

## ARTICLE 3. GENERAL REGULATIONS

As Amended & Adopted by the Warren Select Board March 25, 2008

### Section 3.1 Access, Driveway & Frontage Requirements

(A) **Applicability.** In accordance with the Act [ §4412(3)], land development may be permitted on lots in existence prior to the effective date of these regulations which do not have frontage on either a maintained State, Class I, II or III public road or public waters, only with the approval of the Development Review Board. Access to a pre-existing lot that lacks necessary frontage shall be approved by the Board subject to conditional use review under Section 5.2, or subdivision review under Article 6 where the subdivision of land is proposed. Access to such a lot shall be provided by means of a permanent easement or right-of-way at least 20 feet wide or a Class IV road. In addition to other review criteria, the Board may consider the intended use of the property, safety, traffic, road and site conditions in granting, conditioning or denying approval. Lots created after the effective date of these regulations are subject to all applicable provisions herein regarding access and frontage.

(B) **Access (Curb Cuts).** Access onto public highways is subject to the approval of the Warren Select Board, and for state highways, the approval of the Vermont Agency of Transportation. As a condition to access approval, compliance with all local ordinances and regulations pertaining to roads and land development is required. Access permits must be obtained prior to the issuance of a zoning permit. In the event approval of the Development Review Board is required for a subdivision under Article 6 or a conditional use under Article 5, the access permit(s) shall be obtained from the Select Board after Development Review Board approval. In addition, the following provisions shall apply to all parcels having road frontage on town highways and Route 100:

- (1) With the exception of accesses (curb-cuts) used solely for agricultural or forestry purposes, no lot in existence as of the effective date of these regulations may be served by more than one access (curb cut). The Development Review Board may approve additional accesses in the event that:
  - (a) the additional access is necessary to ensure vehicular and pedestrian safety; or
  - (b) the strict compliance with this standard would, due to the presence of one or more physical features (e.g. rivers and streams, steep slopes, wetlands), result in a less desirable development or subdivision design than would be possible with the allowance of an additional access; or
  - (c) a traffic management plan is developed in association with a planned residential development or planned unit development approved in accordance with Article 8.
- (2) Applicants for a zoning permit for any parcel where the number of existing accesses exceeds the number allowed under this section must eliminate or combine accesses in order to meet the applicable standard unless otherwise approved by the Development Review Board.
- (3) Subdivision of a parcel after the effective date of these regulations shall not create a right to construct more than one access unless otherwise approved by the Development Review Board in accordance with Subsection (B)(1), above.
- (4) Access shall be limited to an approved width, and shall not extend along the length of road frontage.
- (5) An access shall be located at least 100 feet from the intersection of public road rights-of-way (125 feet from centerline), for all uses except for single and two family dwellings, which shall be

located at least 50 feet from such intersections (75 feet from centerline), unless otherwise approved by the Development Review Board in accordance with conditional use approval under Article 5 or subdivision approval under Article 6.

- (6) Shared access is encouraged, and may be required for development subject to subdivision and/or conditional use approval.
- (C) **Driveways.** Driveways (access drives or roads which serve three or fewer lots) shall meet the following standards:
- (1) Driveways shall be constructed to town driveway standards (Vermont Agency of Transportation's B-71 Standards for Commercial and Residential Driveways) unless otherwise required under subdivision or conditional use review;
  - (2) Driveways shall have a finished grade of no more than three percent (3%) within 35 feet of an intersection with the travel-way of a road, and shall intersect with a road at an angle between 70 and 90 degrees.
  - (3) Driveways shall have an average finished grade of no more than 12% over any 50-foot section. Driveways to be installed on slopes which exceed an average grade of 12% shall submit an erosion control plan to the Development Review Board for consideration and approval in accordance with Section 3.4.
  - (4) Driveways exceeding 400 feet in length must include, at minimum, one 12' x 50' pull-off area.
- (D) **Frontage.** Frontage requirements for parcels served by private rights-of-way that are a minimum of 50 feet in width shall be the same as the requirements for parcels served by public rights-of-way.

### Section 3.2 Conversion or Change of Use

- (A) A conversion or a change in the use of land, existing buildings or other structures is subject to the provisions of these regulations as follows:
- (1) The proposed use shall be subject to all the requirements of these regulations pertaining to such use, including but not limited to any district, access, and/or parking requirements, as well as any other applicable municipal, state or federal regulations currently in effect.
  - (2) An accessory structure such as a garage or barn may be converted to a principal use allowed within the district in which it is located only if the structure is located on a separate conforming lot and complies with all dimensional, setback, parking, subdivision and other requirements applicable to the proposed use and district.
  - (3) A conversion or change of use from one permitted use to another permitted use requires a zoning permit issued by the Administrative Officer under Section 9.3.
  - (4) A conversion or change of use from a permitted to a conditional use, or from a conditional use to another conditional use, requires conditional use approval under Article 5.

- (5) Where there is a conversion or change of use involving increased water use and wastewater generation, including but not limited to the conversion of a seasonal or accessory dwelling to a single family dwelling, a zoning permit shall not be issued by the Administrative Officer until a wastewater disposal permit has been issued by the Warren Sewage Officer.
- (6) Changes or conversions involving nonconforming uses and/or noncomplying structures also are subject to and will be reviewed under Section 3.8.

### **Section 3.3 Equal Treatment of Housing**

- (A) In accordance with the Act [§4412(1)], no provision or application of these regulations shall exclude or have the effect of excluding from the Town of Warren:
  - (1) Housing that meets the needs of the population as specified in the housing chapter of the Warren Town Plan.
  - (2) Mobile homes, modular housing, or other forms of prefabricated housing, except upon the same terms and conditions as conventional housing is excluded. Mobile homes shall be considered single family dwellings, and must meet the zoning requirements for such dwellings, except when located in an approved mobile home park (Section 4.12) or sales establishment, or allowed as a temporary structure (Section 3.15).
  - (3) Mobile home parks as defined by the state (10 V.S.A. Chapter 153). New or expanded mobile home parks are allowed within designated zoning districts, in accordance with the requirements of Section (4.12).
  - (4) Multi-unit or multi-family dwellings. Multi-family dwellings are allowed within designated zoning districts.
  - (5) One accessory dwelling unit as a permitted use, if located within or appurtenant to an owner-occupied single family dwelling in districts where such residences are permitted or conditional uses (Section 4.1).
  - (6) A group home to be operated under state licensing or regulation serving not more than eight (8) persons who have a handicap or disability as defined by the state (9 V.S.A. §4501). Such a home shall be considered by right to constitute a permitted, single family residential use of property, unless located within 1,000 feet of another existing or permitted home.

**Section 3.4 Erosion Control & Development on Steep Slopes**

(A) **Purpose.** The intent of these regulations is to protect areas of steep slope within the Town of Warren from the adverse effects of site disturbance and development as necessary to:

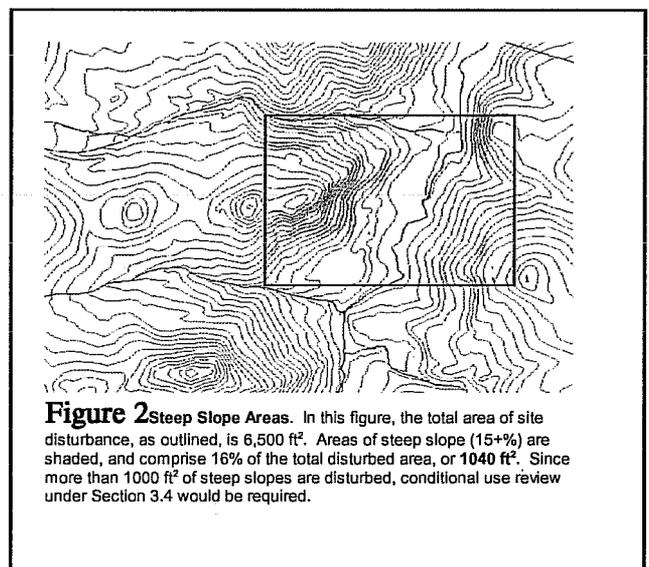
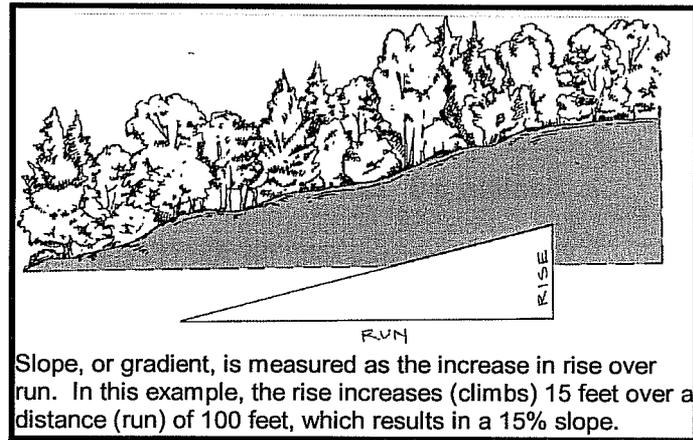
- prevent landslides, slope failure and soil instability,
- prevent soil erosion, including the loss of topsoil,
- minimize stormwater runoff and prevent flooding,
- control sedimentation and prevent water quality degradation, and
- provide safe, stable building sites.

(B) **Applicability.**

- (1) **Steep Slopes (15+ %).** Development involving the site disturbance, excavation, filling or regrading of 1000 or more square feet of land with a gradient of 15% or more, and driveways on land that exceeds an average gradient of 12% or more over any 50-foot section, as determined from mapped contour intervals or site inspection, shall be subject to conditional use review and approval by the Development Review Board under Article 5 and the requirements of Subsections (C) and (D) below.
- (2) **Very Steep Slopes (25+ %).** No site disturbance or development shall take place on very steep slopes with natural gradients of 25% or more, with the exception of the following, which are subject to conditional use review and approval by the Development Review Board under Article 5, and the requirements of Subsections (C) and (D) below:
  - (a) limited site improvements necessary to facilitate development on contiguous land with a slope of less than 25% gradient, and
  - (b) the operation, maintenance and expansion of ski lifts and trails associated with an alpine ski facility.

(3) **Exemptions.** The following are specifically exempted from the requirements of this section:

- (a) Hiking, rock climbing and back country skiing trails.
- (b) Agricultural and forestry operations that incorporate accepted management practices established by the state (see Section 9.2).
- (c) Sand, gravel, quarrying and other extraction operations regulated under Section 4.6 of these Regulations.
- (d) Sanitary landfills regulated by the state as public facilities (see Section 4.6).



(C) **Application Requirements.** In addition to application requirements under Section 5.2, conditional use approval for development on steep and very steep slopes shall be contingent upon the submission and Board approval of the following, as prepared by a qualified professional engineer licensed by the state:

- (1) A grading plan drawn at scale which indicates existing and proposed grades with contour lines at five (5) foot intervals within any area of proposed activity, site disturbance or construction, including access routes. The grading plan shall depict slope classes of 0-14.9%, 15-24.9% and 25% or more, based on five (5) foot contours analyzed on a ten foot (10') horizontal interval.
- (2) An erosion prevention and sedimentation control plan prepared in accordance with the Vermont Handbook for Erosion Prevention and Sediment Control and, where applicable, the Vermont Stormwater Management Manual, as most recently amended. The erosion prevention and sediment control plan shall provide detailed information regarding proposed best management practices and measures to be employed during all stages of development, including site preparation, construction and post-construction.

(D) **Review.** The Board may require an independent technical review of grading and erosion prevention and sedimentation control plans by a qualified engineer, in accordance with Section 9.8(D). Based upon information submitted, the Board shall find that:

- (1) Development, including building envelopes or footprints, driveways, parking areas and septic systems, will be sited to avoid areas of steep and very steep slope in order to minimize the need for site clearing, grading, cut, and fill.
- (2) Existing drainage patterns and vegetation will be retained and protected to avoid altering or relocating natural drainage ways, and to avoid increases in the amount of stormwater runoff being discharged into drainage ways as a result of site compaction, the unnecessary removal of vegetative cover, or re-contouring the land surface. Any proposed regrading will blend in with the natural contours and undulations of the land.
- (3) Terracing for building sites will be minimized, and structures will be designed to fit into rather than alter the slope, by employing methods such as reduced footprints, stilt and step-down building designs, and by minimizing grading outside the building footprint.
- (4) Driveways and roads will follow the natural contours of the land, and shall not exceed an average finished grade of 12% over any 50-foot section [see also Section 3.1(C)].
- (5) Disturbed areas will be kept to the minimum necessary to accommodate proposed development, and areas of site disturbance and construction will be phased so that only areas where active construction is taking place are exposed. Temporary soil stabilization measures will be used as necessary to stabilize disturbed areas prior to establishing a final grade. Site stabilization measures, including the establishment of perennial cover and non-vegetative protective measures, shall be installed by October 15<sup>th</sup>. No site disturbance or construction shall occur between October 15<sup>th</sup> and May 1<sup>st</sup>, unless specific measures for winter construction, erosion prevention, and sediment control are approved.
- (6) The topsoil removed from all disturbed areas will be stockpiled and stabilized in a manner that minimizes erosion and sedimentation and allows for replacement elsewhere on the site at the time of final regrading. Topsoil shall not be stockpiled on slopes of greater than ten percent (10%).

- (7) Cut and fill slopes will be rounded off to eliminate any sharp angles at the tops bottoms and sides of regraded slopes, and shall not exceed a slope of one vertical to two horizontal (1:2), except where retaining walls, structural stabilization or other accepted engineering methods are proposed. Structures will be set back from the tops and bottoms of such slopes an adequate distance (generally six feet plus one-half the height of the cut or fill) to ensure structural safety in the event of slope collapse.
- (8) Clean fill shall be used and compacted sufficiently to support proposed structures and uses.
- (9) Rock outcrops will be avoided or, where determined by the Board to be a hazard, will be removed or stabilized. Explosives shall be used only in accordance with accepted practices and applicable state regulations; the Board, as a condition of approval, may require notification of adjoining property owners prior to blasting.
- (10) Proposed temporary and permanent stormwater management and erosion control measures are consistent with best management practices recommended by the state, appropriate to site and soil conditions, and will be adequate to prevent stormwater from entering disturbed areas on-site, to minimize erosion and maximize stormwater retention, infiltration and treatment on-site, and to minimize stormwater runoff and sedimentation from the site.
- (11) Permanent vegetation will be re-established and maintained on undeveloped disturbed slopes in accordance with an approved landscaping plan for the site.

(E) **Liability.** In the event that alterations in topography and drainage result in damage to neighboring or downstream properties, the applicant shall assume all liability for such damage. The Town of Warren shall be held harmless from any resulting claims for damage resulting from the applicant's actions, whether or not such actions conform to any plan approved by the town.

### Section 3.5 Existing Small Lots

(A) Pursuant to the Act [§4412(2)], any lot in individual and separate and non-affiliated ownership from surrounding properties that is legally in existence on the effective date of these regulations may be developed for the purposes permitted in the district in which it is located, even though the lot does not conform to the minimum lot size requirements of these regulations. Development, however, is prohibited on lots that are less than one-eighth ( $\frac{1}{8}$ ) acre in area or have a minimum width or depth dimension of less than 40 feet. Development of an existing small lot shall be subject to all other applicable requirements of these regulations, including dimensional and setback standards set forth in Article 2 and municipal and state setback standards for the location of in-ground sewage disposal systems.

(B) An existing small lot which is in affiliated or common ownership with one or more contiguous lots as of the effective date of these regulations, or which subsequently comes under affiliated or common ownership with one or more contiguous lots, shall be deemed merged with the contiguous lot(s) for the purposes of these regulations. However, such lots shall not be deemed merged and may be separately conveyed if, in accordance with the Act, all of the following apply:

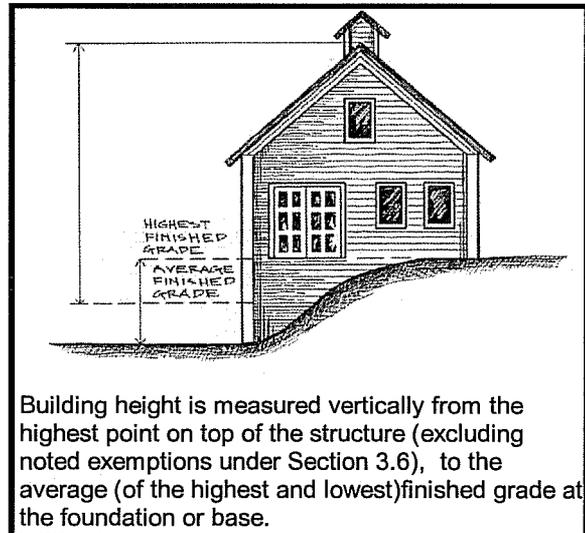
- (1) the lots are conveyed in their pre-existing, nonconforming configuration; and
- (2) on the effective date of this bylaw, each lot had been developed with a water supply and wastewater disposal system; and

- (3) at the time of transfer, each water supply and wastewater system is functioning in an acceptable manner; and
- (4) the deeds of conveyance create appropriate easements on both lots for replacement of one or more wastewater systems, potable water systems, or both, in case there is a failed system or failed supply as defined by the state [10 V.S.A. Chapter 64].

### Section 3.6 Height & Setback Requirements

(A) Except for the following structures, which are specifically exempted from the height provisions of these regulations, no structure shall exceed district height requirements unless such structure meets the standards set forth in Subsection (B), below.

- (1) Agricultural structures, including barns and silos, in accordance with the Act [§4413];
- (2) Church steeples, spires and belfries.
- (3) Ski facilities, including lift towers.
- (4) Antennas, satellite dishes less than three (3) feet in diameter, wind generators with blades less than 20 feet in diameter, and rooftop solar collectors less than 10 feet high, which are regulated by the Town in accordance with the Act [§4412(6)], as well as chimneys, belvederes and cupolas, flag poles, and weather vanes; any of which are mounted on conforming structures and are less than 50 feet in height from the average finished grade at ground level to the highest point of the structure.
- (5) Telecommunications facilities regulated under Section 4.17, including telecommunications towers.
- (6) Power generation and transmission facilities, including transmission towers, wind towers and solar collectors regulated by the Vermont Public Service Board, in accordance with the Act [§4413] and Section 9.2.



Building height is measured vertically from the highest point on top of the structure (excluding noted exemptions under Section 3.6), to the average (of the highest and lowest) finished grade at the foundation or base.

(B) The Development Review Board may permit structures in excess of district height requirements as a conditional use subject to review under Article 5, and upon condition that:

- (1) the structure does not constitute a hazard to public safety, or to adjoining properties;
- (2) the portion of the structure above the district height requirement shall remain unoccupied except for normal maintenance, unless occupancy is expressly approved by the Development Review Board;
- (3) front, side and rear yard setbacks are sufficient to protect adjoining properties and rights-of-way in the event of structural collapse;
- (4) the structure is not to be used for advertising purposes;
- (5) access to the structure, particularly for climbing, is restricted;
- (6) lighting, if deemed necessary by the Board in accordance with state and federal regulations, shall be restricted to the minimum required for security and safe operation (Section 3.9); and
- (7) all applicable performance standards under Section 3.11 and conditional use standards under Section 5.3 are met.

(C) Notwithstanding the minimum front, side and rear setback requirements for various zoning districts set forth in Article 2, Tables 2.1 through 2.12, the Development Review Board, in accordance with

the Act [§4414(8)] may grant waivers to reduce building setbacks as a conditional use subject to review under Article 5 and the following provisions:

- (1) The Board may allow for a reduction of the front, side and rear setback of up to 30% of the setback distance set forth in Article 2 (e.g., a 40 ft. setback may be reduced by up to 12 ft.), providing the reduction meets all conditional use standards set forth in Article 5.
- (2) Any reduction of setback standards beyond 30% may only be granted in accordance with variance standards under Section 9.6.
- (3) This section does not apply to setbacks from surface waters set forth in Section 3.13.

### Section 3.7 Lot & Yard Requirements

(A) Only a single principal use or structure may be located on a single lot, unless permitted within the specific district as a mixed use or otherwise approved by the Development Review Board as part of a PUD or PRD under Article 8, or involving the adaptive reuse of a historic accessory structure (e.g. barn), or an accessory use to a principal use (e.g., a home based business).

(B) An accessory structure or use must conform to all lot setback, coverage and other dimensional requirements for the district in which it is located.

(C) No lot shall be so reduced in area that it cannot conform to area, yard, setback, frontage, coverage and other dimensional requirements as prescribed in these regulations, except as approved by the Development Review Board for PUDs or PRDs under Article 8.

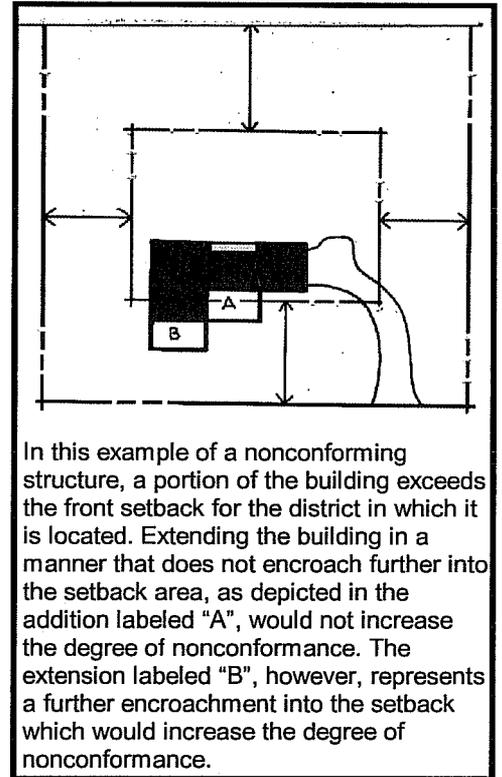
(D) Space required under these regulations to satisfy area, yard, or other open space requirements in relation to one building shall not be counted as part of a required open space for any other principal building.

(E) Any interior (non-frontage) lot which does not have frontage on a public or private road or public waters shall meet minimum setbacks from all property lines equal to the front setback distance for the district in which it is located.

(F) Any yard adjoining a street shall be considered a front yard. A corner lot shall be considered to have only front and side yards.

### Section 3.8 Nonconforming Structures & Uses

(A) **Nonconforming Structures.** Any pre-existing structure or part thereof which was legally in existence as of the effective date of these regulations and is not in compliance with the provisions of these regulations concerning density, set backs, height, lot size or other dimensions, or which does not meet other applicable requirements of these regulations, shall be deemed a nonconforming structure. In



accordance with the Act [§4412(7)], nonconforming structures may be allowed to continue indefinitely, but shall be subject to the following provisions. A nonconforming structure:

- (1) may undergo normal repair and maintenance without a permit provided that such action does not increase the degree of nonconformance (see definition of “degree of nonconformance” in Article 10);
- (2) may be restored or reconstructed after damage from any cause provided that the reconstruction does not increase the degree of nonconformance which existed prior to the damage;
- (3) may be structurally enlarged, expanded or moved, upon approval of the Administrative Officer, provided the enlargement, expansion or relocation does not increase the degree of nonconformance;
- (4) may, subject to conditional use review under Article 5, undergo alteration or expansion which would increase the degree of nonconformance solely for the purpose of meeting mandated state or federal environmental, safety, health or energy regulations which would allow for continued use of the nonconforming structure.

(B) **Nonconforming Uses.** Any use of land or a structure which was legally in existence as of the effective date of these regulations and which does not conform to the uses allowed for the zoning district in which it is located shall be deemed a nonconforming use. In accordance with the Act [§4412(7)], nonconforming uses may be continued indefinitely, but shall be subject to the following provisions. A nonconforming use:

- (1) shall not be re-established if such use has been changed to, or replaced by, a conforming use, or if such use has been discontinued for a period of 12 months, regardless of the intent to re-establish such prior use except with the approval of the Development Review Board, subject to conditional use review under Article 5;
- (2) shall not be re-established or continued following abandonment or discontinuance resulting from structural damage from any cause, unless the nonconforming use is carried on uninterrupted in the undamaged part of the structure, or the use is reinstated within one year of such damage, or if reasonable effort is being made to reinstate the use to the satisfaction of the Development Review Board.
- (3) shall not be changed to another nonconforming use without the approval of the Development Review Board in accordance with Article 5, and then only to a use which, in the opinion of the Board, is of the same or a more restricted nature; and/or
- (4) shall not be moved, enlarged, or increased by any means whatsoever, except with the approval of the Development Review Board subject to conditional use review under Article 5. In no case shall a nonconforming use be moved to a different lot within the district in which it is located.

### Section 3.9 Outdoor Lighting

(A) **Purpose.** The Town’s rural character is enhanced by an ability to clearly view and enjoy the night sky. While some outdoor lighting may be necessary for safety and security, inappropriate or poorly designed or installed lighting can create unsafe conditions and nuisances for adjoining property owners, cause sky glow which obstructs night views of the sky, and result in the unnecessary use of electric power.

(B) **General Standards.** To ensure appropriate lighting while minimizing its undesirable effects, the following general standards apply to all outdoor lighting in the Town of Warren, with the exception of temporary holiday lighting which is exempt:

- (1) All outdoor lighting shall be kept to the minimum required for safety, security and intended use, consistent with the character of the neighborhood in which it is located.
- (2) Permanent outdoor lighting fixtures shall not direct light upward or onto adjacent properties, roads, or public waters; shall minimize glare; and shall not result in excessive lighting levels which are uncharacteristic of a rural area. Lighting fixtures shall be cast downward and/or designed to minimize glare. Such fixtures shall include recessed, shielded or cutoff fixtures, and/or low luminance lamps (e.g., maximum of 75 watts or 1,000 lumens).
- (3) Outdoor lighting fixtures are to include timers, dimmers, and/or sensors to reduce energy consumption and eliminate unneeded lighting.

(C) **Conditional Use Lighting Standards.** For lighting installations associated with uses subject to conditional use review under Article 5, the Development Review Board also may require the following:

- (1) Information regarding exterior lighting fixtures, including fixture type, mounting location and height, illumination levels and distribution, and color, to be submitted as part of the conditional use application. A lighting plan, prepared by a qualified engineer or lighting expert, may be required as appropriate for larger projects.
- (2) The burial of electrical service to outdoor lighting fixtures.
- (3) The use of street or security lighting only if unusual or hazardous conditions require it. Security lighting, where deemed necessary by the Board, shall be shielded and aimed so that illumination is directed only on to the designated area and not cast on other areas.
- (4) Outdoor fixtures shall only be illuminated during the hours of operation for non-residential uses unless specifically approved by the Development Review Board in accordance with Article 5.

(D) The Board may modify or waive the requirements of this Section under conditional use review under Article 5, or on appeal under Section 9.5, if it finds that in so doing it will not jeopardize the stated intent under Subsection (A), or that such a modification or waiver is required to meet an overriding public purpose.

### **Section 3.10 Parking, Loading & Service Area Requirements**

(A) **Parking.** For every structure or use erected, established, altered, extended or changed, associated off-street parking spaces shall be provided on the same lot, or off-site on a lot(s) under the same ownership or under permanent easement, as set forth below:

- (1) All required parking spaces shall have a minimum width of 9 feet, a minimum length of 22 feet, unobstructed access and maneuvering room, a gravel or paved surface sufficient to permit year-round use, and shall not exceed a maximum of 8% gradient.
- (2) A minimum number of parking spaces as determined by the proposed use shall be provided in accordance with the requirements listed in Table 3.1. With the approval of the Development

Review Board, the minimum number of parking spaces may be located off-site, providing such spaces are:

- (a) dedicated to the exclusive use of the applicant through a deeded easement or similar agreement; and,
  - (b) are located within 300 linear feet of the property; and
  - (c) a parking management plan is prepared in accordance with Subsection (A)(8) below
- (3) With the exception of parking associated with single and two family dwellings, parking areas shall not be located in the front yard area as defined by the district setback distance. The parking of motor vehicles is allowed within side or rear yard areas unless otherwise specifically prohibited. under other provisions of these regulations, or as otherwise required under conditional use review.
  - (4) Non-residential parking areas are to be located to the side or rear of buildings, unless otherwise approved by the Development Review Board under conditional use review.
  - (5) In addition to the requirements listed in Table 3.1, all multi-family, public, commercial and industrial developments must provide adequate, clearly marked handicapped parking spaces in accordance with state and federal (ADA) requirements, and at least one bike rack for use by employees and/or the general public.
  - (6) All off-street parking areas in excess of 8 parking spaces shall provide landscaped areas which at minimum are equal to a least 10% of the total parking area, unless otherwise approved by the Development Review Board under site plan or conditional use review. Landscaped areas shall be integrated into the parking lot design, and be regularly maintained.
  - (7) For development subject to conditional use review, shared parking and/or landscaping, screening, lighting, snow removal, pedestrian or transit facilities may be required as a condition of approval.
  - (8) The Development Review Board may require the preparation and implementation of a parking management plan, to include designated employee parking requirements, directional signs, and other management strategies to ensure the most efficient use of available parking. The Development Review Board may, as a requirement of conditional use review in accordance with Article 5, require the submission of a parking management plan prepared by a licensed engineer or other qualified professional.
  - (9) For development subject to conditional use review, shared parking and/or landscaping, screening, lighting, snow removal, pedestrian or transit facilities may be required as a condition of approval.

<b>Table 3.1 Minimum Off-Street Parking Requirements</b>	
<b>Use</b>	<b>Parking Spaces</b>
Bed and Breakfast	2 per dwelling unit, and 1 per lodging room
Boarding House	2 per building and 1 per boarder
Care Facilities (6 or more residents)	1 per 4 beds, and 1 per employee for the largest shift
Clubs	1 per 4 members
Commercial/Retail Establishments	1 per 250 sq. ft. of gross floor area accessible to the public
Gas or Motor Vehicle Service Station	5 per service bay
Home Day Care	2 per dwelling unit, and 1 per additional employee
Home Occupation/Cottage Industry	2 per dwelling unit, and 1 per additional employee
Industry	1.25 per employee, for the largest shift
Lodging (hotel, motel, inn, lodge)	1 per lodging unit, and 1 per employee for the largest shift
Medical Clinics/Offices	6 per doctor or other primary professional care giver
Mixed/Multiple Use	total required per each individual use
Outdoor Recreation	1 space per every 3 patrons at capacity
Personal Services	1 per employee, and one per customer service station
Professional, Government, Business Offices	1 per 300 sq. ft. of gross floor area
Public assembly (places of worship, auditoriums, etc.)	1 per 4 seats or 200 sq. ft. of gross floor area, whichever is greater
Residential/Accessory dwelling	1 per dwelling unit
Residential/ Multi-Family	3 per every 2 dwelling units
Residential/Single or Two Family	2 per dwelling unit
Restaurants/Eating Establishments	1 per 4 seats, and 1 per employee for the largest shift
School, Child or Day Care (6 or more children)	3 spaces per 10 children enrolled at the facility
Storage, warehouses, other non-public uses	1 per 1,000 sq. ft. of gross floor area, and 1 per employee
Unspecified	As determined by the Development Review Board under conditional use review, in accordance with ITE standards

(B) **Loading and Service Areas.** Where a proposed development will require the frequent or regular loading or unloading of goods, sufficient on-site service areas shall be provided. Service areas also may be required for emergency vehicles, waste disposal and collection, bus, taxi, or van service, and other purposes as may be necessitated by the proposed use, type of vehicle and frequency of deliveries. All loading and service areas shall be clearly marked, and located in such a manner so that parked vehicles will not block or obstruct sight visibility at intersections or from any internal road, driveway, access or

traveled roadway. The Development Review Board may, as a requirement of conditional use review in accordance with Article 5, limit the hours in which loading and deliveries may take place.

(C) **Waivers.** The Development Review Board, subject to conditional use review under Article 5, may waive on-site parking, loading and/or service area requirements based on the Board's determination under one or more of the following provisions that, due to circumstances unique to the development, the strict application of these standards is unnecessary or inappropriate:

- (1) green areas are to be set aside and maintained as open space for future conversion to parking, loading and/or services areas in the event that the spaces initially permitted are subsequently deemed inadequate by the Board to meet demonstrated need;
- (2) adequate shared parking, loading, and/or services areas for use by two or more businesses exist on the same or contiguous lots, under common ownership or a long-term lease;
- (3) adequate off-site public parking exists within reasonable walking distance of the establishment and/or the applicant contributes a parking replacement fee administered by the Town for the purpose of constructing and maintaining public parking facilities;
- (4) the proposal is for the development of affordable or elderly housing as defined herein; or
- (5) parking structures are designed to avoid land intensive, single-level parking.

### Section 3.11 Performance Standards

(A) In accordance with the Act [§4414(5)], the following performance standards must be met and maintained for all uses in all districts, except for agriculture, forestry, and the operation of small general aviation aircraft, as measured at the property line. In determining ongoing compliance, the burden of proof shall fall on the applicant, property owner, and/or all successors and assigns. No use, under normal conditions, shall cause, create or result in:

- (1) **regularly occurring noise** in excess of 70 decibels, or which otherwise represents a significant increase in noise levels in the vicinity of the use so as to be incompatible with the surrounding area;
- (2) **clearly apparent vibration** which, when transmitted through the ground, is discernable at property lines without the aid of instruments;
- (3) **smoke, dust, noxious gases, or other forms of air pollution** which constitute a nuisance or threat to neighboring landowners, businesses or residents; which endanger or adversely affect public health, safety or welfare; which cause damage to property or vegetation; or which are offensive and uncharacteristic of the affected area;
- (4) **releases of heat, cold, moisture, mist, fog or condensation** which are detrimental to neighboring properties and uses, or the public health, safety, and welfare;
- (5) **any electromagnetic disturbances or electronic transmissions or signals** which will repeatedly and substantially interfere with the reception of radio, television, or other electronic signals, or which are otherwise detrimental to public health, safety and welfare (except from telecommunications

facilities which are specifically licensed and regulated through the Federal Communications Commission).

- (6) **glare, lumen, light or reflection** which constitutes a nuisance to other property owners or tenants, which impairs the vision of motor vehicle operators, or which is otherwise detrimental to public health safety and welfare (Section 3.9);
  - (7) **liquid or solid waste or refuse** in excess of available capacities for proper disposal which cannot be disposed of by available existing methods without undue burden to municipal or public disposal facilities; which pollute surface or ground waters; or which is otherwise detrimental to public health, safety and welfare; or
  - (8) **undue fire, safety, explosive, radioactive emission or other hazard** which endangers the public, public facilities, or neighboring properties; or which results in a significantly increased burden on municipal facilities and services.
- (B) Agricultural operations shall at minimum observe accepted agricultural practices (AAPs) as defined and administered by the Vermont Agency of Agriculture (Section 9.2).
- (C) Forestry operations shall at minimum observe accepted silvicultural practices as defined and administered by the Vermont Department of Forests, Parks and Recreation (see Section 9.2). Such practices include Acceptable Management Practices for Maintaining Water Quality on Logging Jobs in Vermont. In accordance with the Act [§4413(3)], any forest management practices imposed under these regulations that result in a change in the forest management plan for a parcel enrolled in the state's use value appraisal program (under 32 V.S.A. Chapter 124) must:
- (1) be silviculturally sound, as determined by the Commissioner of Forests, Parks and Recreation,
  - (2) protect specific natural, conservation, aesthetic or wildlife features in designated zoning districts; and
  - (3) be compatible with use value appraisal program eligibility requirements (32 V.S.A. §3755).

### Section 3.12 Sign Requirements

(A) **Applicability.** A zoning permit shall be required prior to the erection, construction or replacement of any outdoor sign, except for signs which are specifically exempted from these provisions, or specifically prohibited as listed under Table 3.2.

**Table 3.2 Exempt and Prohibited Signs**

(A) **Exempt Signs.** No zoning permit shall be required for the following types of signs, which are exempt from these regulations:

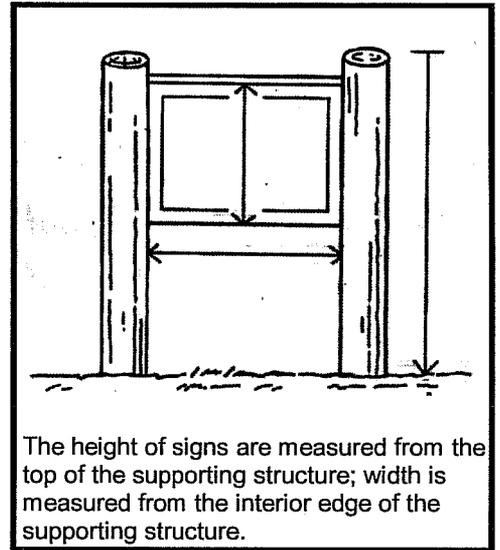
- (1) Signs erected by the state or town on public roads.
- (2) Non-advertising signs placed for directional, safety or public service purposes which do not exceed 4 square feet in area.
- (3) One sign offering real estate for sale, not to exceed 4 square feet and placed in accordance with subsection 3.12 (B)(11).
- (4) One residential sign per dwelling unit identifying the occupant, not to exceed 2 square feet in area; and residential flags or banners intended solely for ornamental or non-advertising purposes.
- (5) Signs relating to trespassing and hunting, each not to exceed 2 square feet in area.
- (6) Temporary auction, lawn, or garage sale, not to exceed 2 in number and 6 square feet in total area, which shall be removed immediately following the event or sale.
- (7) Temporary election signs to be posted and removed in accordance with state law.
- (8) Temporary signs or banners advertising public or community events, to be displayed in designated locations on town property with the prior permission of the Select Board, which shall be removed immediately following the event.
- (9) Signs or bulletin boards incidental to places of worship, schools, libraries or public facilities, not to exceed one per establishment, 16 square feet in total area, or 6 feet in height above ground level.
- (10) Unlit signs associated with farm operations, not to exceed one per establishment or 16 square feet in area.
- (11) Unlit wall-mounted or freestanding signs advertising a home occupation, home based business or home day care facility, not to exceed one per residential dwelling or 4 square feet in area.
- (12) On-premise historic or landmark signs, not to exceed one in number or 6 square feet in area.
- (13) Wall murals intended solely for artistic, non-advertising purposes.
- (14) Window signs which do not exceed 30 percent of the window pane area.
- (15) One temporary construction sign, not to exceed 16 square feet in total area or 10 feet in height, providing such sign is promptly removed immediately following completion of construction.
- (16) One advertising flag or banner per business, during open hours of operation, not to exceed 3' x 5' in size (including "open" or "sale" signs). Flags that are decorative or patriotic in nature are exempt.

(B) **Prohibited Signs.** The following signs are prohibited in all districts:

- (1) Signs which impair highway safety.
- (2) Signs which are internally illuminated, animated, flashing, oscillating, revolving or made of reflective material, unless necessary for public safety or welfare.
- (3) Signs painted on or attached to rock outcrops, trees, or similar natural features.
- (4) Signs which extend above the eave of a building roof.
- (5) Permanent signs which project over public rights-of-way or property lines.
- (6) Signs identifying businesses or uses which are no longer in existence.
- (7) Signs located on motor vehicles which are used primarily as a support or foundation. Excluding registered motor vehicles.

(B) **General Standards.** All signs, other than those specified under Subsection (A), shall require a zoning permit issued by the Administrative Officer in accordance with the following requirements pertaining to all signs:

- (1) No outdoor advertising signs shall be permitted in any district except for the purposes of identifying an existing, on-premise use in those districts where such uses are permitted.
- (2) There shall be only one sign per principal business or service, unless otherwise approved by the Development Review Board in accordance with Section 4.11 for mixed uses.
- (3) No sign shall exceed more than 16 square feet per face.
- (4) No sign in the Forest Reserve or Rural Residential Districts shall exceed 4 square feet per face.
- (5) No sign, including mounted or freestanding supporting structures, shall exceed 16 feet in height, or the height of the nearest building on the premises, whichever is less.
- (6) No sign shall be closer than 15 feet to the nearest part of the traveled portion of any road, nor closer than 50 feet to any road intersection.
- (7) Signs shall be illuminated so as not to produce undue glare, hazards, or distractions. A constant, shielded light source may be used for indirect lighting, provided that the light fixture is mounted on the top or side of the sign, is directed directly onto the sign surface, and does not adversely affect neighboring properties, rights-of-way, or vehicular traffic. The light source shall not be visible from adjacent properties or roads. Internally illuminated signs are expressly prohibited.
- (8) Signs shall not be constructed to include fluorescent colors or reflective materials, and shall not include blinking lights or moving parts.
- (9) No sign shall be illuminated during hours when the premises is not occupied or open for business, or after 10:30 P.M. unless placed on a motion sensitive sensor. Bed & Breakfasts, Inns and Hotels and other lodging facilities may be considered open for business 24 hours a day.
- (10) Signs advertising real estate for sale shall be limited to one sign per parcel, not to exceed 4 square feet, which shall be located on the premises offered for sale, shall be placed outside of the road right-of-way, shall not be affixed with signs depicting that the property has been "sold" or is "under contract", and shall be removed from the premises within 5 business days of conveyance of the property.
- (11) No sign shall contain pennants, or similar attention gathering devices, nor may it contain or support any device capable of emitting noise.
- (12) All signs shall be maintained in a secure and safe condition. Nothing in these regulations shall prevent normal sign maintenance and repair, including the replacement of broken parts. If the Administrative Officer is of the opinion that a sign is not secure, safe, or in a good state of repair, a written warning and/or notice of violation under Section 9.7 may be issued with a request that any defect in the sign immediately is corrected.



(13) Nonconforming signs may remain in use until such time as they are damaged beyond 50 percent of their replacement value. Nonconforming signs may not be expanded, or the message altered to advertise a different owner, management or brand, unless such altered sign is brought into conformance with these standards.

(C) **Measurement.** The area of measurement of any sign shall be the total area of the sign face to the outer edge, excluding any supporting frames or panels. Signs consisting of freestanding characters shall include any intervening spaces (the entire message area) in the calculation of total sign area. The height of the sign shall be measured to the highest point of the supporting structure.

### Section 3.13 Surface Water Protection

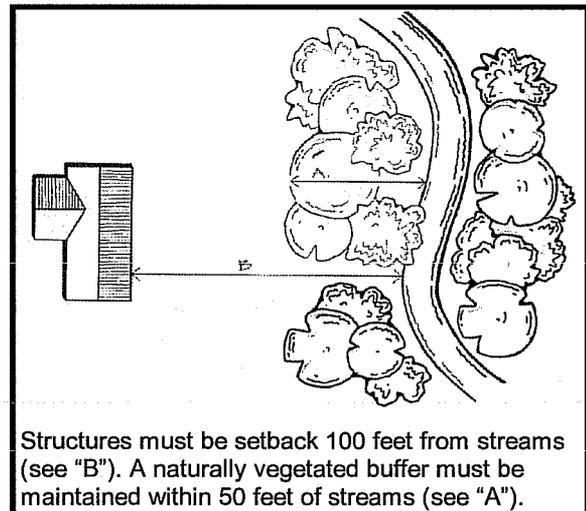
(A) To prevent soil erosion, protect wildlife habitat and maintain water quality, a vegetated buffer strip shall be maintained for a minimum of 50 feet from all lakes or ponds with a surface area greater than one acre, wetlands, streams and rivers. The 50 foot buffer strip shall be measured from the top of the streambank. No development, excavation, landfill or grading shall occur within the buffer strip, and vegetation shall be left in an undisturbed state, with the exception of clearing and associated site development necessary to accommodate the following:

- (1) Road, driveway and utility crossings.
- (2) Streambank stabilization and restoration projects, in accordance with all applicable state and federal regulations.
- (3) Unpaved bicycle and pedestrian paths and trails.
- (4) Public recreation facilities and improved river/lake accesses (e.g., beaches, boat launches, fishing accesses).

(B) No building or structure is allowed within 100 feet of any stream or river without conditional use approval by the Development Review Board in accordance with Article 5. In addition to the conditional use criteria, the Board shall find that the proposed building or structure will not have an undue adverse effect upon:

- (1) the ability of the stream to carry floodwaters (see Section 5.3(D));
- (2) the water quality of the stream due to potential erosion and runoff; and
- (3) the natural beauty of the stream, and is in keeping with the historic settlement pattern of the area.

(C) No building or structure is allowed within 100 feet of any lake or pond with a surface area greater than 20 acres, including Blueberry Lake.



(D) The expansion or enlargement of any structure in existence prior to the effective date of these regulations and not in compliance with Subsections (B) or (C) may be permitted with the approval of the Development Review Board in accordance with Article 5.

(E) The impoundment of any water course is subject to the provisions of Section 4.13.

(F) For development subject to conditional use review, minimum required setback and/or undisturbed buffer strip distances may be increased as appropriate based on site, slope or soil conditions and the nature of the proposed use.

### **Section 3.14 Storage of Flammable Commodities**

(A) The storage of any highly flammable or hazardous liquid or gas in tanks above ground with unit capacity greater than 1,000 gallons shall be prohibited, unless such tanks up to and including 10,000 gallon capacity are placed not less than 80 feet from all property lines, and unless all such tanks of more than 10,000 gallon capacity are placed not less than 200 feet from all property lines.

(B) All tanks (containing flammable liquids) located above-ground and having a capacity greater than 1,050 gallons shall be properly retained with dikes having a capacity not less than 1.5 times the capacity of the tanks surrounded.

### **Section 3.15 Temporary Uses & Structures**

(A) A temporary permit may be issued by the Administrative Officer for nonconforming uses, excluding residential dwellings, which are incidental to a construction project, for a period not exceeding 1 year, conditional upon written agreement by the owner to remove the structure and/or discontinue the use upon expiration of the permit.

(B) Any trailer used for storage or other accessory use for a period exceeding 30 days shall be considered a structure subject to all of the terms and conditions of these regulations.

(C) The use of temporary structures, including campers, recreational vehicles, tents and yurts, for dwelling purposes shall meet the requirements for Campers and Temporary Dwellings under Section 4.3.

(D) The use of temporary structures associated with a special event open to the general public (e.g. cultural performance, sporting event, community function) approved by the Warren Select Board pursuant to the Warren Special Events Ordinance, or associated with a special event operated as an accessory to another use permitted in accordance with these regulations; or associated with a one-time private function (e.g. wedding, family reunion), does not require a zoning permit provided the temporary structures are removed within 14 days of construction or as otherwise permitted by the Select Board in accordance with the special events ordinance or Development Review Board in accordance with Article 5.

### **Section 3.16 Transfers of Development Rights**

(A) **Purpose.** To encourage the preservation of farmland and the Town's rural character, and to encourage concentrated development in designated growth centers, the transfer of development rights from designated sending areas to designated receiving areas is allowed in accordance with the Act [§4423] and the provisions of this section.

- (B) **Sending Areas.** Development rights may be transferred from lands which are located within both the Meadowland Overlay (MO) and Rural Residential (RR) Districts pursuant to Article 2, as designated in Article 2, which for the purposes of these regulations shall be considered a sending area.
- (C) **Receiving Areas.** Development rights transferred from a parcel(s) in a designated sending area may be used to increase allowable densities on a parcel(s) within the Sugarbush Village Residential (SVR), Vacation Residential (VR), Sugarbush Village Commercial (SVC) and the German Flats Commercial (GFC) Districts, as designated in Article 2, which for the purposes of these regulations shall be designated as a receiving area(s).
- (D) **Densities.** Maximum densities shall be as established in Article 2 under dimensional standards for the respective districts. Density shall be transferred in one acre increments, with each acre being equal to one dwelling unit or two lodging units of density beyond the maximum density for the district within which the receiving area parcel is located, with the total density not to exceed the TDR density for that district. Any sending parcel(s) which retains a portion of the total allowable development rights shall retain a minimum of one acre of density.
- (E) **Administration.** The removal of density from a parcel within a designated sending area, and the transfer of density to a parcel(s) within a designated receiving area, shall be administered in accordance with the following:
- (1) The removal of development rights from a parcel within a sending zone (sending parcel) shall be accomplished through a conservation easement, of a form and content approved by the Development Review Board, to be recorded in the Warren Land Records. Such easement shall specify that the protected portions of the parcel are to be used only for open space, agriculture, forestry and outdoor recreation purposes, and may not be used in a manner that involves the placement of structures or sewage treatment facilities. In addition, the easement shall be accompanied by a recordable plat which clearly depicts:
    - (a) the boundaries of the sending area parcel; and
    - (b) the boundaries of the portion of the parcel to be restricted by the conservation easement; and
    - (c) the total, unallocated density available under current zoning regulations prior to the transfer, and shall specify the total reduction of density resulting from the transfer, in tabular format.
  - (2) The transfer of development rights to a parcel within a receiving zone (receiving parcel) shall be accomplished through a written agreement, approved by the Development Review Board concurrently with conditional use approval pursuant to Article 5 or Planned Residential Development or Planned Unit Development approval pursuant to Article 8. Said written agreement shall be of a form and content approved by the Board, and shall be recorded in the Warren Land Records. Such agreement shall specify the total density being transferred to the receiving area parcel and shall include a deed reference to the density reduction easement from which the TDR density originated.
  - (3) Upon the removal of development rights from a sending parcel, and prior to the transfer to a receiving parcel, development rights may be held in a "TDR Density Bank," to be administered by the Development Review Board. The TDR Density Bank will allow for the removal of development rights from a sending parcel(s) by private, nonprofit conservation organizations, the Town of Warren, or any other interested party, without the immediate transfer of TDR density to a receiving parcel(s). It will further permit the removal of TDR density from a single sending parcel and the incremental transfer of that TDR density to multiple receiving parcels over an extended

period of time. Such TDR Density Bank shall consist of an easement, approved by the Development Review Board and recorded in the Warren Land Records, which shall provide a current record of total development rights removed from sending parcels, together with a current record of TDR density transferred to one or more receiving parcels, and a current record of all unallocated TDR density still available for transfer to parcels within a designated receiving area. Concurrent with any transfer of TDR density, the TDR Density Bank shall be updated by the Development Review Board. Said update shall occur at a regularly scheduled meeting of the Development Review Board, shall require a positive vote of the Board, and shall involve revising the easement and recording the revised easement in the Warren Land Record.