

**ARTICLE IX
DISTRICT REGULATIONS**

SECTION 900 APPLICATION OF REGULATIONS

The regulations set by this Law shall be the minimum regulations within each district and shall apply uniformly to each class or kind of structure or use of land, except as hereinafter provided:

- A. No building structure or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, moved or structurally altered except in conformity with all the regulations herein specified for the district in which it is located.
- B. No building or structure shall hereafter be erected or altered:
 - 1. To exceed the height limitation for any structure within a specified district;
 - 2. To accommodate or house a greater number of families;
 - 3. To occupy a greater percentage of lot area; or
 - 4. To have narrower or smaller yards or other open spaces than herein required or in any other manner contrary to the provisions of this Law and the requirements of the New York State Uniform **Fire and Building** Code.
- C. No part of a yard or other open space, or off-street parking or loading space required about or in connection with any building for the purpose of complying with the regulations set forth herein, shall be included as part of a yard, open space or off-street parking or loading space similarly required for any other building except as provided in Article X.
- D. No yard or lot existing at the time of enactment of this Law shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this Law shall meet or exceed the minimum requirements established herein.

SECTION 901 A - AGRICULTURAL DISTRICT

- A. Intent. The ~~intent~~ **purpose** in creating Agricultural Districts is to protect predominantly agricultural areas from suburban and urban development, encourage the continuation of agriculture, reduce land use conflicts, and preserve open space and natural resources. **by acknowledging that**

agriculture is a specialized form of industry characterized by the production, through biological and botanical processes, of saleable farm products as a result of the combination of raw materials (soils, seeds, plants, water, and nutrients), manpower (farm labor and machinery), and energy (solar and power equipment). Agriculture requires land and people and it is also recognized that farmers, farmland and farming are intertwined. Planning for agriculture requires a locally-driven process that not only includes agriculture but also acknowledges it as a land use and an industry. The Town's agricultural resources will be protected by limiting the circumstances under which farming may be deemed a nuisance, such as noise and odor, and to allow agricultural practices inherent to and necessary for the industry of farming to proceed and be undertaken free of unreasonable and unwarranted interference or restriction.

B. Permitted Principal Uses.

1. General or specialized farming, **agriculture or farm activities**, truck gardening, greenhouses, nurseries and animal or poultry husbandry, provided that no killing shall be done on the farm other than of animals raised on the farm for the use of the farm residents, and provided that, on land devoted to the housing or breeding of horses, cattle, swine, poultry, sheep, goats, dogs or cats, the kennels or shelter for such animals shall not be closer than one hundred (100) feet to the boundary of any non-agricultural zone district.

2. Boarding of animals, excluding the renting or leasing of animals or kennels.

3. **Stables or riding academies.**

3. 4. Single family dwellings.

4. ~~Mobile homes on individual lots subject to the provisions of Article XII of this Law.~~

5. ~~Earth sheltered housing subject to the following provisions:~~

~~a. No more than one (1) family shall reside in any earth sheltered housing structure.~~

~~b. Applicants for a zoning permit for earth sheltered housing shall submit a report prepared by a licensed civil engineer or architect which demonstrates that the physical characteristics of the site are~~

~~_____ suitable to accommodate earth-sheltered housing construction.~~

~~_____ c. Detailed construction plans prepared by a licensed engineer or
_____ architect shall be submitted with the application for a building and
_____ use permit.~~

~~_____ d. The lot size, width, setback, and coverage requirements for earth
_____ sheltered housing shall not be less than the corresponding
_____ requirements for conventional residential dwellings in the district.~~

~~_____ e. Accessory residential structures and uses (i.e., off-street parking,
_____ signs, swimming pools, et cetera) shall conform to the same
_____ regulations and controls for such structures and uses associated
_____ with conventional residential dwellings.~~

5. Home occupation minor.

C. Permitted Accessory Uses.

1. Private garages.
2. Customary residential storage structures.
3. Other customary residential structures such as private swimming pools, storage buildings, pet shelters and fireplaces.
4. Customary farm building for the storage of products or equipment located on the same parcel as the principal use.
5. Off-street parking and signs in accordance with Article X.
6. Stands of a non-permanent nature (movable and temporary) may be utilized for the sale of agricultural products grown principally by the operator during the harvest season under the following conditions:
 - a. The stand shall be set back not less than thirty (30) feet from the edge of the pavement of the highway.
 - b. Sufficient land area shall be provided to accommodate off-street parking for not less than three (3) vehicles on site.
 - c. Not more than two (2) signs may be erected for the purpose of advertising such sale. Said signs shall not exceed thirty-two (32)

square feet in area and shall be located not less than twenty (20) feet from the edge of the pavement of the highway.

7. Meteorological testing towers. **LL No. 1/2007**
8. Wind energy device. **LL No. 1/2007**
9. Animal waste storage facilities. **LL No. 1/2007**

D. Special Use Permits

1. Essential services, excluding power plants.
2. Excavation operations.
3. Private airstrips.
4. Camping grounds.
- ~~5. Not for profit public and semi-public uses and buildings.~~
6. Kennels.
- ~~7. Stables or riding academies where animals are rented or leased.~~
8. Commercial recreation uses.
9. Rooming houses (**boarding houses**).
10. Home occupations or home professional occupations.
- ~~11. Windmills or wind generators.~~
- ~~12. Television satellite dishes.~~
- ~~13. Animal waste management systems.~~
- ~~14. Commercial broadcasting station.~~
15. Wind energy conversion device/facility. **LL No. 1/2007**
16. Commercial communication tower. **LL No. 1/2007**

17. Junkyards. **LL No. 1/2007**
18. **Bed and breakfast.**
19. **Home occupation major.**
20. **Home based business.**
21. **Cluster residential development.**
22. **Parking of a recreational vehicle.**

SECTION 902 R-R - RURAL RESIDENTIAL DISTRICTS

- A. Intent. The purpose of the Rural Residential District is to promote orderly development of the Town and encourage well designed living environments which protect and stabilize the residential characteristics of the Town. **The Rural Residential Districts are designed to provide for the development of areas that are occupied primarily as single family residences. The areas designated in the R-R District will result in areas between agriculture areas and more dense areas of development.**
- B. Permitted Principal Uses.
1. Single and two (2) family dwellings.
 2. ~~Mobile homes on individual lots subject to the provisions of Article XII of this Law.~~
 3. General or specialized crop farming.
 4. ~~Earth sheltered housing subject to the provisions specified in Section 901-B. 4.~~
 5. **Home occupation minor.**
- C. Permitted Accessory Uses. Includes all accessory uses permitted in the A - Agricultural District, **except for Animal Waste Storage Facilities.**
- D. Special Permit Uses.
1. Essential services, excluding power plants, maintenance buildings and storage yards.

2. Home occupations or home professional buildings.
3. Not for profit public and semi-public uses and buildings.
4. Rooming houses (**boarding houses**).
5. ~~Windmills or wind generators.~~
6. ~~Television satellite dishes.~~
7. Multiple family developments.
8. Cluster residential developments.
9. **Animal waste storage facilities.**
10. **Raising of fur bearing animals, swine and poultry on less than ten (10) acres of land.**
11. **Bed and breakfast.**
12. **Parking of a recreational vehicle.**

**SECTION 903 M-H MOBILE MANUFACTURED HOME PARK DISTRICT
(RESERVED)**

- A. Intent. The purpose in creating mobile **manufactured** home park districts is to provide diversity in housing choice as well as greater opportunities for obtaining moderate cost housing to meet the needs of a variety of household types and to enact proper controls and development regulations to insure that **manufactured** home parks provide an attractive and functional residential environment. Although no mobile **manufactured** home park districts are presently identified on the zoning map, the Town will entertain proposals to rezone areas for mobile **manufactured** home park districts provided that the rezoning is consistent with the Town's Land Use Plan and in conformance with the following standards and regulations.
- B. Permitted Principal Uses.
 1. Single family mobile **manufactured** home dwellings.
- C. Permitted Accessory Uses.

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1. Private garages and carports.
2. Customary residential storage structures.
3. Off-street parking and signs in accordance with Article X.
4. Community facility buildings and uses serving the residents of the mobile **manufactured** home park subject to approval of the Town Board.

D. Special Use Permits.

1. Essential services, excluding power plants, maintenance buildings and storage yards.
2. Home occupations or home professional occupations.

E. Special Design Requirements. Re-zoning for a mobile **manufactured** home park shall not be approved until site plans for the park have been reviewed by the Planning Board and approved by the Town Board. No site preparation or construction shall commence until the property has been rezoned and all permits have been issued by all governmental agencies involved. This provision shall apply to the expansion or alteration of existing mobile **manufactured** home parks as well as to proposals for new parks. A site plan for the establishment of a new mobile **manufactured** home park or for the expansion or alteration of an existing mobile **manufactured** home park shall contain all of the required data elements specified in Section 304 plus any additional information which may be required by the Planning Board to complete its review and evaluation of the proposed plans. In the review of the proposed site plans the Planning Board's investigations shall certify for action by the Town Board that the plans comply with the following standards and development regulations:

1. Density and Setback Requirements
 - a. Each mobile **manufactured** home lot within the park shall comply with the applicable lot size, building size and setback requirements set forth in the schedule herein.
 - b. The minimum site area of a mobile **manufactured** home park shall be not less than ten (10) acres.
 - c. No mobile **manufactured** home or other structure in a mobile **manufactured** home park shall be located within one hundred (100) feet of any public street line or within sixty (60) feet of any

property line of the mobile **manufactured** home park.

- d. Not more than one (1) mobile **manufactured** home shall be located on any one (1) mobile **manufactured** home lot. Every mobile **manufactured** home within a mobile **manufactured** home park shall be located on a mobile **manufactured** home lot or in a designated storage area shown on the approved site plan for side park.
 - e. Each mobile **manufactured** home lot shall front on an interior park roadway. – An iron stake shall be located and maintained by the park owner at the corner of each mobile **manufactured** home lot.
 - f. No addition to any mobile **manufactured** home park and no new mobile **manufactured** home park shall be constructed within two hundred fifty (250) feet of the line of any R-R Residential District, of which area a fifty (50) foot strip of land immediately adjoining said R-R District shall be maintained as a landscape buffer area.
2. Circulation - Every roadway within a mobile **manufactured** home park shall have a minimum street/pavement width of twenty-two (22) feet and a minimum right-of-way width of fifty (50) feet. Internal streets shall conform to the following standards:
- a. Cul de sacs shall be provided in lieu of closed end streets and shall have a minimum diameter of seventy (70) feet.
 - b. All streets shall be constructed of blacktop or equivalent of same and shall be designed, graded and leveled as to permit the safe passage of emergency and service vehicles at a speed of fifteen (15) miles per hour.
 - c. Each street shall be named and each mobile **manufactured** home lot thereon shall be given a permanent number which shall be affixed to the mobile **manufactured** home and shall be visible from the street.
 - d. All internal streets shall be illuminated from dusk to dawn with adequate lighting.
 - e. Every roadway within a mobile **manufactured** home park shall be maintained in good repair and shall be open at all times reasonable possible for travel by occupants of the park and necessary fire,

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police, ambulance, public utility maintenance and fuel supply vehicles. The park owner shall be responsible for providing and paying the cost of such maintenance and all necessary snow removal. The provisions of this subsection shall apply to existing mobile **manufactured** home parks and mobile **manufactured** parks hereafter established.

- f. Pedestrian walkways shall be provided along at least one (1) side of all interior streets. Said walkways shall have a width of not less than four (4) feet.

3. Off-Street Parking

- a. Each mobile **manufactured** home lot must have two (2) off-street parking spaces. Alternative parking facilities may be provided so that each mobile **manufactured** home lot will have (1) off-street parking space with a common parking area utilized for second vehicle parking, guest parking and for delivery and service vehicles. Each parking space must have a minimum of two hundred fifty (250) square feet.
- b. No on-street parking shall be permitted.
- c. No boats, camp haulers, trailers or motor vehicles not designated for passengers shall be parked or stored at any place within the mobile **manufactured** home park except designated special off-street parking areas.
- d. No unlicensed motor vehicles or trailers or parts thereof or junks of any nature or description shall be parked or stored within the mobile **manufactured** home park.

4. Services

- a. A recreational area, with adequate provisions for facilities, maintenance and supervision for the use of the occupants shall be provided within the park. Said recreation area and facilities shall be approved by the Town Board and shall encompass an area of not less than five hundred (500) square feet for each mobile **manufactured** home lot. In no event shall such area be less than ten thousand (10,000) square feet.
- b. At least one (1) service building shall be constructed in each mobile

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manufactured home park which shall be adequate to provide for storage of all equipment, tools and materials necessary for the maintenance of the park. All such equipment, tools and materials shall be stored within said building when they are not in use.

- c. The plan for a mobile **manufactured** home park shall provide a system of fire protection, including a fire alarm system and a water reservoir, if necessary, deemed satisfactory by the fire department.
- d. An adequate supply of water shall be provided for mobile **manufactured** homes, service buildings and other accessory buildings. Where public water is available, connection thereto shall be used exclusively. If a public water supply is not available, the development of a private water supply system shall be approved by the Wyoming County Department of Health.
- e. An adequate and approved system shall be provided in all parks for conveying and disposing of sewage from mobile **manufactured** homes, service buildings and other accessory facilities. Such system must be designed constructed and maintained in accordance with the New York State Public Health Law and Department of Health standards and regulations. Approval by the Wyoming County Department of Health is required before any permit or license may be issued.
- f. Each mobile **manufactured** home dwelling placed in a park shall be equipped with its own toilet, bath and kitchen facilities enabling the occupants to function as an independent housekeeping entity.
- g. No toilet or bath facilities shall serve more than one (1) family residing in a mobile **manufactured** home park.
- h. An adequate storm drainage system shall be installed.
- i. All public utility, electric, gas, cable, television and telephone lines shall be installed underground.
- j. The park owner shall provide for the regular collection and disposal of garbage, trash and rubbish to prevent the trash containers from overflowing. All receptacles for trash shall have covers to prevent the littering of grounds with trash and refuse.
- k. All fuel tanks within a mobile **manufactured** home park, including

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all fuel tanks used for heating within mobile **manufactured** homes, shall be installed underground in accordance with NFPA standards.

- i. No mobile **manufactured** home shall be located on a mobile **manufactured** home lot until the roadways, sanitary sewage disposal system, water supply system and storm drainage system serving said mobile **manufactured** home lot have been installed in accordance with the approved site development plan for the mobile **manufactured** home park.
- m. Mobile **Manufactured** home park owners shall obtain a permit from the Town approving the location of a site for the placement of individual mobile **manufactured** home units prior to such units being occupied. No permit shall be issued until the owner has obtained a written certification from the County Department of Health that the sewage disposal system has been properly installed and that it meets or exceeds the minimum operating standards of the Sanitary Code.

5. Other Requirements

- a. Only one (1) detached accessory building, not exceeding one hundred (100) square feet building area, may be constructed on each such mobile **manufactured** home lot. Buildings attached to a mobile **manufactured** home may be constructed provided the total building area thereof does not exceed fifty (50) percent of the building area of the mobile **manufactured** home. These provisions shall not apply to carports. A permit must be obtained from the Enforcement Officer prior to construction of any such enclosure or addition, and the application therefore must show a detailed plan of the proposed construction, showing compliance with the terms herein. Such structure must be completed or entirely removed from the mobile **manufactured** home park within two (2) months of the date of issuance of such permit.
- b. Each mobile **manufactured** homeowner shall enclose the bottom portion of the mobile **manufactured** home with either a skirt or enclosure within thirty (30) days after arrival in the park. Skirting shall meet the requirements specified in Section 1204 of this Law.
- c. A landscape plan shall be prepared and carried out which will assure the Planning Board that an appropriate planting of trees and shrubs will be included in the park design, including screening

where necessary.

- d. On-site commercial sales of mobile **manufactured** homes may be permitted until such time as the park reaches one hundred (100) percent occupancy of all approved mobile **manufactured** home lots in the park. Such commercial activity shall be discontinued and all evidence of such activity removed within seven (7) days of reaching one hundred (100) percent occupancy.
- e. Each mobile **manufactured** home site shall be provided with a stand which will give a firm base and adequate support for the mobile **manufactured** home. Such stand shall have a dimension approximating the width and length of the home and any additions or expansions, thereto. Well anchored tie downs shall be provided on at least each corner of the stand. Mobile **Manufactured** home stands, tie downs and foundations shall meet the specific requirement of Section 1204 of this Law.
- f. Should the Zoning Officer determine that the owner of the mobile **manufactured** home park is in violation of any of the provision and regulations of this Section, the approval authorizing the establishment of the park shall be null and void. Unless the violation is corrected within thirty (30) days of written notification of the violation by the Zoning Officer, the use of the site for a mobile **manufactured** home park shall be discontinued and all of the mobile **manufactured** homes on the site removed within ten (10) days following the thirty (30) day period to correct the violation.

SECTION 904 B - BUSINESS DISTRICT

- A. Intent. The purpose in creating Business Districts is to provide locations where groups of small establishments may be appropriately located to serve frequent commercial and personal service needs of a majority of residents within convenient traveling distance.
- B. Permitted Principal Uses
 1. Retail business establishments which are clearly of a community service characteristic such as, but not limited to, the following:
 - a. Stores selling groceries, meats, baked goods and other such food items.

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- b. Drugstores.
 - c. Stationery, tobacco and newspaper stores and confectionary stores.
 - d. Clothing, variety and general merchandise stores.
 - e. Hardware, appliance, radio and television sales and service.
 - f. Restaurants.
 - g. Building supply and farm equipment stores and truck garden nurseries.
 - h. Electrical, heating, plumbing or woodworking shops.
 - i. New or used automobile sales ~~and services establishments.~~
 - j. **Contractor's yard.**
2. Personal service establishments which are clearly of a community service character such as, but not limited to, the following:
 - a. Barber and beauty shops.
 - b. Shoe repair and fix-it shops.
 - c. Dry cleaning stores and laundromats.
 - d. Business and professional offices, including, but not limited to, medical, real estate and insurance offices, and banks.
 - e. Hotels and motels.
 3. Other business uses which, in the opinion of the Planning Board are similar in nature and scale to those permitted above.
 4. Upon the approval of the Town Board a principal building may contain a combination of residential and business uses, provided that such residential uses are accessory to the business conducted and located elsewhere than on the street frontage of the ground floor, and having minimum habitable area as required by this Law.

C. Permitted Accessory Uses

1. Private garages and storage buildings which are necessary to store any vehicles, equipment or materials on the premises and which are used in conjunction with a permitted business use.
2. Off-street parking, loading and unloading facilities, signs, fences and landscaping subject to the provisions herein.

D. Special Permit Uses

1. Essential services, excluding power plants, maintenance buildings and storage yards.
2. Motor vehicle service stations and public garages.
3. ~~Windmills or wind generators.~~
4. ~~Television satellite dishes.~~

E. Other Provisions and Requirements for the Business District

1. Accessways to control ingress or egress of motor vehicle traffic shall be regulated as required of Article X of this Law.
2. Landscaping, buffering and fencing shall be provided in accordance with the requirements of Article X of this Law.
3. No commercial structure shall be permitted within fifty (50) feet of the nearest lot line of any residential district.
4. Outdoor storage of equipment, vehicles or materials shall be in accordance with the requirements of this Law.

SECTION 905 1 - INDUSTRIAL USE DISTRICT

A. Intent - The purpose of the Industrial Use District is to provide for the establishment of industrial uses essential to the development of a balanced economic base, to create local job opportunities in an industrial environment and to regulated such development so that it will not be detrimental or hazardous to the surrounding community and to the general health, safety and well-being of the Town of Middlebury.

B. Permitted Principal Uses

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1. Any use of light industrial or agri-industrial nature is permitted which involves only the processing, assembly or packaging of previously prepared or refined materials, provided that at no time will such use result in or cause:
 - a. Dissemination of dust, smoke, smog, observable gas, fumes or odor, or other atmospheric pollution, objectionable noise, glare or vibration that will be evident beyond the property line.
 - b. Hazard of fire or explosion or other physical hazard to any adjacent building or to any plant growth on any land adjacent to the site of the use.

2. The following uses are indicative of those which are intended to be permitted:
 - a. Manufacture of machinery such as cash registers, sewing machines, typewriters, calculators and other office machine.
 - b. Fabrication of metal products such as baby carriages, bicycles, metal foil, tin, aluminum, gold, et cetera, metal furniture, musical instruments, sheet metal products and toys.
 - c. Fabrication of paper products such as bags, book bindings, boxes and packaging material, office supply and toys.
 - d. Fabrication of wood products such as bolts, boxes, cabinets and woodworking, furniture and toys.
 - e. Food and associated industries such as bakeries, bottling of food and beverages, food and cereal mixing and milling, food processing food sundry manufacturing, ice cream manufacturing and manufacturing of spirituous liquor.
 - f. The warehousing or storage of goods and products such as building materials, farm supplies and the like, which may be sold from the premises to the general public. The bulk storage of fuel for resale is specifically excluded from the intent of the above.

3. Office buildings for executive, engineering and administrative purposes.

4. Scientific or research laboratories devoted to research, design and/or experimentation and processing and fabricating incidental thereto.

5. The manufacturing and processing of pharmaceutical and cosmetic products.
6. Contractor's offices, building supply and storage yards.
7. Farm and garden implement stores.
8. Truck garden nursery, farm produce sales.
9. Other uses which in the opinion of the Planning Board are similar in nature and scale to those permitted above.
10. Commercial storage building for rent.

C. Permitted Accessory Uses

1. Private garages and storage buildings which are necessary to store any vehicles, equipment or materials on the premises.
2. Off-street parking, loading and unloading facilities and signs, fences and landscaping subject to the provisions herein.

D. Special Permit Uses

1. Essential services, excluding power plants.
2. ~~Windmills or wind generators.~~
3. Motor vehicle services and auto repair shops.
4. ~~Commercial excavation operations.~~

5. *Adult bookstores, cabarets and theaters.*

E. Other provisions and Requirements

1. Residential uses shall be prohibited in this district, except for a caretaker's residence or site.
2. All industrial processes shall take place within an enclosed building. Incidental storage out of doors may be permitted provided that such materials are shielded from view from public streets and adjacent off-storage parking areas by fencing, landscaping or other appropriate

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measures.

3. All uses permitted in this district shall set aside not less than twenty (20) percent of the lot to be devoted to seeding, planting, retention of tree cover, or other landscaping. This area shall be used for no other purpose.
4. Each use in this district shall provide truck loading and unloading areas in an amount sufficient to permit the transfer of goods and products in other than a public street. Off-street parking area or front yard.
5. Industrial structures shall be located so as to be a minimum of one hundred (100) feet from any non-industrial district. This one hundred (100) foot buffer strip shall be perpetually maintained so as to provide visual screening and separation between industrial and non-industrial uses.
6. Parking areas may be located in any of the required yard areas provided they are not less than fifty (50) feet from a right-of-way line or twenty (20) feet from a property line.
7. All proposals for rezoning to industrial use shall comply with the following requirements:
 - a. The proposed rezoning shall be consistent with the goals and objectives of the Town Land Use Plan.
 - b. The Town Board shall determine that the street system serving the proposed industrial use is adequate to carry the anticipated traffic flow and that the use will not create a burden or nuisance for adjoining property owners.
 - c. The Town Board shall determine that the physical character of the site proposed for rezoning to industrial use is adequate to accommodate the proposed use.
 - d. The proposed rezoning shall conform with the procedures set forth in Article I - Section 105 (A - F)
 - e. The review and approval of site plans, the application of development standards and the regulations pertaining to water supply, sewage disposal and storm drainage shall conform with the appropriate requirements and procedures set forth in this Law.

**SECTION 906 F-P - FLOOD PLAIN OVERLAY DISTRICT (FIRM MAP TO BE
AVAILABLE IN FUTURE)**

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

1. Protect human life and health.
2. Minimize expenditure of public money for costly flood control projects.
3. Minimize the need for rescue and relief efforts associated with flooding.
4. Minimize prolonged business interruptions.
5. Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, and streets and bridges located in areas of special flood hazards.
6. Help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas.
7. Have information available for the community and potential property owners on the location of property in relation to flood hazard areas.
8. Ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.
9. Enable property owners to obtain flood insurance.

B. Methods of Reducing Flood Losses. In order to accomplish its purposes, these regulations include methods and provisions for:

1. Restricting or prohibiting uses which are dangerous to health, safety and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities.
2. Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction.
3. Controlling the alteration of natural flood plain, stream channels, and natural protective barriers, which help accommodate or channel flood

waters.

4. Controlling filling, grading, dredging and other development which may increase flood damage.
 5. Preventing or regulating the construction flood barriers which will unnaturally divert flood waters or which may increase flood hazards in other areas.
- C. Overlay District - The FPO District shall not be independently mapped upon the zoning map, but shall be mapped in conjunction with an underlying district. The area within the FPO District shall be identical to the areas of special flood hazard within the Town of Middlebury.
- D. Basis for Establishing the Areas of Special Flood Hazard - The areas of special flood hazard identified by the Federal Insurance Administration as delineated in the Flood Hazard Boundary Maps and any revisions thereto, are hereby adopted by reference and declared to be a part of these regulations.
- E. Uses Permitted; Dimensional Requirements - The uses permitted and the dimensional requirements from the FPO District shall be determined by the regulations specified in this Article for the primary or underlying zone district.
- F. Lands to which these Regulations Apply - These regulations shall apply to all areas of special flood hazard within the Town of Middlebury.
- G. Penalties for Non-Compliance - Penalties for non-compliance with these regulations are specified in this Law.
- H. Flood Plain Development - A Flood Plain Development Permit shall be obtained before construction or development begins within any area within the FPO Flood Plain District. Applications for a permit shall be made on forms furnished by the Zoning Officer and shall include, but not limited to, plans in duplicate drawn to scale showing the nature, location, dimensions and elevations of the area in question; existing or proposed structures; fill; storage of materials; drainage facilities; and the location of the foregoing. Specifically, the following information is required:
1. Elevation in relation to mean sea level, of the lowest floor (including basement) of all new or substantially improved structures;
 2. Elevation in relation to mean sea level for any new or substantially improved floodproofed structures.

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3. Certification by a licensed professional engineer or architect that the flood proofing methods for any nonresidential structure meet the flood proofing criteria in paragraph J.
 4. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.
- I. The Zoning Officer shall be responsible for the administration and enforcement of these regulations by granting or denying flood plain development permit applications in accordance with its provisions. Prior to approving a flood plain development permit for the construction, expansion, demolition, or substantial alteration of any building or the change in use of any land area or building or the change in use of any land area or building within an area of special flood hazard, the Zoning Officer shall refer all information and documentation to the Planning Board. The Planning Board shall review the information and recommend approval or denial of the permit in writing to the Zoning Officer. The Planning Board prior to reaching its decision may request an advisory opinion from the Town Engineer and/or the Town Attorney. The Planning Board shall notify the Zoning Officer of its decision and the Zoning Officer, acting on the written direction of the Planning Board shall either approve or deny the permit.
- J. Duties and Responsibilities of the Zoning Officer - Duties of the Zoning Officer shall include, but not limited to:
1. Review of all flood plain development permit applications to:
 - a. determine that the requirements of this Article have been satisfied;
 - b. determine that all necessary permits have been obtained from those Federal, state or local governmental agencies from which prior concurrent approval is required; and
 - c. determine if the proposed development adversely effects the flood carrying capacity of the area of special flood hazard. For purposes of this Article "adversely effects" shall mean damage to adjacent properties due to rises in flood stages attributed to physical changes of the channel and the adjacent overbank areas.
 - i. If it is determined that there is no adverse effect, then the permit shall be granted consistent with the provisions of this Article.
 - ii. If it is determined that there is an adverse effect, then flood

damage migration measures shall be made a condition of the permit.

2. Information to be Obtained and Maintained:

- a. Obtain and record the actual elevation (in relation to mean sea level, of the lowest floor (including basement, of all new or substantially improved structures and whether or not the structure contains a basement.
- b. For all new or substantially improved flood proofed structures:
 - i. Verify and record the actual elevation (in relation to mean sea level) to which the structure has been floodproofed.
 - ii. Maintain the floodproofing certifications required in paragraph H.
- c. Maintain for public inspection all records pertaining to the provisions of these regulations.
- d. When base flood elevation data has not been provided in accordance with paragraph H, the Zoning Officer shall utilize any base flood elevation data available from a Federal, state or other source in order to administer paragraph L.

3. Alteration of Watercourses:

- a. Notify adjacent communities and the New York State Department of Environmental Conservation prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration.
- b. Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.

4. Interpretation of FIRM Boundaries

- a. Make interpretations where needed, as to the exact location of the boundaries of the areas of the special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions).

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- b. Any person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in paragraph N.

K. General Standards - In all areas of special flood hazards the following standards are required:

1. Anchoring:

- a. All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure.
- b. All ~~mobile~~ **manufactured** homes and any additions thereto shall be anchored to resist flotation, collapse, or lateral movement by providing an anchoring system designed to withstand a wind force of not less than ninety (90) miles per hour.

2. Construction Materials and Methods:

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

3. Utilities:

- a. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.
- b. All new and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the flood waters.
- c. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

4. Subdivision Proposals:

- a. All subdivision proposals shall be consistent with the need to minimize flood damage.

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- b. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage.
 - c. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage.
 - d. Base flood elevation data shall be provided for subdivision proposals and other proposed development which contain at least fifty (50) lots or five (5) acres (whichever is less).
- L. Specific Standards - In all areas of special flood hazards where base flood elevation data has been provided as set forth in paragraph J, 2, the following standards are required:
- 1. Residential Construction - New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to at least one (1) foot above base flood elevation.
 - 2. Nonresidential Construction - New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including basement, elevated to at least one (1) foot above the level of the base flood elevation, or, together with attendant utility and sanitary facilities, shall:
 - a. Be floodproofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water.
 - b. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.
 - c. Be certified by a licensed professional engineer or architect that the standards of this subsection are satisfied. Such certifications shall be provided to the Zoning Officer.
 - 3. Mobile **Manufactured** Homes
 - a. Mobile **Manufactured** homes shall be anchored in accordance with paragraph K, 1, (b).
 - b. For new mobile **manufactured** home parks and for the expansions of existing mobile **manufactured** home parks, it is required that:

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- i. Stands or lots are elevated on compacted fill or on pilings so that the lowest floor of the ~~mobile~~ **manufactured** home will be at least one (1) foot above the base flood level;
- ii. Adequate surface drainage and access for a hauler are provided; and,
- iii. In the instance of elevation on pilings, that:
 - (a) lots are large enough to permit steps,
 - (b) piling foundations are placed in stable soil no more than ten (10) feet apart, and
 - (c) reinforcement is provided for pilings more than six (6) feet above the ground level.
- c. No ~~mobile~~ **manufactured** home shall be placed in a floodway. A ~~mobile~~ **manufactured** home placed in a floodway, prior to the date of the enactment of this Law may remain on the site, however, such units shall adhere to the specific requirements of this Law relative to tie downs and anchoring.

M. Floodways - Located within areas of special flood hazard established in paragraph D are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles, and erosion potential, the following provisions apply:

1. Any encroachment, including fill, new construction, substantial improvements, and other development shall be prohibited unless a technical evaluation demonstrates that the encroachment shall not result in any increase in flood levels during the occurrence of the base flood discharge.
2. In all areas of special flood hazard in which base flood elevation data has been provided and no floodway has been designated, the cumulative effects of any proposed encroachment shall be analyzed to determine its effects on the flood carrying capacity of the area of special flood hazard.

N. Variance Procedure

1. Appeal Board

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- a. The Zoning Board of Appeals, as established by the Town Board, shall hear and decide appeals and requests for variances from the requirements of this Article.
- b. The Zoning Board of Appeals shall hear and decide appeals when it is alleged there is an error in any requirement, decision or determination made by the Zoning Officer in the enforcement or administration of this Article.
- c. In passing upon such applications, the Zoning Board of Appeals shall consider all technical evaluations, all relevant factors, standards specified in other section of this Article, and:
 - i. The danger that materials may be swept onto other lands to the injury of others;
 - ii. The danger to life and property due to flooding or erosion damage;
 - iii. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
 - iv. The importance of the services provided by the proposed facility to the community;
 - v. The necessity to the facility of the waterfront location, where applicable;
 - vi. The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
 - vii. The compatibility of the proposed use with existing and anticipated development;
 - viii. The relationship of the proposed use to the comprehensive plan and floodplain management program of that area;
 - ix. The safety of access to the property in times of flood for ordinary and emergency vehicles;
 - x. The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of

wave action, if applicable, expected at the site; and

- xi. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, and streets and bridges.
- d. Upon consideration of the facts of paragraph L, 1, (c) and the purposes of these regulations, the Zoning Board of Appeals may attach such conditions to the granting of variance as it deems necessary to further the purposes of this Law.
- e. The Zoning Officer shall maintain the records of all appeals actions, including technical information and report any variances to the Federal Insurance Administration upon request.

2. Conditions for Variances

- a. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- b. Variances shall only be issued upon:
 - i. A showing of good and sufficient cause;
 - ii. A determination that failure to grant the variance would result in exceptional hardship to the applicant; and
 - iii. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, nuisances, or conflict with existing local laws.
- c. Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

O. Warning and Disclaimer of Liability - The degree of flood protection required by these regulations is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Flood heights may be increased by

man-made or natural causes. These regulations do not imply that land outside the area of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. These regulations shall not create liability on the part of the Town or Middlebury, any officer, agent or employee thereof or the Federal Insurance Administration, for any flood damages that result from reliance on these regulations or any administrative decision lawfully made thereunder.

SECTION 907 P-B - PLANNED BUSINESS CENTER DISTRICT (RESERVED)

A. Intent - This section of this Law has been created to provide opportunities for additional business development in the Town and to ensure that future business uses are planned and developed in a manner consistent with the goals and objectives of the Town Master Plan. Although no areas are specifically identified for development as a P-B Planning Business Center District on the zoning map, the Town Board may rezone land areas to P-B for development of the Planned Business Center's, provided that the following standards and regulations are maintained:

1. The proposed rezoning shall be consistent with the goals and objectives of the Town's Land Use Plan. The Town Board shall determine that the physical character of the site proposed for rezoning to P-B Planned Business use is adequate to accommodate the proposed use and that plans for water supply, sewage disposal and storm drainage are capable of serving the planned business area.
2. The Town Board shall determine that the street system serving the site is adequate to carry the anticipated traffic flows and that the proposal will not create a burden or nuisance for adjoining property owners.
3. The proposed rezoning shall conform with the procedures set forth in Article I, Section 105, A-F.
4. The Town Board shall determine that not more than twenty (20) percent of the site proposed for such rezoning contains prime agricultural soils as defined by the Town of Middlebury.
5. A site plan shall be submitted in conformance with the provisions of Article III. No site preparation or construction shall commence until final site plan approval has been granted by the Town Board and permits have been issued by all governmental agencies involved.

B. The proposed development for a planned business center shall be constructed in accordance with an overall plan for the entire area and shall be designed with a

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single architectural scheme with appropriate common off-street parking and landscaping. The development shall provide initially for the construction of either a minimum of eight thousand (8,000) square feet of ground floor area or a minimum of four (4) of the permitted uses.

- C. The proposed development shall be located on a site of not less than four (4) acres and not less than three hundred (300) feet of frontage on a road designated as a minor collector or a road of a high classification as specified in the Town's Land Use Plan.
- D. The proposed development shall not have more than two (2) entrance ways to the site. The location and width of said entrance ways shall be subject to approval by the Planning Board.
- E. Uses permitted are shopping centers, stores and shops where retail goods are sold or personal services rendered which are similar, but not limited to the following:
 - 1. Retail business establishments which are clearly of a neighborhood service character such as grocery stores, drugstores, stationery, variety and clothing stores and restaurants.
 - 2. Personal service establishments such as barber and beauty shops, shoe repair shops, business and professional offices, self-service laundries and dry cleaning stores.
 - 3. Other uses approved by the Planning Board.
- F. Off-street parking shall be provided at a ratio of one (1) parking space per one hundred fifty (150) square feet of floor area. Private garage space for the storage of commercial vehicles used in conjunction with a permitted business use shall also be permitted.
- G. Truck loading and unloading areas shall be provided in sufficient amount to permit the transfer of goods and materials on the premises rather than on a public street or customer off-street parking area on the premises. A dense landscaping screen of not less than six (6) feet in height shall be required where off-street loading and unloading areas abut residential uses, so that such operations shall be shielded from view from such residences.
- H. The regulations of Article X shall govern the location, size, number and characteristics of signs in a planned business center.

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- I. The Town Board may prescribe more restrictive conditions deemed reasonable or appropriated with respect to improving the design quality of the planned business center.
- J. Adequate guarantee in the form of either a bond or escrow agreement shall be established and provided prior to final approval of the plan to assure that all parking, entrances, exits, facilities and services are installed as required and proposed.
- K. Where a planned business center abuts a residential district there shall be a buffer strip of fifty (50) feet at the periphery of the planned business center and shall be provided in addition to the minimum setback requirements. The buffer strip shall be perpetually maintained by the developer or owner with plant materials to provide a visual screen between the planned business center and the adjoining residential lot(s) and shall be used for no other purpose.
- L. Lighting within the center shall be approved by the Town Board and provided in a manner so as to minimize potential disturbance to adjacent properties.

SECTION 908 SM - SOLUTION MINING DISTRICT

The SM District is designed to accommodate brine solution mining.

- A. The following uses are permitted in SM Districts:**
 - 1. Solution mining.**
 - 2. Farms and related farming businesses and activities.**
- B. The following uses are permitted in SM Districts upon the issuance of a special use permit by the Town Board.**
 - 1. Storage of petroleum products and byproducts.**