

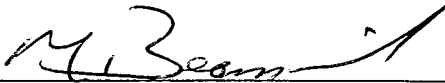
COMMUNITY OF WARREN GROVE

2003 ZONING & SUBDIVISION CONTROL BYLAWS

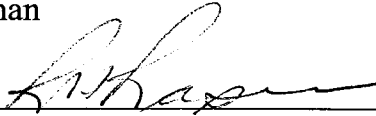
**Warren Grove Community Council
Warren Grove Planning Board**

BYLAWS OF THE COMMUNITY OF WARREN GROVE enacted pursuant to
Section 16 of the *Planning Act*, R.S.P.E.I. 1988, Cap. P-8.

READ A FIRST TIME THIS 20 DAY OF FEBRUARY, 2003

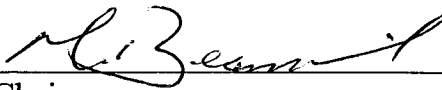


Chairman




Administrator

READ A SECOND TIME THIS 6 DAY OF MARCH, 2003



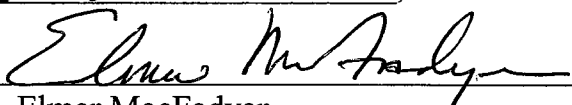
Chairman



Administrator

Pursuant to Section 16 of the *Planning Act*, I hereby give approval by the Bylaws attached hereto and initialled by my hand.

DATED THIS 15th DAY OF April, 2003



Hon. Elmer MacFadyen

Minister
PEI Department of Community & Cultural Affairs

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Table 1 - Parking Standards

Schedule A - Zoning Map

Schedule B - Major Developments

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Schedule D - Sections 16-19 of the *Planning Act R.S.P.E.I. 1988, Cap. P-8*

Schedule E - Section 28 of the *Planning Act R.S.P.E.I. 1988, Cap. P-8,*

Schedule F - Section 26, Part IV of the *Planning Act R.S.P.E.I. 1988, Cap. P-8*

**COMMUNITY OF WARREN GROVE
2003 ZONING AND SUBDIVISION CONTROL BYLAWS**

1.0 Introduction

The following Bylaws were prepared to regulate the use and subdivision of land, as well as the use and location of buildings and structures, in the Community of Warren Grove, in order to promote the public health, safety, aesthetics, and general welfare of its residents.

As a consequence, the lands within the Community of Warren Grove have been divided into zones pursuant to the provisions of the Province's *Planning Act R.S.P.E.I. 1988, Cap. P-8*, having due regard to:

- a) the promotion of the health, safety, convenience, and welfare of the public;
- b) the preservation of the natural environment;
- c) the value of land and the nature of its present and prospective uses;
- d) the promotion of sound environmental and agricultural practices; and
- e) the implementation of the Warren Grove Official Plan.

2.0 Definitions

2.1 These Bylaws shall be known and cited as the 2003 Community of Warren Grove Zoning and Subdivision Control Bylaws.

2.2 For the purpose of these Bylaws:

“accessory building” means a building on the same parcel of land as the main building, the use of which is clearly incidental to that of the main building.

“apartment” means a dwelling unit within a single family dwelling, duplex dwelling or other building which has, for purposes of habitation, its own kitchen and bathroom facilities separate from those of the main dwelling or building, and which is accessed by either a separate exterior entrance or an entrance leading from a common entryway.

“Community” means the Community of Warren Grove.

“Council” means the Community Council of the Community of Warren Grove.

“duplex dwelling” means a dwelling designed for occupancy by two separate family units, each with their own separate entryways, and bathroom and kitchen facilities.

“dwelling” or **“dwelling unit”** means a unit designed for occupancy by a family, with its own kitchen and bathroom facilities.

“family” means one or more individuals living together as a unit, and includes boarders and tourists who may be living with the family temporarily.

“farm” means arable land greater than ten (10) acres in size and complimentary buildings, operated as a farm enterprise by a bona fide farmer and includes land leased from the Crown and operated as part of a farm enterprise, but excludes land leased or rented from owners who are not bona fide farmers.

“farm enterprise” for the purposes of these regulations has the same meaning as set out in the *Real Property Assessment Act*, R.S.P.E.I. 1988, Cap. R-5.

“frontage” means all land abutting on one side of a street or road measured along the street or road line.

“intensive livestock building” means any building or structure used in conjunction with an intensive livestock operation for the housing of livestock or poultry.

“intensive livestock operation” means the rearing of livestock or poultry which may be confined in buildings, open sheds, yards, paddocks or by field grazing, the numbers of which, type of management system, minimum separation distance, etc., as recommended by the P.E.I. Department of Agriculture and Forestry's "Guidelines for Manure Management and Separation Distances" shall define intensive use for the purpose of evaluating the environmental impact of such an operation on the surrounding area.

“major development” means any development as defined under Schedule C to these Bylaws.

“mobile/mini home” means a transportable dwelling unit suitable for long-term occupancy, designed to be transported on its wheels and chassis, and, when located, fixed on a firmly grounded foundation;

(a) **“mobile/mini home court”** means a lot or parcel of land planned and developed for the placement of mobile/mini homes;

(b) **“mobile/mini home space”** means a space in a mobile/mini home court for the placement of a mobile/mini home.

“parking lot” means an open area of land other than a street or access driveway, or an area within a structure used for the parking of vehicles.

“parking space” means a space on a parking lot for the temporary parking or storage of a vehicle.

“personal service shop” means a shop in which personal services such as hair styling, tutoring, tailoring, shoe repairs, and small appliance repairs are performed.

“public open space” means land which may be used for recreational or other outdoor leisure activities by the general public.

“site plan” means a plan drawn to a suitable architectural scale showing details of existing and proposed features on a parcel of land which is the subject of an application for development.

“structure” means any construction fixed to, supported by or sunk in to land or water, and includes sewage lagoons, manure pits, underground storage tanks, and fences over six (6) feet in height, but excludes concrete or asphalt paving or similar surfacing, clothesline poles, flagpoles and utility poles, or structures 80 sq. ft. or less in floor area..

“subdivider” means the owner of a parcel of land which is being subdivided, or his authorized agent; **“subdivide”** shall have a corresponding meaning.

“subdivision” means a division of a parcel of land by means of a plan of subdivision, plan of survey, agreement, deed or any instrument, including a caveat, transferring or creating an estate or interest in part of the parcel.

“subdivision agreement” means a legal document describing a two-party agreement between a subdivider and the authority having jurisdiction, the subject of which pertains to actions to be taken in the subdividing of a parcel of land.

“survey plan” means an appropriately scaled drawing of survey details certified by a Prince Edward Island land surveyor.

“swimming pool” means any structure used for bathing or swimming purposes which is sunk into the ground, or is erected above the ground and surrounded by a deck, but shall not include inflatable pools or pools erected on a seasonal basis.

“tourist home” means a dwelling in which overnight accommodation is provided or offered for transient guests for compensation.

“utility building” means a building which houses stationary equipment for telephone, electric power, public water supply, or sewerage services.

“yard” means an open, uncovered, unoccupied space appurtenant to a building;

(a) **“flankage yard”** means, on a corner lot, that yard extending across the full width of the lot and fronting on a roadway which is not the roadway along which the front yard extends;

(b) "front yard" means a yard extending across the full width of the lot between the front lot line and the nearest main wall of the main building on the lot;

©) "rear yard" means a yard extending across the full width of the lot between the rear lot line and the nearest main wall of the main building on the lot; and

(d) "side yard" means a yard extending across the full width of the lot between a side lot line and the nearest main wall of the main building on the lot, exclusive of any chimney breast.

"zone" means an area of land designated under these Bylaws within which specific land uses are permitted and others restricted or prohibited.

3.0 Zones and Zoning Map

3.1 All lands within the boundaries of the Community of Warren Grove shall have the following zone designation under these Bylaws:

Zone	Symbol
Agricultural	A
Residential	R
Commercial	C
Public Service & Institutional	I
Recreation & Public Open Space	O

3.2 Schedule A to these Bylaws shall be a map showing the boundaries of each zone indicated in ss. 3.1. A large copy of this map shall be filed with the Administrator.

4.0 Interpretation

4.1 In these Bylaws, words used in the present tense include the future; words in the singular number include the plural; words in the plural include the singular number; the word "used" includes "arranged, designed or intended to be used"; and the word "shall" is mandatory and not permissive.

5.0 General Provisions for All Zones

5.1 For the purposes of these Bylaws:

- a) laying paving materials for patios or sidewalks;
- b) constructing fences of less than 4 feet / 1.2 m in height;
- c) installing clothe lines, poles, and radio or television antennae (except ground-based satellite dishes);

- d) making a garden;
- e) growing a crop or preparing land for a crop;
- f) cosmetic renovations to an existing building or structure; and
- g) making landscape improvements, constructing ornamental structures or play structures of less than 64 sq. ft. / 5.8 sq. m.,

shall not be interpreted as changing the use of land or structure, or constructing or replacing a structure, and shall not require a building permit from Council.

5.2 A vacant lot held in separate ownership from adjoining parcels of land on the effective date of these Bylaws, having less than the minimum lot size requirements set out in the Provincial regulations, may be used for a purpose permitted in the zone in which the lot is located, and a structure may be erected on the lot, provided that all other applicable provisions of these Bylaws are satisfied.

5.3(1) If a parcel of land in any zone is of such configuration that it cannot reasonably be subdivided in such a way as to provide the required minimum lot frontage on a street, Council may approve a reduced road frontage, provided that the lot width at the building line measures at least as much as the minimum lot frontage requirement.

(2) In any zone, lots designed with a reduced road frontage along a bend in a street or facing a cul-de-sac may be approved by Council, if, in the opinion of Council, adequate and safe access to the lot is provided, and if the lot width at the building line measures at least as much as the minimum lot frontage requirement.

5.4 Where a building has been erected on or before the effective date of these Bylaws on a lot having less than the minimum frontage or area, or having less than the minimum setback, side yard or rear yard requirement, the building may be enlarged, reconstructed, repaired or renovated provided that:

- a) the enlargement, reconstruction, repair or renovation does not further reduce the front, side, flankage or rear yard which does not conform to the requirement of these Bylaws.; and
- b) all other applicable provisions of these Bylaws are satisfied.

5.5 Except on lands used for residential purposes, the erection or placement of more than one structure or building on any parcel of land shall be permitted provided that all other applicable provisions of these Bylaws are satisfied.

5.6 Where an entranceway permit is required under the Province's Roads Act Highway Access Regulations, the issuance of said permit shall be a precondition of the approval of a building permit.

- 5.7 No person shall construct or use any access driveway except where that access driveway meets the minimum sight distance standards as established under the Province's Planning Act or the Province's Roads Act, set out in Schedule B to these Bylaws.
- 5.8 Council shall not issue a building permit for a development if, in the opinion of Council:
- a) the proposed development does not conform to the provisions of these Bylaws;
 - b) the method of water supply is not appropriate;
 - c) the method of sanitary waste disposal is not appropriate;
 - d) there is not a safe and efficient access to a street;
 - e) the impact of the proposed development would be detrimental to the natural environment of the Community;
 - f) the proposed development would create unsafe traffic conditions in the immediate neighbourhood;
 - g) the proposed development would significantly or permanently have a detrimental impact on neighbouring properties by reason of architectural disharmony; or
 - h) the proposed development would be detrimental to the convenience, health or safety of the residents in the immediate vicinity or general public.
- 5.9 Temporary construction camps and structures shall be permitted during construction, erection, placement or alteration of a building or structure, and up to a maximum of thirty (30) days after the completion of the building or structure, after which time, if they have not applied for and received an extension from Council, they shall be immediately removed.
- 5.10 All buildings or structures which provide access to the general public shall, as a condition of the granting of a building permit, be required to provide access by the physically challenged in conformity with the Province's Access Regulations.
- 5.11 (1) An accessory building shall be permitted on any lot in any zone, provided:
- a) it is clearly incidental in use to the main building on the lot;
 - b) it is not used for human habitation;
 - c) it is not located in the front or flankage yard of the lot;
 - d) it is not located less than 5 ft. from any lot line;
 - e) in any residential zone, does not exceed in height and total floor area, the height and total floor area of the main dwelling; and
 - f) is not located completely underground.
- 5.12 Any accessory building which is attached to a dwelling shall be considered as part of the dwelling.
- 5.13 Any off-street parking in conjunction with a residential, residential-commercial, commercial, public service and institutional, industrial or recreation development shall be provided in conformity with the standards set out in Table 1 of these Bylaws.

- 5.14 A parking space shall have a minimum size of ten (10) feet by twenty (20) feet, and shall have clear access to a maneuvering lane.
- 5.15 A utility building or structure may be established in the Community, but shall be considered a "major development" by Council, and shall be subject to the public review process as outlined in Schedule C of these Bylaws.
- 5.16 (1) Subject to the provisions of these Bylaws, a building or structure, or use of land, buildings or structures lawfully in existence on the effective date of these Bylaws shall be permitted to continue.
- (2) A building or structure shall be deemed to be lawfully in existence on the effective date of these Bylaws if:
- a) it was lawfully under construction; or
 - b) the permit for its construction was in force and effect, but this clause shall not apply unless the construction is commenced within 12 months after the date of the issuance of the permit, and is completed in conformity with the permit within 1 year.
- (3) No structural alterations that would increase the exterior dimensions, except as required by statute or bylaw, shall be made to a building or structure while a non-conforming use thereof is continued.
- (4) If a building or structure which does not conform to the provisions of these Bylaws is destroyed by fire or otherwise to an extent of 50% or more of the assessed value of the building or structure above its foundation, it shall only be rebuilt or repaired in conformity with the provisions of these Bylaws, except if the new construction or repair work would be detrimental, in Council's opinion, to the convenience, health or safety of residents in the vicinity or the general public.
- (5) Any change of tenants or occupants of any premises or building shall not, of itself, be deemed to affect the use of the premises or building for the purposes of these Bylaws.
- (6) A non-conforming use of land, buildings or structures shall not be permitted if it has been discontinued for a period of 12 consecutive months, and, in such event, the land, building or structure shall not thereafter be used for any use except in conformity with the provisions of these Bylaws.
- 5.17 An officer authorized by Council may, with reasonable prior notice, enter a building or a premise at a reasonable hour in the performance of duties with respect to the administration and enforcement of these Bylaws.
- 5.18 Notwithstanding anything contained in these Bylaws, no person shall erect any building or structure in the Community:
- a) within seventy-five (75) feet of the mean high watermark of any river, stream or watercourse located within or bordering on the legal boundaries of the Community; or
 - b) within seventy five (75) feet of any embankment, excluding highway embankments, the slope of which is greater than 30 degrees from horizontal.

5.19(1) All development along the Community's highways shall comply, respectively, with the following:

a) no person shall sever a lot unless:

ia) the existing parcel of land from which the lot is severed has a frontage a minimum of 150 feet, and

ib) the lot to be severed is in conformity with the requirements imposed by these Bylaws,

b) any parcel of land which is an existing parcel of land, a farm, or a lot created in conformity with the requirements imposed by these Bylaws shall be deemed to have an access driveway;

c) no person shall change the use of any access driveway to a more intensive use without the evaluation and approval of Council,

d) no person shall change the use of any access driveway except where the access driveway meets the minimum sight distance standards set out in Schedule B of these Bylaws;

(2) Where there is a discrepancy between the provisions of clause 5.19(1) of these Bylaws and those of the Province's Highway Access Regulations, the provisions of the latter shall prevail.

5.20 Underground petroleum storage tanks shall require a building permit from Council. A building permit for such a structure shall not be granted by Council until such time as it has received written authorization from the appropriate government department. However, the written authorization of the latter shall not, of itself, be conclusive of the granting of a building permit for the structure.

5.21 The installation of a swimming pool shall be permitted in any zone in accordance with the following provisions:

a) a building permit for the pool has been granted by Council;

b) a 6 ft. / 1.8 m. fence shall be constructed around the pool in such a manner so as to impede unauthorized persons from entering over or under said fence. Such fence shall be aesthetically presentable, and preference will be given to wood-type fences;

c) any gate on such a fence shall be capable of being locked;

d) water from the pool shall not be disposed of through the Community's sewage collection system, but shall be permitted to be disposed of onto the ground, provided:

i) the water does not enter a watercourse;

ii) the water has been de-chlorinated through the use of hydrogen peroxide, or allowed to

stand unused for a period of time, until the residual chlorine in the water has been reduced to a level consistent with the Community's utility bylaw; and

e) the owner shall agree that other initiatives regarding maintenance and safety which are reasonable and prudent shall be carried out either at the initiative of the owner or at Council's request.

6.0 Residential ®) Zone

6.1 Within any Residential ®) Zone, no person shall use any land, building or structure except for the following uses:

- single family dwellings;
- mobile homes (in conformity with s.6.5 of these Bylaws);
- duplex or semi-detached dwellings;
- recreation/public open space facilities;
- summer cottages;
- public utility buildings or structure;
- residential-commercial operations; or
- accessory buildings or structures to the above.

6.2 In any Residential ®) Zone, lots and structures shall conform with the following standards:

Lot area, single family, min.	1 acre
two family, min.	1 acre or as required by Provincial Standards
lot frontage, min.	150 feet
flankage yard depth, min.	20 feet
front yard depth, min.	20 feet
side yard depth, min.	10 feet
rear yard depth, min.	15 feet
maximum building height	2.5 storeys

6.3 Notwithstanding the minimum lot size requirements for single and two family dwellings set out in s.6.2, for infilling purposes in established residential subdivisions, and solely for single family residential use, a lot may be reduced to a minimum area of 25,000 sq. ft., provided that,

- (a) the subdivision is serviced by an on-site water supply system and connected to a central sewerage system;
- (b) only one additional lot from the existing parcel is created by any proposed subdivision; and
- ©) no practical alternative to reducing the lot area exists.

6.4 A residential-commercial operation may be located in a residential dwelling or an accessory building in any Residential ®) Zone, provided:

- a) the owner of the business lives in the dwelling;
- b) not more than two (2) employees live outside the dwelling;
- c) not more than twenty five percent (25%) of the total floor area of the dwelling is used for the business;
- d) adequate off-street parking is provided for both the dwelling and the business;
- e) no outdoor storage of materials or product display is used in conjunction with the business;
- and
- f) the external appearance of the dwelling is not altered.

6.5 Mobile homes shall be permitted in any area zoned for residential use.

7.0 Commercial ©) Zones

7.1 Within any Commercial ©) Zone, no person shall use any land, building or structure except for the following uses:

- uses permitted in a Residential ®) Zone (subject to the provisions of that zone);
- retail stores;
- business and professional offices;
- service and personal service shops;
- convenience stores;
- delicatessens, restaurants and takeout establishments;
- video rental stores;
- entertainment facilities;
- banking and financial institutions;
- lounges and bars;
- hotels, motels and other tourist establishments;
- establishments associated with the automotive trade, including service stations, but excepting automobile salvage yards; and
- accessory uses to the above.

7.2 In any Commercial ©) Zone, lots and structures shall conform with the following standards:

Lot area, min.	per Provincial Standards
Lot frontage, min.	100 feet
Flankage yard depth, min.	20 feet
Front yard depth, min.	20 feet
Side yard depth, min.	10 feet
Rear yard depth, min.	15 feet
Maximum building height	2.5 storeys

7.3 New commercial or residential-commercial operations, or existing commercial or residential-commercial operations wishing to expand, shall be deemed major development proposals, and shall be considered by Council in conformity with the public review process set out in Schedule B to these Bylaws.

7.4 Where a lot or parcel of land zoned as Commercial ©) is developed which directly abuts a lot or parcel of land in residential use:

a) a strip of land not less than 15 ft. / 4.5 m. in width along the lot line within the Commercial ©) Zone and adjacent to the residential zone shall be maintained clear of any structure, driveway or parking area, and shall be adequately landscaped to provide a visual buffer;

b) any exterior lighting or illuminated sign shall be so arranged as to deflect light away from the adjacent residential zone; and

c) outdoor storage shall be prohibited adjacent to a residential zone, unless it is hidden from view by means of a landscaped buffer, hedge of adequate size, or architectural screening, such as a wall, fence or other appropriate structure.

7.5 (1) Notwithstanding any other provision of these Bylaws, the following special provisions shall apply to an automobile service station in a Commercial ©) Zone:

Lot area, min.	per Provincial Standards
Lot frontage, min.	150 ft./45 m.
Pump setback, minimum	20 ft./ 6 m.
Minimum pump distance from access or egress points	30 ft./ 9 m.
Driveway width, minimum	25 ft./ 7.5 m.

(2) Where the service station includes an automobile washing facility, all washing operations shall be carried on inside the building.

8.0 Agricultural (A) Zone

8.1 Within any Agricultural (A) Zone, no person shall use any land, building or structure except for the following uses:

- those uses permitted in a Residential ®) zone (subject to the provisions of that zone);
- agricultural activities, including farm buildings and structures, and livestock operations;
- agricultural-related commercial operations;
- agricultural-related industrial operations;
- accessory buildings or structures to the above.

8.2 Excepting land used for commercial agricultural crops and livestock operations, all lots, buildings and structures shall conform with the following standards

Lot area, min.	1 acre
Lot frontage, min	150 feet
Lot width, min	150 feet
Front yard depth, min.	50 feet
Side yard depth, min.	15 feet
Rear yard depth, min.	25 feet
Flankage yard depth, min.	50 feet
Maximum building height,	2 ½ storeys

8.3 Lands and buildings or structures used for livestock operations shall conform to the following standards:

Lot area, min.	as per Provincial Standards and Guidelines
Lot width, min.	as per Provincial Standards and Guidelines
Front yard depth, min.	as per Provincial Standards and Guidelines
Side yard depth, min.	as per Provincial Standards and Guidelines
Rear yard depth, min.	as per Provincial Standards and Guidelines
Flankage yard depth, min.	as per Provincial Standards and Guidelines

8.4 New intensive livestock operations or existing livestock operations wishing to expand shall be deemed major development proposals, and shall be considered by Council in conformity with the public review process set out in Schedule B to these Bylaws, as well as with the standards set out in the PEI Department of Agriculture and Forestry's "Manure Management and Separation Guidelines".

8.5 Existing intensive operations wishing to expand, shall be deemed major development proposals, and shall be considered by Council in conformity with the public review process set out in Schedule B to these Bylaws.

8.6 No person shall build or place more than one residential building or mobile/mini home on any parcel of land approved for residential purposes in an Agricultural (A) Zone.

8.7 In any Agricultural (A) Zone, land which is no longer used for agricultural purposes may be converted to forestry use provided the conversion is undertaken through an established Forestry Management Program approved by the PEI Department of Agriculture and Forestry.

9.0 Public Service & Institutional (I) Zone

9.1 Within any Public Service & Institutional (I) Zone, no person shall use any land, building or structure except for the following uses:

- those uses permitted in a Residential ®) zone (subject to the provisions of such a zone);
- institutional buildings;
- group homes;
- galleries, libraries, museums and theatres;
- auditoriums and stadiums;
- churches and other religious institutions, including cemeteries;
- senior citizen care facilities and housing;
- schools and similar learning institutions, including colleges and universities;
- government buildings;
- hospitals and medical and dental clinics
- medical centres and pharmacies;
- civic centres;
- recreation and public open space uses; or
- accessory buildings and structures to the above.

9.2 In any Public Service & Institutional (I) Zone, lots and structures shall conform with the following standards:

Lot area, minimum	per Provincial Standards
Lot frontage, min.	75 feet
Flankage yard depth, min.	20 feet
Front yard depth, min.	20 feet
Side yard depth, min.	10 feet
Rear yard depth, min.	15 feet
Maximum building height	2.5 storeys

9.3 New public service and institutional developments or existing public service and institutional developments wishing to expand shall be deemed major development proposals, and shall be considered by Council in conformity with the public review process set out in Schedule B to these Bylaws.

9.4 Where a lot or parcel of land zoned as Public Service & Institutional (I) is developed which directly abuts a lot or parcel of land in residential use:

- a) a strip of land not less than 15 ft. / 4.5 m. in width along the lot line within the Public Service & Institutional (I) Zone and adjacent to the residential zone shall be maintained clear of any structure, driveway or parking area, and shall be adequately landscaped to provide a visual buffer;
- b) any exterior lighting or illuminated sign shall be so arranged as to deflect light away from the adjacent residential zone; and

c) outdoor storage shall be prohibited adjacent to a residential zone, unless it is hidden from view by means of a landscaped buffer, hedge of adequate size, or architectural screening, such as a wall, fence or other appropriate structure.

9.5 All new public service and institutional developments shall, wherever practical, be integrated, at no cost to the Community, into the Community's existing or planned pedestrian accesses, paved parking, and recreation and public open space network.

10.0 Recreation and Public Open Space (O) Zone

10.1 Within any Recreation and Public Open Space (O) Zone, no person shall use any land, building or structure except for the following uses:

- public and private parks;
- open space and conservation activities;
- nature trails;
- golf courses;
- recreational uses and directly related commercial services;
- pavilions and band shells;
- playgrounds;
- recreation administrative offices; and
- accessory buildings and structures to the above, including parking lots.

10.2 In any Recreation & Public Open Space (O) Zone, lots and structures shall conform with the following standards:

Lot area, min.	per Provincial Standards
Lot frontage, min.	75 feet
Flankage yard depth, min.	20 feet
Front yard depth, min.	20 feet
Side yard depth, min.	10 feet
Rear yard depth, min.	15 feet
Maximum building height	2.5 storeys

10.3 New recreation and public open space developments or existing recreation and public open space developments wishing to expand shall be deemed major development proposals, and shall be considered by Council in conformity with the public review process set out in Schedule B to these Bylaws.

10.4 Where a lot or parcel of land zoned as Recreation and Public Open Space (O) is developed which directly abuts a lot or parcel of land in residential use:

a) a strip of land not less than 15 ft. / 4.5 m. in width along the lot line within the Recreation and Public Open Space (O) Zone and adjacent to the residential zone shall be maintained clear of any

- structure, driveway or parking area, and shall be adequately landscaped to provide a visual buffer;
- b) any exterior lighting or illuminated sign shall be so arranged as to deflect light away from the adjacent residential zone; and
 - c) outdoor storage shall be prohibited adjacent to a residential zone, unless it is hidden from view by means of a landscaped buffer, hedge of adequate size, or architectural screening, such as a wall, fence or other appropriate structure.

11.0 Building Permits

11.1 Within the Community, no person shall:

- a) construct, erect, demolish, change the exterior dimensions of, or construct an apartment within, any building or structure;
- b) change the use of any land or existing building or structure, or expand the existing use of a building or structure to the extent that it will require the provision of new or expanded services by the Community, or
- c) move within or into the Community any building or structure,

without applying for and receiving a building permit from the Administrator prior to commencing any construction, erection, demolition, movement, change of use or site excavation.

11.2 Any person wishing to construct, erect, place, make any alterations to, or change the use of a building or structure on any lot within the Community which will require an on-site sewage disposal system shall, prior to receiving a building permit from Council, first apply for and receive an on-site sewage disposal system permit from the Building and Development Section, PEI Department of Community and Cultural Affairs.

11.3 Any person establishing a new access to the Community's transportation network shall first receive a highway access permit from the PEI Department of Transportation and Public Works prior to receiving a building permit from Council.

11.4 All applications for building permits shall be made in writing by the owner of the property or an authorized agent on such forms as Council may prescribe, and shall be submitted to the Administrator.

11.5 The Administrator shall notify the applicant, in writing, if the application is incomplete or lacking in plan details, and shall indicate any additional information or documentation required.

11.6 Upon being satisfied that the proposed construction, erection, placement, alteration, or change in use is in conformity with all relevant provisions of these Bylaws and any other relevant bylaws in the Community, the Administrator shall issue a building permit upon receipt of a building permit fee of \$100.00. The fee for accessory buildings shall be \$25.00.

- 11.7 Where an application is not entirely clear in its intent, or where an application does not appear to conform with the provisions of these Bylaws or any other bylaws which may be in force, the Administrator shall submit the application to Council for its interpretation and instruction.
- 11.8 Council may attach such conditions to a building permit as, in its opinion, are necessary to ensure conformity with the provisions of these Bylaws, any other bylaw in force within the Community, or any policy contained with the Community's official plan.
- 11.9 A building permit shall be valid for one (1) year from the date of issue, after which time the permit holder shall apply for and receive a renewal (at no additional cost) of the permit before continuing any development.
- 11.10 Where Council is presented with an application which does not conform to the provisions of these Bylaws, Council shall determine whether to grant a minor variance.
- 11.11 Council may grant a minor variance of up to 10% of the relevant provision provided the general intent of these Bylaws will be upheld, and there are compelling reasons why the requirements of the Bylaws cannot be precisely met.
- 11.12 Upon being satisfied that an application does not conform with the provisions of these Bylaws or any other relevant bylaw in force within the Community, and that a minor variance cannot be granted, Council shall instruct the Administrator to notify the applicant, in writing, that the building permit, is denied, based on Council's stated reasons.
- 11.13 Any additional costs incurred by the Community with respect to the building permit applications (clerical, legal, or other) shall be reimbursed to the Community by the applicant prior to the issuance of a building permit by the Administrator. No additional costs will be charged to the applicant after the permit has been issued.
- 11.14 Notwithstanding subsection 11.6, Council may, for good and sufficient reason, revoke or cancel a building permit within twelve (12) months of date of issue if:
- a) construction has not commenced;
 - b) construction has commenced on a location or in a manner contrary to the provisions of these Bylaws or as indicated on the building permit application; or
 - c) any permit required under any other provision of law has not been obtained.

12.0 General Provisions for Subdivision

- 12.1 No person shall subdivide land within the boundaries of the Community unless the subdivision:
- a) conforms with the provisions of these Bylaws or of any other relevant bylaw or law in force within the Community;

- b) is suitable to the topography, physical conditions, soil characteristics, and natural surface drainage of the land;
- c) will not cause undue flooding or erosion;
- d) has safe and convenient street access;
- e) has adequate utilities and services available, or can be conveniently provided with such utilities and services;
- f) will reasonably conform with existing land uses in the immediate vicinity;
- g) will provide for convenient traffic flow;
- h) is designed so that lots will have suitable dimensions, shapes, orientation, and accessibility;
- I) is suitable to the use for which it is intended, and the future use of adjacent lands;
- j) unless the parcel of land in respect of which the permit is issued has frontage on a public road;
- k) would not be detrimental to the convenience, health or safety of residents in the vicinity or the general public;
- l) would not precipitate premature development, cause unnecessary public expenditure, or place undue pressures on the Community to provide services; or
- m) would not result in undue damage to the natural environment.

- 12.2 No person shall sell or convey interest in any lot before Council has granted final approval for the subdivision in which the lot is situated.
- 12.3 Council shall evaluate any proposed subdivision to determine whether appropriate street design standards and lot configurations have been used to promote the development of safe, convenient, and pleasant neighbourhoods.
- 12.4 Anyone proposing to subdivide land within the Community which will not be connected to the Community's centralized sewage collection system shall provide Council with a copy of a soil test conducted on the land being subdivided, indicating that the land in question is suitable for an on-site sewage disposal system.
- 12.5 Council may refuse to approve a subdivision which it has determined is unsuitable under the provisions of these Bylaws.
- 12.6 In formulating its decision with respect to s.12.5, Council may consult with Provincial government officials, and may conduct a public hearing to consider public opinion respecting the proposed subdivision. If Council deems it necessary, they may request the developer to submit an independent private consultant's report respecting the proposed subdivision.
- 12.7 Council may negotiate and enter into a subdivision agreement with a subdivider as a condition of approval of a subdivision.

12.8 The subdivision agreement may cover any or all matters relating to the:

- a) design and construction costs of sidewalks, water supply, sewerage, and street lighting;
- b) integration of the subdivision and proposed development with the Community's existing pedestrian access, paved parking and recreation and public open space network;
- c) dedication of land for public recreation purposes, or payment of a fee in lieu of land;
- d) deeding of roads to the PEI Department of Transportation and Public Works; and
- e) posting of a financial guarantee satisfactory to Council.

12.9 Any person who creates a multiple lot subdivision within the Community shall dedicate and deed to the Community, free from all encumbrances and agreed upon by the subdivider and Council, ten (10) percent of the total area of the subdivision for recreation and public open space purposes. Council shall have the power to choose what land, if any, within the subdivision shall be deeded.

12.10 Where no dedication of land is deemed appropriate by Council with respect to s. 12.9, Council shall require a cash payment of ten (10) percent of the assessed value of the subdivision as a whole at the time of final approval, the sum of which shall be specifically designated for the purchase and/or maintenance of recreation and public open space land or facilities within the Community.

12.11 Anyone severing a single lot from a land parcel within the Community for residential purposes shall pay to Council, at the time of final approval, a fee of \$100.00, the sum of which shall be specifically designated for the purchase and/or maintenance of recreation and public open space land or facilities within the Community.

13.0 Subdivision Permits

13.1 All subdivision of land within the Community, whether one lot or more, shall require a subdivision permit from the Administrator.

13.2 Any person applying for a subdivision permit shall do so on a form prescribed by Council, and shall submit the application to the Administrator.

13.3 Every application form shall be signed by the applicant or by the applicant's authorized agent.

13.4 Subdivision applications submitted to the Administrator, shall be accompanied by four (4) copies of a properly scaled drawing showing the proposed subdivision with estimated dimensions of lots, location of structures and any significant natural or man-made features, and all streets and services, both existing and proposed.

- 13.5 The Administrator shall notify the applicant, in writing, if the subdivision application is incomplete or lacking in plan details, and shall indicate any additional information or documentation required.
- 13.6 The Administrator shall submit the completed subdivision application to Council for its review and instruction in time for the first scheduled Council meeting immediately following the date of receipt of the completed application for approval in principle.
- 13.7 The Administrator, on behalf of the Council, shall, within 10 working days of the date of Council's decision respecting the subdivision, advise the applicant in writing that the subdivision has been approved in principle, approved in principle with certain specific conditions, or that the subdivision cannot be approved in principle, and shall state the reasons for Council's decision.
- 13.8(1) Any approval in principle which is given by Council shall be effective for a period not exceeding twelve (12) months from the date on which notice of approval-in-principle is given to the applicant in writing by the Administrator.
- (2) After the twelve month period referred to in ss.(1), if the applicant has not applied for final approval from Council, the approval-in-principle shall be rescinded.
- (3) Once the approval-in-principle has been rescinded, if the applicant wishes to apply for a new approval-in-principle, the new, proposed subdivision must conform with all applicable provisions of these Bylaws or any approved amendments thereto.
- 13.9 Anyone seeking final approval of a subdivision plan from Council shall submit to the Administrator five (5) copies of a survey plan certified by a Prince Edward Island land surveyor. Subdivision of parcels of land for agricultural purposes greater than ten (10) acres in size shall not be required to submit certified survey plans for final approval.
- 13.10 The Administrator shall submit the application for final approval to Council for its review and instruction in time for the first scheduled Council meeting immediately following the date of receipt of the completed application for final approval.
- 13.11 The Administrator, on behalf of the Council, shall, within 10 working days of the date of Council's decision respecting the application for final approval, advise the applicant in writing that final approval has been granted or denied, and shall, in the latter case, state the reasons for Council's decision.
- 13.12 Final approval of a subdivision shall not be given by Council until:
- a) all agreements and other pertinent documents have been prepared and concluded to the satisfaction of Council;

- b) all transactions involving the transfer of money or land in conjunction with the subdivision have been made to the satisfaction of Council; and
- c) except for the subdivision of parcels of land greater than ten (10) acres in size for agricultural purposes, the subdivision has been surveyed and the survey plan has been certified by a Prince Edward Island land surveyor.

13.13(1) The Administrator shall, upon final approval being granted by Council, issue a subdivision permit to the applicant upon receipt of a subdivision permit fee of \$100.00 per lot..

(2) The fee referred to in (1) does not apply to a subdivision of land the sole purpose of which is the consolidation of two adjacent properties.

13.14 Council shall place its seal on all copies of the approved subdivision plan.

13.15 The Administrator shall retain one (1) copy of the approved subdivision plan for the Community's records, return one (1) copy to the applicant, return one (1) copy to the surveyor, and file the remaining copies with:

- a) the Registrar of Deeds;
- b) the Planning and development section, PEI Department of Community & Cultural Affairs.

14.0 Bylaw Amendments

14.1 Any person desiring an amendment to the provisions of these Bylaws shall apply to the Council in writing describing in detail the reasons for the desired amendment and requesting the Council to consider the proposed amendment.

14.2 Council shall determine whether or not to pursue such an amendment, and before making any decision shall examine the Community of Warren Grove 2003 Official Plan to ensure that the proposed amendment will not be contrary to any stated policy within the Plan.

14.3 No amendment shall be made to these Bylaws except in accordance with the requirements of Part III, Sections 16 - 19 of the *Planning Act R.S.P.E.I. 1988, Cap. P-8*, attached as Schedule D to the Bylaws.

15.0 Appeals and Enforcement

15.1 Any person who is dissatisfied by a decision of Council in respect of the administration of these Bylaws or any other bylaw in force within the Community, may, within twenty-one (21) days of the relevant Council decision, appeal to the Island Regulatory & Appeals Commission, as set out in Section 28 of the *Planning Act R.S.P.E.I. 1988, Cap. P-8*, attached as Schedule E to these Bylaws.

15.2 Pursuant to Section 26, Part IV of the *Planning Act R.S.P.E.I. 1988, Cap. P-8*, attached as Schedule F to these Bylaws, any person who violates any provision of these Bylaws is guilty of an offence, and liable to summary conviction and penalty.

Appendices

Tables:

Table 1 - Parking Standards

Schedules:

Schedule A - Community of Warren Grove: Zoning Map

Schedule B - Community of Warren Grove: Major Developments

Schedule C - Sight Distance Standards for Access Driveways

Schedule D - Planning Act, Part III, Sections 16 - 19






Schedule E - Planning Act, Part V, Section 28

Schedule F - Planning Act, Part IV, Section 26

SCHEDULE A

Zoning Map

SCHEDULE A
ZONING MAP

-  R - RESIDENTIAL
-  A - AGRICULTURE
-  C - COMMERCIAL
-  I - PUBLIC SERVICE & INSTITUTIONAL
-  O - RECREATION & PUBLIC OPEN SPACE



SCALE: 1"=500'

SCHEDULE B
Community of Warren Grove
Major Developments

1. The following words and expressions when used in the following sections shall have the meanings prescribed:

- (a) "space" in reference to provision of new or additional space, means the actual floor space provided on each of one or more levels, measured from the outside walls of the building;
- (b) "agricultural-related commercial use" means the use of a building, structure or parcel of land for the sale, including storage and display, of goods and supplies which service and support the traditional agricultural activities of the Community;
- (c) "agricultural-related industrial use" means the use of a building, structure or parcel of land for the storage, warehousing, distribution or processing of wholesale agricultural products, goods or materials;
- (d) "commercial use" means the use of a building, structure or parcel of land for the for the public or private sale of goods, wares, products or personal services;
- (e) "public service and institutional use" means the use of a building, structure or parcel of land for the social and/or cultural use of the general public or a specific section of the general public, and shall include, but not be limited to, senior citizen housing, nursing homes, hospitals, clinics, religious institutions, churches, public and private schools, colleges, cultural centres, libraries;
- (f) "recreation and public open space use" means any building, structure or parcel of land used for the passive or active recreational use of the general public or a specific section of the general public, and shall include, but not be limited to, parks, playgrounds, athletic or sports fields, nature trails, or open space areas whether man-made or natural; and
- (g) "utility building or structure" means a building or structure which houses or supports stationary equipment for telephone, electric power, public water supply, or sewerage services.

2. Where Council has determined that a proposed development constitutes a "major development", and that a public review of the development proposal is required, the following provisions shall apply:

- (a) Council shall appoint a council member to chair the meeting;
- (b) the meeting shall be advertised at least twice in a newspaper, the cost of which shall be borne by the developer, circulating in the area, stating the date, time, location and purpose of the proposed meeting;
- (c) the first advertisement shall be placed not less than seven (7) clear days prior to the date of the meeting;
- (d) written opinion shall be solicited from persons unable to appear at the public meeting;
- (e) all interested persons may attend and be heard;
- (f) the Administrator, on Council's behalf, shall give separate notice in writing to the developer;

- (g) the meeting shall be held at a location in the Community; if this is not practical, a meeting hall shall be rented for purposes of holding the public meeting, the cost of which rental shall be borne by the developer;
- (h) the developer shall make visual materials available for examination at the municipal office;
- (i) the developer or his agent shall attend the meeting in order to present and defend the proposed development.

3. The agenda for the public meeting shall include the following:

- (a) introduction and opening remarks by the chairman;
- (b) presentation of the proposed development by the developer or his agent;
- (c) question period:
 - (i) questions on the proposed development shall be handled by the developer;
 - (ii) questions on procedure or municipal policy shall be handled by the chairman;
- (d) comments and opinions by interested persons wishing to be heard;
- (e) summary by the chairman of previously submitted written comments from persons unable to attend the meeting.

SCHEDULE C

Sight Distance Standards for Access Driveways

Access driveways to be used or established on arterial highways, collector highways, local highways and unpaved roads shall have a minimum sight distance to be measured by the following calculations:

ARTERIAL HIGHWAYS (Farm Access Exempt)

A vehicle operator approaching an access driveway with eye level 3.5 ft. (1.05 metres) above grade shall be able to see any object larger than 16 inches (0.4 metres) in height at a driveway for a minimum distance of 561 ft. (170 metres). A farm access driveway shall be exempt from this requirement.

561 feet (170 metres) - minimum
693 feet (210 metres) - desirable

COLLECTOR HIGHWAYS, LOCAL HIGHWAYS AND UNPAVED ROADS (Farm Access Exempt)

A vehicle operator approaching an access driveway with eye level 3.5 ft. (1.05 metres) above grade shall be able to see any object larger than 16 inches (0.4 metres) in height at the driveway for a minimum distance of 462 ft. (140 metres). A farm access driveway shall be exempt from this requirement.

462 feet (140 metres) - minimum
495 feet (150 metres) - desirable

SCHEDULE D

Planning Act Part III, Sections 16 - 19

MUNICIPAL PLANNING BYLAWS

16. A council may make bylaws implementing an official plan for the municipality. 1988,c.4,s.16. Municipal
planning bylaws
17. The bylaws shall be subject to the approval of the Minister and shall be effective on the date of approval by the Minister. 1988,c.4,s.17. Approval of
Minister
18. (1) Before making any bylaw the council shall Notice of meeting
- (a) give an opportunity to residents and other interested persons to make representations; and
 - (b) at least seven clear days prior to the meeting, publish a notice in a newspaper circulating in the area indicating in general terms the nature of the proposed bylaw and the date, time and place of the council meeting at which it will be considered.
- (2) Where a bylaw amendment requires an amendment to the official plan pursuant to subsection 15(2), the council may consider the official plan amendment concurrently with the bylaw and shall Bylaw amendment
requiring official
plan amendment
- (a) indicate in general terms, in the notice published under clause (1)(b), the nature of the proposed plan amendment; and
 - (b) give the planning board an opportunity to comment on the plan amendment prior to adoption of the amendment. 1988,c.4,s.18.
19. A bylaw shall be made in accordance with the following procedure: Procedure
- (a) it is read and formally approved by a majority of councillors on two occasions at meetings of the council held on different days;
 - (b) after it is read a second time, it is formally adopted by resolution of the council;
 - (c) it is signed by the mayor or chairman, the administrator and the Minister and formally declared to be passed, and sealed with the corporate seal of the municipality;
 - (d) the minutes of the meeting record the name of the bylaw and the fact that it is passed; and
 - (e) a copy of the bylaw bearing the signature of the mayor or chairman, the administrator and the Minister is entered into the register of bylaws retained by the administrator. 1988.c.4,s.19.

SCHEDULE E

Planning Act Part V, Section 28

28. (1) Subject to subsections (2), (3) and (4), any person who is dissatisfied by a decision of a council or the Minister in respect of the administration of regulations or bylaws made pursuant to the powers conferred by this Act may, within twenty-one days of the decision appeal to the Commission.

Right of appeal to
Commission

(2) Where the Lieutenant Governor in Council has by order declared that

Elimination of
appeal when
development
approved under
*Environmental
Protection Act*

(a) a development for which approval is required under the *Environmental Protection Act* has met all the requirements of that Act and written approval has been given; and

(b) the right of appeal to the Commission in respect of that development should be curtailed,

subsection (1) has no application and there is no right of appeal to the Commission in respect of a decision on that development.

(3) Where a declaration has been made under subsection (2), the Lieutenant Governor in Council shall submit to the next session of the Legislative Assembly a statement of the reasons for making the declaration.

Reasons to be
tabled

(4) No appeal lies from a decision of the council or the Minister, as the case may be, respecting the final approval of a subdivision where the matters that are the subject of the proposed appeal could have been heard and decided at the stage of preliminary approval.

Exception,
subdivision
approval

(5) A notice of appeal to the Commission under subsection (1) shall be in writing and shall state the grounds for the appeal and the relief sought.

Notice

Service upon
council or Minister

(6) The appellant shall, within seven days of filing an appeal with the Commission, serve a copy of the notice of appeal on the council or the Minister, as the case may be.

Procedure

(7) Subject to adherence to the rules of natural justice, the Commission shall determine its own procedure.

Order

(8) The Commission shall hear and decide appeals and shall issue an order giving effect to its disposition.

Reasons

(9) The Commission shall give reasons for its decision.

Implementation

(10) The council or the Minister, as the case may be, shall implement an order made by the Commission.

Action by
Commission

(11) Where the council or the Minister, as the case may be, fails to implement an order made under subsection (8), the Commission, on its own initiative or the initiative of an interested person, may act in the name of the council or the Minister to implement the order.

SCHEDULE F

Planning Act Part IV, Section 26

26. (1) Every person who contravenes any provision of this Act or any bylaw or regulation made under this Act is guilty of an offence and liable on summary conviction
- Offence and
penalty
- (a) on a first conviction, to a fine not exceeding \$2,000;
- (b) on a subsequent conviction, to a fine of not more than \$400 for each day upon which the contravention has continued after the day on which he was first convicted.
- (2) Any prosecution for an offence under subsection (1) may be instituted within one year after the time when the contravention occurred.
- Limitation period
- 1988,c.4,s.26; 1994,c.46,s.5 *(eff.)* July 14/94.