

**ARTICLE IX
District Regulations**

Section 900 Application of Regulations

The regulations set by this Ordinance 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 Ordinance and the requirements of the New York State Uniform 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 Ordinance shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this Ordinance shall meet or exceed the minimum requirements established herein.

Section 901 A-Agricultural District

- A. Intent. The intent 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.

B. Permitted Principal Uses.

1. General or specialized farming, 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 further that, on land devoted to the housing or breeding of horses, cattle, swine, poultry, sheep, goats, dogs or cats, the kennels or shelters 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. Single family dwellings.
- ~~4. Mobile homes on individual lots subject to the provisions of Article XII of this Ordinance. [1998]~~
4. Earth sheltered housing subject to the following provisions: [1998]
 - 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, etc.) shall conform to the same regulations and controls for such structures and uses associated with conventional residential dwellings.

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 buildings 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 twelve (12) square feet in area and shall be located not less than twenty (20) feet from the edge of the pavement of the highway.
 7. Animal Waste Management Systems.[1998]
 8. Home Occupations Minor (See Section 1007 for Supplementary Regulations) [2004]
 9. **Type 1 Solar Energy Systems (See Section 1008 for Supplementary Regulations).**
 10. **Type 2 Solar Energy Systems (See Section 1121 for Regulations Governing Special Use Permits).**
 11. **Tier 1 Battery Energy Storage Systems.**
- 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.
- ~~10. Home occupations or Home professional occupations. [2004]~~
11. ~~Windmills or wind generators.~~ Wind Energy Conversion Device [2006]
- ~~12. T.V. Satellite dishes. [1998] [2012]~~
13. ~~Communications [1998] Towers.~~ Commercial Communication Tower [2006]
- ~~14. Commercial broadcasting station.[1998]~~
15. Home-Based Businesses [2004]
16. Home Occupations Major [2004]
17. Parking of a Recreational Vehicle [2004]
- 18. Tier 2 Battery Energy Storage Systems.**

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.
- B. Permitted Principal Uses.

1. Single- and two-family dwellings.
 2. ~~Mobile homes on individual lots subject to the provisions of Article XII of this Ordinance.~~ [1998]
 3. General or specialized crop farming.
 4. Earth sheltered housing subject to the provisions specified in Section 901 B.4.
- C. Permitted Accessory Uses. Includes all accessory uses permitted in the A - Agricultural District, **except 7.** [1998]
- D. Special Permit Uses.
1. Essential services, excluding power plants, maintenance buildings and storage yards.
 2. ~~Home occupations or home professional occupations.~~ [2004]
 3. Not for profit public and semi-public uses and buildings.
 4. Rooming houses.
 5. ~~Windmills or wind generators.~~ [2006]
 6. ~~T.V. Satellite dishes.~~ [1998] [2012]
 7. Multiple family developments.
 8. Cluster residential developments.
 9. Parking of a Recreational Vehicle [2004]

Section 903 M-H - Manufactured Home Park District (Reserved)

- A. Intent. The purpose in creating 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 manufactured home park districts are presently identified on the zoning map, the Town will entertain proposals to rezone areas for manufactured home park districts provided that the re-zoning is consistent with the Town's Comprehensive

Plan and in conformance with the following standards and regulations.

- B. Permitted Principal Uses.
 - 1. Single family manufactured home dwellings.
- C. Permitted Accessory Uses.
 - 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 manufactured home park subject to approval of the Town Board.
 - 5. **Type 1 Solar Energy Systems (See Section 1008 for Supplementary Regulations).**
 - 6. **Tier 1 Battery Energy Storage Systems.**
- D. Special Use Permits.
 - 1. Essential services, excluding power plants, maintenance buildings and storage yards.
 - 2. ~~Home occupations or home professional occupations.~~ [2004]
- E. Special Design Requirements. Re-zoning for a 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 manufactured home parks as well as to proposals for new parks. A site plan for the establishment of a new manufactured home park or for the expansion or alteration of an existing 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 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 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 manufactured home park shall be not less than ten (10) acres.
- c. No manufactured home or other structure in a manufactured home park shall be located within one hundred (100) feet of any public street line or within sixty (60) feet of any other property line of the mobile home park.
- d. Not more than one (1) manufactured home shall be located on any one (1) manufactured home lot. Every manufactured home within a manufactured home park shall be located on a manufactured home lot or in a designated storage area shown on the approved site plan for said park.
- e. Each 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 manufactured home lot.
- f. No addition to any manufactured home park and no new 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 landscaped buffer area.

2. Circulation

Every roadway within a 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 manufactured home lot thereon shall be given a permanent number which shall be affixed to the 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 manufactured home park shall be maintained in good repair and shall be open at all times reasonably possible for travel by occupants of the park and necessary fire, 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 manufactured home parks and manufactured home parks hereafter established.
- f. Pedestrian walkways shall be provided along at least one side of all interior streets. Said walkways shall have a width of not less than four (4) feet.

3. Off Street Parking

- a. Each manufactured home lot must have two off-street parking spaces. Alternative parking facilities may be provided so that each manufactured home lot will have one 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 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 manufactured home park.

4. Services

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- a. A recreation 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 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 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 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 manufactured homes, services 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 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 Ordinance 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 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 family residing in a 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 manufactured home park, including all fuel tanks used for heating within manufactured homes, shall be installed in accordance with NFPA standards.
- l. No manufactured home shall be located on a manufactured home lot until the roadways, sanitary sewage disposal system, water supply system and storm drainage system serving said manufactured home lot have been installed in accordance with the approved site development plan for the manufactured home park.
- m. Manufactured home park owners shall obtain a permit from the Town approving the location of a site for the placement of individual 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 detached accessory building, not exceeding one hundred (100) square feet building area, may be constructed on each such manufactured home lot. Buildings attached to a manufactured home may be constructed provided the total building area thereof does not exceed one hundred percent (100%) of the building area of the 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 therefor must show a detailed plan of the proposed construction, showing compliance with the terms herein. Such structure must be completed as planned within one (1) year or entirely removed from the manufactured home park within three (3) months.

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- b. Each manufactured home owner shall enclose the bottom portion of the manufactured home with either a skirt or enclosure within thirty (30) days after arrival in park. Skirting shall meet the requirements specified in Section 1204 of this Ordinance.
- 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 buffering where necessary.
- d. On-site commercial sales of manufactured homes may be permitted until such time as the park reaches one hundred percent (100%) occupancy of all approved 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 percent (100%) occupancy.
- e. Each manufactured home site shall be provided with a stand which will give a firm base and adequate support for the 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 a least each corner of the stand. Manufactured home stands, tie downs and foundations shall meet the specific requirement of Section 1204 of this Ordinance.
- f. Should the Zoning Officer determine that the owner of the manufactured home park is in violation of any of the provisions 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 manufactured home park shall be discontinued and all of the 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. [2012]

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.
 - b. Drugstores.
 - c. Stationery, tobacco and newspaper stores, and confectionery stores.
 - d. Clothing, variety and general merchandise store.
 - 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.
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 a minimum habitable area as required by this Ordinance.

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.
3. **Type 1 Solar Energy Systems (See Section 1008 for Supplementary Regulations).**
4. **Tier 1 Battery Energy Storage Systems.**

D. Special Permit Use

1. Essential services, excluding power plants, maintenance buildings and storage yards.
2. Motor vehicle service stations and public garages.
3. ~~Windmills or wind generators. [2012]~~
4. ~~T.V. satellite dishes. [2012]~~
5. Parking of a Recreational Vehicle. [2004]

E. Other Provisions and Requirements for the Business District

1. Access ways to control ingress and egress of motor vehicle traffic shall be regulated as required in Article X of this Ordinance.
2. Landscaping, buffering and fencing shall be provided in accordance with the requirements of Article X of this Ordinance.
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 Ordinance.
5. Residential uses legally existing on the date of adoption of Local Law No. 6 of 2012 may be altered, repaired, rehabilitated, or remodeled, provided such changes are in compliance with the appropriate area criteria found in the Rural Residential District. [2012]
6. All existing generally accepted agricultural uses legally existing as of the date of this Local Law may also be continued as a matter of right. [2012]
7. All business uses must have pedestrian access with interconnecting sidewalks to allow unencumbered access to this district. [2012]

Section 905 I - 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 regulate 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 Warsaw.
- B. Permitted Principal Uses
 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 machines.

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- b. Fabrication of metal products such as baby carriages, bicycles, metal foil, tin, aluminum, gold, etc., metal furniture, musical instruments, sheet metal products and toys.
 - c. Fabrication of paper products such as bags, book bindings, boxes and packaging material, office supplies 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 buildings 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.
3. **Type 1 Solar Energy Systems (See Section 1008 for Supplementary Regulations)**
4. **Tier 1 Battery Energy Storage Systems.**

D. Special Permit Uses

1. Essential services, excluding power plants.
2. ~~Windmills or wind generators.~~ Wind Energy Conversion Device. [2006]
3. Communications Towers. [1998]
4. ~~Satellite TV Dishes.~~ [1998] [2012]
5. Adult Bookstores and Cabarets. [1998]
6. Motor Vehicle Service Stations and Public Garages. [1998]
7. Parking of a Recreational Vehicle [2004]

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-street parking areas by fencing, landscaping or other appropriate 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 loading 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.

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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 buffering 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 flows 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 Ordinance.
 - f. The Town Board shall determine that not more than ten percent (10%) of the site proposed for such rezoning contains prime agricultural soils as defined by the Town of Warsaw.
8. Residential uses legally existing on the date of adoption of Local Law No. 6 of 2012 may be altered, repaired, rehabilitated, or remodeled, provided such changes are in compliance with the appropriate area criteria found in the Rural Residential District. [2012]
9. All existing generally accepted agricultural uses legally existing as of the date of this Local Law may also be continued as a matter of right. [2012]

Section 906 F-P Flood Plan Overlay-District

- 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 the 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 plains, 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 of 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 Warsaw.

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 revision 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 for 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 Warsaw.

G. Penalties for Non-Compliance

Penalties for non-compliance with these regulations are specified in this Ordinance.

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.

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Application for a permit shall be made on forms furnished by the Zoning Officer and shall include, but not be 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 flood proofed structures.
 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 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 be 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

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Federal, state or local governmental agencies from which prior or 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 mitigation 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 flood proofed.
 - ii. Maintain the flood proofing 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

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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

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

- a. Manufactured homes shall be anchored in accordance with paragraph K. (1)(b).
- b. For new manufactured home parks and for the expansion of existing manufactured home parks, it is required that:
 - i. Stands or lots are elevated on compacted fill or on pilings so that the lowest floor of the 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:
 - lots are large enough to permit steps,
 - piling foundations are placed in stable soil no more than ten feet apart, and
 - reinforcement is provided for pilings more than six feet above the ground level.
- c. No manufactured home shall be placed in a floodway. A manufactured home placed in a floodway, prior to the date of the enactment of this Ordinance may remain on the site, however, such units shall adhere to the specific requirements of this Ordinance 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

- 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 sections 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 a 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 variances as it deems necessary to further the purposes of this ordinance.
 - e. The Zoning Officer shall maintain the records of all appeal 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. Larger floods can and will occur on rare occasions. 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 of Warsaw, 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 the Ordinance 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 Planned Business Center District on the zoning map, the Town Board may rezone land areas to P-B for development of 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 Comprehensive Plan. The Town Board shall determine that

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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 Warsaw.
 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 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 higher classification as specified in the Town's Comprehensive Plan.
- D. The proposed development shall not have more than two entrance ways to the site. The location and width of said entrance ways shall be subject to approval by the Planning Board in the site plan review process. [1998]
- 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. [1998]~~
 - 3. Type 1 Solar Energy Systems (See Section 1008 for Supplementary Regulations)**
 - 4. Tier 1 Battery Energy Storage Systems.**
- F. Off-street parking shall be provided at a ratio of one (1) parking space per one hundred and 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 buffer 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.
 - I. The Town Board may prescribe more restrictive conditions deemed reasonable or appropriate 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 permanently maintained by the developer or owner with plant materials to provide a visual buffer 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 Planning Board and provided

in a manner so as to minimize potential disturbance to adjacent properties in the site plan review process. [1998]

Section 908 BCMU - Business Center Mixed Use District

- A. Intent. The BCMU District is designed to accommodate development of business centers where activity centers may vary in size and service area. They can serve several neighborhoods within a surrounding residential area with a mix of retail, office, service, civic and may have attached residential uses.

This District is to provide for business development in the outer Warsaw business areas that are compatible with the surrounding residential neighborhoods. Such businesses are intended to serve a small amount of transient vehicular traffic, but mostly the neighboring residential community. These business establishments clearly have community service characteristics. Access to municipal services such as water and sewer is limited but three-phase electric is available.

The BCMU District is not intended for big box stores; i.e. supercenters, superstores or megastores which are physically large retail establishments and usually part of a chain.

- B. Permitted Principal Uses

- 1. Single and two-family dwellings.

- C. Permitted Accessory Uses

- 1. Private garages and storage building 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 provision herein.
- 3. Roadside stand.
- 4. **Type 1 Solar Energy Systems.**
- 5. **Tier 1 Battery Energy Storage Systems.**

- D. Special Permit Uses

- 1. Wholesale, warehouse and distribution center.

2. Retail use and/or service.
3. Auto repair/restoration (excluding retail sale of fuel, i.e.; gas station).
4. Contractor's yard.
5. Construction warehouse.
6. Hardware store.
7. Greenhouses.
8. Agricultural equipment sales and service.
9. Small equipment sales and service.
10. Hotel, motel.
11. Self-service storage facility.
12. Small-scale restaurants; < 30 patrons.
13. Barber and beauty shop/salon.
14. Electrical, heating and plumbing services.
15. Indoor/outdoor recreation.
16. Oil company storage lot.
17. Trucking company.
18. Recreational vehicle sales and service.
19. Modular home sales.
20. Multi-family dwelling.

E. Other Provisions and Requirements

1. Residential uses legally existing on the date of adoption of Local Law No. 6 of 2012 may be altered, repaired, rehabilitated, or remodeled, provided such changes are in compliance with the appropriate area criteria found in

the Rural Residential Districts.

2. All existing generally accepted agricultural practices legally existing as of the date of adoption of Local Law No. 6 of 2012 may also be continued as a matter of right. [2012]

Section 909 Planned Unit Development District (PUD)

The purpose of the PUD is to permit greater flexibility, more creative and imaginative design and utilization of innovative land development techniques while promoting more economical and efficient use of land, buildings, circulation systems and utilities, to provide harmonious land uses which offer a high level of amenities, to permit a mixture of residential and/or nonresidential areas, and to preserve natural and scenic qualities of the site during the development process.

PUD's shall advance the goals of the Comprehensive Plan, promote innovation in the design and layout of structures and encourage compact, pedestrian-oriented development and redevelopment, ensure adequate provisions of community services, and preserve significant natural features and permanently protect open space resources. While flexibility is encouraged, it is intended that conformance with the Comprehensive Plan, municipal service availability and the purpose of this chapter shall ensure that the general welfare is protected through equal treatment under this uniform procedure.

A. Intent.

1. Produce a development pattern in harmony with the land use intensity, transportation facilities, and community facilities objectives of the Comprehensive Plan.
2. Preserve significant natural topography, geological features, scenic vistas, and ecosystems.
3. Prevent the disruption of natural drainage patterns, soil erosion, and uncontrolled surface water drainage.
4. Preserve and integrate historically significant structures and sites with viable adaptive uses.
5. Use land efficiently, resulting in smaller networks of streets and utilities and thereby lower development and maintenance costs.
6. If residential in land use, provide a maximum choice in occupancy tenure (e.g., individual ownership, leaseholds, and condominiums), type of housing (e.g., detached houses, Town houses, garden

apartments), lot size, and community facilities.

7. Provide an adequate and integrated system of open space and recreation areas designed to tie the PUD together internally and link it to the larger community.
 8. Use creative design on the site which allows an orderly transition of land uses.
 9. Adhere to any applicable economic conditions, post-development agreements, or environmental mitigation which may be required.
- B. **General Standards.** In accordance with the criteria set forth below, the existing use, dimensional, sign and parking regulations may be altered in order to establish a PUD; provided, however, that the standards are met.
- C. **Ownership.** The tract of land for a project may be owned, leased or controlled either by a single person or corporation or by a group of individuals or corporations. An application must be filed by the owner or jointly by the owners of all property included in the project. In cases of ownership by multiple parties, the approved plan and its amendments shall be binding on all owners or their successors in title and interest.
- D. **Location requirements.** PUD's may be created in any zoning district of the Town.
- E. **Minimum Area Requirements.** The minimum area required to establish a PUD shall be as follows:
- i. In the Business Center Mixed Use, Industrial, and Business Districts, the minimum area shall be five (5) acres.
 - ii. In the Rural Residential and Manufactured Housing Districts, the minimum area shall be ten (10) acres.
 - iii. In the Agricultural District, the minimum area shall be twenty (20) acres.
- F. **Minimum setbacks.** The minimum setbacks required for the underlying zoning district(s) shall be met at the periphery of the PUD.
- G. Water supply and sewage disposal, PUD's which include a significant number of residential units should be served by a community water system

and be provided with sewage disposal facilities, if appropriate, in accordance with the requirements of the Town, the county and the New York State Departments of Health and Environmental Conservation.

- H. Application shall be made by the owner(s) or developer(s) of the area to be occupied by the building project.
- I. No building permit or certificate or occupancy shall be issued to any project component within a PUD until the Town Zoning Enforcement Officer and/or New York State Fire and Building Codes Enforcement Officer determines that the proposed project is consistent with the approved PUD.
 - i. The development standards approved by the Planning Board shall guide the planning and design of subsequent projects and/or phases of development within the PUD.
 - ii. A building project within an approved site shall conform in all respects to the approved plans.
 - iii. The Planning Board, as appropriate, shall document that the following requirements have been met prior to approval of a development project within a PUD.
 - iv. The project is in conformance with the PUD site.
 - v. The minimum setbacks required for the underlying zoning district shall apply to the periphery of the project.
 - vi. All other zoning requirements of the district, except those modified or specifically deemed not applicable by the zoning officer shall be met.
 - vii. The development plan shall specify reasonable periods within which development of each phase of the PUD may be started and shall be completed.

J. Subdivision Review

Applications of subdivision in a PUD shall be made to the Planning Board in accordance with local law No. 2 of 2004 “Land Subdivision in the Town of Warsaw.” In the event of a conflict between such subdivision regulations and this law or any requirement imposed hereunder, the provisions of this law shall apply.

K. Consultant Review Fees

The Planning Board may require an applicant for any review, permit or approval to deposit in escrow a reasonable amount established by the Planning Board to pay for the fees and/or costs of any engineer, consultant or attorney designated by the Planning Board to review such application. The fees and/or costs charged by the engineer, consultant or attorney designated by the Planning Board to review such application. The fees and/or costs charged by the engineer, consultant or attorney in connection with such review will be charged against the sum deposited in escrow. Any amount remaining shall be returned to the applicant within forty-five (45) days of the final actions on the application.

L. Conditions to run with the land

All conditions imposed by the Town Board, including those the performance of which are conditions precedent to the issuance of any permit necessary for the development of all or any part of the entire site, shall run with the land and shall neither lapse nor be waived as a result of any subsequent change in the tenancy or ownership of any or all of said area. Such conditions shall further be a part of any certificate of occupancy issued for any use or structure in such development.

M. Expiration of Approval

1. The Town Board shall act to return the property to its prior zoning district classification if it finds that:
 - a. Performance requirements which may have been specified by the Town Board in its PUD approval action, such as a time limit for either initiation or completion of improvements and other construction work on the proposed development have not been met, unless the Town Board, upon specific application and for good cause, authorizes an extension of such performance requirement.
 - b. The PUD approval has expired by the failure of the project sponsor to make substantial and continuing progress in the development of the project for more than three (3) years from the date of final approval. The determination of substantial and continuing progress shall be determined solely by the Town Board which may consider any number of factors in making its determination, including the securing of project financing and changed market conditions.
2. If a PUD expires, any buildings constructed or used may continue as a nonconforming use and such shall continue to be bound by the previous PUD approval.

N. PUD Amendment Procedure

- 1. An application for amendment of an established PUD shall be made in writing to the Town Board and shall be accompanied by the applicable fees, The application shall also be accompanied by a full environmental assessment form or draft EIS as required by SEQRA. The Town Board shall refer the application to the Planning Board within thirty (30) days of the receipt of application.**
- 2. The application shall describe the proposed physical changes to the project area in a report that includes graphics and supporting narrative. The application shall contain sufficient facts and information for the Planning Board to make the findings required under this section.**
- 3. The procedure for an amendment of an existing PUD shall be the same as that required to establish the PUD, as described herein.**

O. Application Review and Approval Procedure

- 1. General. Whenever a PUD is proposed, before any zoning and building permit shall be granted, and before any subdivision plat may be filed in the Office of the County Clerk, the prospective developer or his authorized agent shall apply for and secure approval of such PUD in accordance with the following procedures.**
- 2. Sketch Plan Review Procedure.**
 - a. Prior to the formal filing of a PUD application, the applicant shall submit a sketch plan of the proposal to the Town Board.**
 - b. During Sketch Plan Review, the Town Board, in its legislative capacity, establishes the boundaries of the proposed PUD and set limits on the nature and range of uses, geometric and site controls and overall project planning. Specifically, the Town Board shall review the sketch plan according to the following criteria:**
 - i. The proposal conforms to the Comprehensive Plan.**
 - ii. The proposal meets local and regional needs.**
 - iii. The proposal meets the intent and objectives and general requirements of this section.**
- 3. Once the Town Board has accepted a PUD sketch plan for consideration, it shall refer the sketch plan to the Planning Board. Such refusal or acceptance and referral shall take place within thirty (30) days of the submittal of the PUD sketch plan.**

4. **The Planning Board, upon receipt of the referral, shall have forty-five (45) days to issue an advisory report to the Town Board on the PUD sketch plan. Failure to issue an advisory report within forty-five (45) days shall be equivalent to a neutral recommendation. The advisory report shall make a recommendation as to whether the sketch plan, as submitted, meets the following sketch plan review criteria:**
 - a. **The proposal is conceptually sound in that it conforms to accepted design principles in the proposed functional roadway and pedestrian systems, land use configuration, open space system, drainage system, and scale of the elements both absolutely and to one another.**
 - b. **There are adequate services and utilities available or proposed to be made available in the construction of the development.**
5. **Within forty-five (45) days of the Planning Board action, the Town Board shall take action to approve, with or without conditions, or disapprove the proposed PUD sketch plan, based on the criteria set forth above.**
6. **If approved or approved with conditions and accepted, the applicant may proceed to formal PUD application.**

The Sketch Plan shall include:

1. **A map identifying the boundaries and physical characteristics of the proposed PUD, including uses and ownership of abutting lands.**
2. **A conceptual development plan including a succinct narrative of the intent and attributes of the proposed district(s) that describes the location, conceptual design, and use of any lots and structures.**
3. **The proposed amount, location and use of open space.**
4. **Any anticipated changes in the existing topography and natural features.**
5. **The location of the site with respect to nearby streets, rights-of-way, adjacent properties, easements and other pertinent features within two-hundred (200) feet.**
6. **The general outlines of the interior roadway system and all existing rights-of-way and easements, whether public or private.**
7. **Preliminary use and dimensional requirements, including:**
 - a. **Permitted uses, conditional and accessory uses;**
 - b. **Maximum development intensity of residential uses;**

- c. Floor area ratio for non-residential uses;
- d. Lot coverage;
- e. Build-to distances from public and private ways;
- f. Setbacks for structures and parking areas;
- g. Minimum lot size;

- 8. In addition, the following documentation shall accompany the sketch plan:
 - a. Evidence of how the proposed mix of land uses is compatible with the goals of local and area-wide Plans.
 - b. General statement as to how common open space is to be owned and maintained.
 - c. Description of ownership of the site.

P. Formal Application.

- 1. After sketch plan review is complete, a formal application for establishment of a PUD shall be made in writing to the Town Board and shall be accompanied by the applicable fee. The application shall also be accompanied by a full environmental assessment form or draft EIS as required by the SEQRA.
- 2. The Town Board shall refer the application back to the Planning Board within thirty (30) days. The Town Board shall also refer the application according to the requirements of General Municipal Law 239 –m and l and SEQRA.
- 3. The formal application shall describe the proposed physical changes to the project area in a report that includes graphics and a supporting narrative. The application shall contain sufficient facts and information for the Planning Board to make the findings required under this section. However, fully engineered plans and construction details are not required at this stage in the process. The following information is required; however, the level of detail shall be sufficient to provide the Planning Board with enough information to understand the proposed PUD:
 - a. The desirability of the proposed land use in the proposed location.
 - b. The existing character of the neighborhood.
 - c. Access, circulation, parking, and transportation management.
 - d. Proposed location, type and size of signs and driveways.
 - e. Existing state; county or Town highways that provide access to the area.
 - f. Vehicular traffic circulation features, including proposed

- highways and roadways within the PUD.
- g. Mobility (bikes, pedestrians, etc.) through the district.
- h. The general location of principal and accessory buildings in relation to one another and to other structures in the vicinity.
- i. The conceptual footprint, height and bulk of buildings and the intended use for such buildings.
- j. Other site improvements.
- k. Phasing program if phases are proposed.
- l. General landscaping concept and features.
- m. Preservation of open space and natural areas, including the amount and location of open space, recreation area and pedestrian circulation areas and provisions for permanent protection.
- n. Infrastructure improvement preliminary plans, including water supply source and delivery, drainage and energy.
- o. The general plan for the collection and disposal of sanitary wastes.
- p. The proposed safeguards to be provided to minimize possible detrimental effects of the proposed use on adjacent properties and the neighborhood in general (if a full environmental assessment form was provided instead of a draft EIS).
- q. Compatibility with the Comprehensive Plan.
- r. Permitted uses, conditional and accessory uses.
- s. Maximum development intensity of residential uses.
- t. Floor area ratio for nonresidential uses.
- u. Lot coverage.
- v. Build-to distances from public and private ways.
- w. Setbacks for structures and parking areas.
- x. Minimum lot size.
- y. The number, size and location of automobile parking areas and loading areas and the proposed access to such areas.
- z. Minimum lot frontages and building massing.
- aa. Preservation of historic structure(s).
- bb. Design standards and guidelines.
- cc. A proposed amendment to the Zoning Code, including, at a minimum, a written metes and bounds description of the property and standards for development.
- dd. All material and data necessary to conduct review under the State Environmental Quality Review Act.

Q. Planning Board Action.

- 1. The Planning Board may require such changes in the preliminary plans as are

found necessary or desirable to protect the established or permitted uses in the vicinity and to promote the orderly growth and sound development of the community.

- a. The Planning Board shall make the required findings outlined below and recommend approval, approval with modifications or disapproval to the Town Board of such PUD application, and shall report its findings to the Town Board within sixty-two (62) days following the date of referral from said Town Board, unless mutually agreed to by the applicant and the Planning Board.
- b. Planning Board approval of the preliminary plans shall not constitute nor imply approval of a building project, nor imply a permit for said project.

R. Required Findings.

The Planning Board shall develop written findings that document the facts and information relied upon to reach its conclusions in rendering a decision on a PUD. The following mandatory findings must be addressed:

1. That the PUD is consistent with the objectives and standards of this chapter.
2. That adequate community facilities and services exist and/or are to be accommodated as part of this planned development.
3. That the PUD establishes a mix of uses and a physical development pattern which would not be attainable through a traditional zoning amendment, as described in this code.
4. That the PUD is compatible with the surrounding neighborhood context and character and is in conformance with the policies in the Comprehensive Plan.
5. That the PUD has mitigated potential undue adverse environmental impact as set forth during SEQRA review to the maximum extent practicable.
6. That the PUD will add to the long-term assets of the community and it will not erode the livability or economic viability of existing and neighboring areas.
7. That the open space and recreation areas and facilities provided are commensurate with the level of development proposed and the predevelopment open space resources potentially available for protection.
8. That the provisions to protect open space resources are sufficiently secured

by dedication where appropriate and desirable or legal instruments and/or monitoring programs and/or establishment or use of an existing trust to ensure their continued long-term protection

S. Town Board Action.

- 1. Upon receipt of the Planning Board's findings and recommendation, the Town Board may then consider the legal establishment of the PUD through a Zoning District Map amendment. In particular, any application for creation of a PUD shall be considered a Type 1 action under SEQRA.**
- 2. Following receipt of Planning Board's findings and recommendation, the Town Board shall hold a public hearing thereon upon such notice as is required by this chapter for a zoning amendment and applicable provisions of the Town Law of the State of New York.**
- 3. The Town Board shall render a decision on the application within sixty-two (62) days of the public hearing, unless an extension of time is agreed to by the applicant and Town Board, according to the following criteria:**
 - a. That the PUD is consistent with the purpose and intent of this Code including, where applicable, the objectives and standards of this Chapter;**
 - b. That the PUD is compatible with the surrounding neighborhood context and character and is in conformance with the policies in the Comprehensive Plan;**
 - c. That the PUD has mitigated potential undue adverse environmental impact as set forth during SEQRA review to the maximum extent practicable;**
 - d. That the PUD will add to the long-term assets of the community and it will not erode the livability or economic viability of existing and neighboring areas;**
 - e. That the open space and recreation areas and facilities provided are commensurate with the level of development proposed and the pre-development open space resources potentially available for protection;**
 - f. That the provisions to protect open space resources are sufficiently secured by dedication where appropriate and desirable or legal instruments and/or monitoring programs and/or establishment or use of an existing trust to ensure their continued long-term protection.**
 - g. The Town Board may, if it believes it necessary in order to fully protect the health, safety, and general welfare of the community, attach to its zoning resolution approving the zoning change additional**

conditions or requirements applicants must meet. Such requirements may include but are not limited to:

- i. Visual and acoustical screening**
- ii. Land Use mix**
- iii. Pedestrian and vehicular circulation system**
- iv. Parking and snow removal**
- v. Sites for public services**
- vi. Protection of natural and/or historical features**
- vii. Requirements or conditions identified during the SEQRA process and/or voluntary agreements between the applicant and the community, including economic incentives or infrastructure improvements**
- viii. If the change of zone is approved by the Town Board, the Official Town Zoning Map shall be amended so as to define the boundaries of the PUD, and such amendment shall be advertised and recorded in accordance with the requirements of New York State Town Law.**