b>R-2</b>	<b>R-3</b>	<b>B-1</b>	<b>C-1</b>	<b>OC-1</b>	<b>INT</b>	<b>OR</b>
1. Home occupation in accordance with <b>Article IV General Provisions</b> section P. Home Occupation ( <i>Amended March 2015</i> )	P	P	P	P	P	P	P	P
2. Day care or kindergarten [ <i>Amended March 2012</i> ]	S	S	S	S	S	S	S	
3. Accessory professional offices of a licensed medical or dental practitioner, real estate broker, or lawyer in an existing dwelling	S	S	S	P	P	S		
4. Accessory building such as a private garage, playhouse, greenhouse, tool shed, private swimming pool, or similar accessory structures	P	P	P	P	P	P	P	P

**S (Special Exception) P (Permitted)**

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