

EXPLANATION: This Ordinance amends Chapter 15 entitled "Land Use Procedure" of *The Revised General Ordinances of the Township of Warren* by amending Section 15-2.3(e)(4) and 15:2-3(e)(5) entitled "Provisions Applicable to Both the Planning Board and Zoning Board of Adjustment."

**TOWNSHIP OF WARREN
ORDINANCE NO. 17-22**

AN ORDINANCE SUPPLEMENTING AND AMENDING CHAPTER XV ENTITLED "LAND USE PROCEDURE" OF THE REVISED GENERAL ORDINANCES OF THE TOWNSHIP OF WARREN TO AMEND SECTION 15-2.3 ENTITLED "PROVISIONS APPLICABLE TO BOTH THE PLANNING BOARD AND ZONING BOARD OF ADJUSTMENT.

WHEREAS, in N.J.S.A. 40:55D-12(c) requires that an administrative officer of the municipality, make and certify a list of owners of certain real property to whom an applicant before the Zoning Board of Adjustment or Planning Board is required to give notice; and

WHEREAS, the Land Use Coordinator of the Township of Warren ("Land Use Coordinator") acts as administrative officer to the Planning Board and Zoning Board of Adjustment;

WHEREAS, it would be a logical extension of the Land Use Coordinator's duties to include the requirements of N.J.S.A. 40:55D-12(c).

NOW, THEREFORE, BE IT ORDAINED by the Township Committee of the Township of Warren, in the County of Somerset and State of New Jersey, as follows:

1. Chapter 15 entitled "Land Use Procedure" of *The Revised General Ordinances of the Township of Warren*, as heretofore supplemented and amended, is hereby supplemented and amended by the following amendments to Section 2-3e(4) and 2-3e(5):

15-2.3 Provisions Applicable to Both the Planning Board and the Zoning Board of Adjustment.

a. *Conflicts of Interest.* No member of the Planning Board or Zoning Board of Adjustment shall act on any matter in which he or she has either directly or indirectly any personal or financial interest. Whenever any such member shall disqualify himself from acting on particular matter, he or she shall not continue to sit with the board on the hearing of such matter nor participate in any discussion or decision relating thereto.

b. *Meetings.*

1. *Scheduled Meetings.* Meetings of both the Planning Board and Zoning Board of Adjustment shall be scheduled no less than once a month, and any meeting so scheduled shall be held as scheduled unless canceled for lack of applications for development to process.

2. *Special Meetings.* Special meetings may be provided for at the call of the Chairman or on the re-request of any two (2) Board members, which shall be held on notice to its members and the public in accordance with all applicable legal requirements.

3. *Quorum Required.* No action other than adjournment to a future date shall be taken at any meeting without a quorum being present.

4. *Majority Vote of Quorum.* All actions shall be taken by majority vote of a quorum except as otherwise required or permitted by any provision of N.J.S.A. 40:55D-1 et seq.

5. *Meetings Open to the Public.* All regular meetings and all special meetings shall be open to the public. Notice of all such meetings shall be given in accordance with the requirements of the Open Public Meetings Law, N.J.S.A. 10:4-1 et seq. An executive session for the purpose of discussing and studying any matters to come before either board shall not be deemed a regular or special meeting in accordance with the provisions of N.J.S.A. 40:55D-9.

c. *Minutes.* Minutes of every regular or special meeting shall be kept and shall include the names of the persons appearing and addressing the Board and of the persons appearing by attorney, the action taken by the Board, the findings, if any, made by it and reasons therefor. The minutes shall thereafter be made available for public inspection during normal business hours at the office of the Township Clerk. Any interested party shall have the right to compel production of the minutes for use as evidence in any legal proceeding concerning the subject matter of such minutes. Such interested party shall be charged the standard Township fee for reproduction of the minutes for his use as provided for in the rules of the Board.

d. *Hearings.*

1. *Rules.* The Planning Board and Zoning Board of Adjustment may make rules governing the conduct of hearings before such bodies which rules shall not be inconsistent with the provisions of N.J.S.A. 40:55D-1 et seq., or this chapter.

2. *Oaths; Subpoenas for Witnesses.* The officer presiding at the hearing or such persons as he may designate shall have power to administer oaths and issue subpoenas to compel the attendance of witnesses and the production of relevant evidence, including witnesses and documents presented by the parties, and the provisions of the County and Municipal Investigations Law P.L. 1953, c.38, R.S. 2A:67A-1, et seq., shall apply.

3. *Testimony.* The testimony of all witnesses relating to an application for development shall be taken under oath or affirmation by the presiding officer and the right of cross examination shall be permitted to all interested parties through their attorneys, if represented, or directly, if not represented, subject to the discretion of the presiding officer and to reasonable limitations as to time and number of witnesses.

4. *Evidence.* Technical rules of evidence shall not be applicable to the hearing, but the Board may exclude irrelevant, immaterial or unduly repetitious evidence.

5. *Records.* Each Board shall provide for the verbatim recording of the proceedings by either stenographer, mechanical or electronic means. The Board shall furnish a transcript or duplicate recording in lieu thereof on request to any interested party at his expense.

e. *Notice Requirements for Hearings.* Whenever a hearing (which includes, not by way of limitation, a hearing before the Zoning Board of Adjustment pursuant to N.J.S.A. 40:55D-70a or 40:55D-70b is held before the Zoning Board of Adjustment or the Planning Board pursuant to N.J.S.A. 40:55D-1 et seq., the applicant shall give notice thereof as follows and for each class of application set forth below: (a) any request for a variance; (b) any request for the issuance of a permit to build within the bed of a mapped street or public drainage way or on a lot not abutting a street; (c) any request for site plan approval but not including minor site plan as defined herein; (d) any request for preliminary subdivision approval; (e) any request for a variation for the Flood Hazard and/or Water Course Protection regulations set forth in Section 15-10 of this chapter.

1. *Public Notice.* Public notice shall be given by publication in the official newspaper of the Township at least ten (10) days prior to the date of the hearing.

2. *Notice to Property Owners.* Notice shall be given to the owners of all real property as shown on the current tax duplicate located within two hundred (200) feet in all directions of the property which is the subject of such hearing and whether located within or without the Township in which the applicant's land is located. Such notice shall be given by serving a copy thereof on the owner, as shown on the current tax duplicate or his agent in charge of the property, or mailing a copy thereof by certified mail to the property owner at his address as shown on the current tax duplicate. A return receipt is not required. This requirement shall be deemed satisfied by notice to the (1) condominium association, in the case of any unit owner whose unit has a unit above or below it, or (2) horizontal property regime, in the case of any co-owner whose apartment has an apartment above or below it. Notice shall be given by: (1) serving a copy thereof on the property owner as shown on the said current tax duplicate, or his agent in charge of the property, or (2) mailing a copy thereof by certified mail to the property owner at his address as shown on the said current tax duplicate.

Notice to a partnership owner may be made by service upon any partner. Notice to a corporate owner may be made by service upon its president, a vice-president, secretary or other person authorized by appointment or by law to accept service on behalf of the corporation. Notice to a condominium association, horizontal property regime, community trust or homeowners' association, because of its ownership of common elements or area located within two hundred (200) feet of the property which is the subject of the hearing, may be made in the same manner as to a corporation without further notice to unit owners, co-owners, or homeowners on account of such common elements or areas.

3. *Notice to Public Utilities, Cable Television Companies and Local Utilities.* Notice of hearings on applications for approval of a major subdivision or a site plan not defined as a minor site plan under this chapter requiring public notice hereunder shall be given, in the case of a public utility, cable television company, or local utility which possesses a right-of-way or easement within the Township and which has registered with the Township in accordance with paragraph e, 4. below, by (i) serving a copy of the notice on the person whose name appears on the registration form on behalf of the public utility, cable television company, or local utility, or (ii) mailing a copy thereof by certified mail to the person whose name appears on the registration form at the address shown on that form.

4. *Registration.* Every public utility, cable television company, and local utility interested in receiving notice pursuant to paragraph e, 3. above may register with the Land Use Coordinator [Township] in the event the public utility, cable television company, or local utility has a right-of-way or easement within the Township. The registration shall remain in effect until revoked by the public utility, cable television company, or local utility or by its successor in interest.

The Township Clerk shall adopt a registration form and shall maintain a record of all public utilities, cable television companies, and local utilities which have registered [with the Township] pursuant to paragraph e, 5. below. The registration form shall include the name of the public utility, cable television company, or local utility and the name, address, and position of the person to whom notice shall be forwarded, as required pursuant to paragraph e, 3. above. The information contained therein shall be made available to any applicant, as provided in paragraph e, 5. below.

The Township requires the payment of a registration fee of ten (\$10.00) dollars from any public utility, cable television company, or local utility which registers to receive notice as set forth herein.

By no later than March 17, 1992, the Township Clerk shall notify the corporate secretary of every local utility that, in order to receive notice by an applicant pursuant to paragraph e, 3. above, the utility shall register with the Township in the event the utility has a right-of-way or easement within the Township.

Failure to give notice as required in paragraph e, 3. above shall not invalidate any hearing or proceeding held or to be held, or any preliminary or final approval granted or to be granted from August 7, 1991, until April 1, 1992.

5. Upon the written request of an applicant, the Land Use Coordinator [Tax Collector] shall, within seven (7) days, make and certify a list from said current tax duplicated of names and addresses of owners to whom the applicant is required to give notice pursuant to paragraph b. of this subsection. In addition, the Land Use Coordinator [Tax Collector] shall include on the list the names, addresses and position of those persons who, not less than seven (7) days prior to the date in which the applicant requested the list, have registered to receive notice pursuant to paragraph e, 4. above. The applicant shall be entitled to rely upon the information contained in such list, and failure to give notice to any owner or to any public utility, cable television company or local utility not on the list shall not invalidate any hearing or proceeding. A sum [not to exceed twenty-five (\$0.25) cents per name, or] of ten (\$10.00) dollars[, whichever is greater, may] shall be charged for such list.

6. Notice of hearings on applications for development involving property located within two hundred (200) feet of an adjoining municipality shall be given by personal service or certified mail to the Clerk of such municipality.

7. Notice shall be given by personal service or certified mail to the County Planning Board of a hearing on an application for development of property adjacent to an existing County road or proposed road shown on the Official County Map or on the County Master Plan, adjoining other County land or situated within two hundred (200) feet of a municipal boundary.

8. Notice shall be given by personal service or certified mail to the Commissioner of Transportation of a hearing on an application for development of property adjacent to a State highway.

9. Notice shall be given by personal service or certified mail to the State Planning Commission of a hearing on an application for development of property which exceeds one hundred fifty (150) acres or five hundred (500) dwelling units. The notice shall include a copy of any maps or documents required to be on file with the Township Clerk.

10. The applicant shall file an affidavit of proof of service with the municipal agency holding the hearing on the application for development in the event that the applicant is required to give notice pursuant to this subsection.

f. *Decisions.*

1. *Board Resolution.* Each decision on any application for development shall be set forth in writing as a resolution of the Board which shall include findings of fact and legal conclusions based thereon.

2. *Copies of Decision.* A copy of the decision shall be mailed by the Board within ten (10) days of the date of decision to the applicant, or if represented, then to his attorney, without separate charge. A copy of the decision shall also be mailed to all persons who have requested it and who have paid the fee prescribed by the Board for such service. A copy of the decision shall also be filed in the office of the Township Clerk, who shall make a copy of such filed decision available to any interested party upon payment of a fee calculated in the same manner as those established for copies of other public documents in the Township.

g. *Publication of Decision.* A brief notice of every final decision shall be published in the official newspaper of the Township. Such publication shall be arranged by the Secretary of the Planning Board or Zoning Board of Adjustment, as the case may be, without separate charge to the applicant. Such notice shall be sent to the official newspaper for publication within ten (10) days of the date of any such decision.

h. *Payment of Taxes.* Pursuant to the provisions of N.J.S.A. 40:55D-39, every application for development submitted to the Planning Board or to the Zoning Board of Adjustment shall be accompanied by proof that no taxes or assessments for local improvements are due or delinquent on the property which is the subject of such application; or, if it is shown that taxes or assessments are delinquent on the property, any approvals or other relief granted by either Board shall be conditioned upon either the prompt payment of such taxes or assessments, or the making of adequate provision for the payment thereof in such manner that the Township will be adequately protected.

(Ord. No. 92-33)

3. If any article, section, subsection, sentence, clause or phrase of this Ordinance is, for any reason, held to be unconstitutional or invalid, such decision shall not affect the remaining portions of this Ordinance and they shall remain in full force and effect.

4. This Ordinance shall take effect immediately upon final passage and publication according to law.

ATTEST:



Cathy Reese, RMC

TOWNSHIP OF WARREN

By: 

Carolann Garafola, Mayor

Note to Codifier: Deleted provisions indicated by brackets [].
New provision indicated in underline _____.

INTRODUCED: October 5, 2017

ADOPTED: November 16, 2017

EFFECTIVE: November 23, 2017