

TOWN OF MIDDLESEX

ZONING LAW

Adopted by the Town Board Town of Middlesex
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TOWN OF MIDDLESEX ZONING LAW

A Local Law limiting and restricting the specified districts, and regulating therein, buildings and other structures according to their construction and the nature and extent of their use, and the nature and extent of the use of land, so as to promote health, safety, morals and general welfare of the Town of Middlesex, as well as historic and cultural preservation; and providing penalties for the violation thereof .

This Local Law shall be known and may be cited as The Zoning Law of the Town of Middlesex.

Pursuant to the authority and power granted by Chapter 62, Article 16, of the Consolidated Laws, to regulate and redistrict the height, number of stories and size of buildings and other land that may be occupied, the size of yards, courts and open spaces, the density of population and the location and use of buildings, structures and land for trade, industry and residence or other purposes, and to establish zones or districts in the Town of Middlesex, and for such other purposes as shall from time to time be appropriate under the provisions of Section 263 of the Town Law of the State of New York, THE TOWN BOARD DOES ORDAIN:

ARTICLE I: PURPOSE AND ESTABLISHMENT OF USE DISTRICTS

SEC. 100.0. PURPOSE

In conformance with the authority conferred by Article 16 of the Town Law of the State of New York, the zoning regulations and districts herein set forth, and as depicted on the Zoning Map, are made in accordance with a Comprehensive Plan for the Town of Middlesex for the following purposes:

- 100.1. To promote the health and general welfare of the community;
- 100.2. To provide adequate open space for light, air and outdoor uses including public, commercial and private open space areas ;
- 100.3. To preserve and protect significant natural features and vegetation, thereby preventing the ecological damage and visual blight that occurs when those features are eliminated or substantially altered to serve development purposes;
- 100.4. To assure that structures and land use arrangements are aesthetically harmonious with nearby areas and structures;
- 100.5. To guide the future development of the Town of Middlesex, so as to bring about the gradual conformity of land and building use with the objectives of the Comprehensive Plan;

100.6. To protect the character and values of residential, institutional and public uses, business, commercial and manufacturing uses and to ensure their orderly and beneficial development; and

100.7. To preserve the historic and cultural nature of the Town of Middlesex

SEC. 101.0. DISTRICTS CREATED

For the purpose of this Local Law, the Town of Middlesex is hereby divided into the following classes of use districts:

101.1. Agriculture/Residential Use District - AR. The intent of the Agriculture/Residential Use District is to designate those areas of the Town where farming and regulated agricultural activity is the most desirable land use and where a mixture of non-farm residential development, with limited scattered nonresidential uses, is appropriate, but wherein it is not contemplated that public sewage disposal facilities will be provided in the foreseeable future.

101.2. Lake Residential Use District - LR. The intent of the Lake Residential Use District is to designate those areas of the Town along Canandaigua Lake where single residential development related to the proximity of the lake and its shoreline is the predominant and most appropriate use of land. Preservation of the quality of the lake and protection of residential character are principal objectives of regulations and requirements in the Lake Residential District. No person shall grant, convey, lease or permit a right of way or access to the lake or lake shore for commercial use.

101.3. Hamlet Residential Use District - HR. The intent of the Hamlet Residential Use District is to designate those areas of the Town where a concentration of one, two or multiple family residences is the most desirable land use and where a scattered mixture of nonresidential land uses that are compatible with the existing character of the neighborhood would be appropriate. Public water service is likely to be available in the Hamlet Residential District but public sewage disposal is not anticipated in the near future. Adequate on-site sewage disposal will be a major determinant of development density.

101.4. Low Density Residential Use District - LDR. The intent of the Low Density Residential Use District is to designate those areas of the Town where the combination of steep slopes, extensive wooded areas, and limited access produce conditions that are not generally favorable to extensive development. Farming and very low density housing are desirable land uses in these areas. Recreation, camping, and similar outdoor activities can be suitable land uses in such areas; a

limited amount of nonresidential development would be appropriate when this does not detract from the open, rural character of these areas.

101.5. General Business Use District - GB. The intent of the General Business Use District is to designate those areas of the Town where the desired land uses are small scale, general retail, service and office activities that provide convenience goods and services for the general public. Such nonresidential development is often intermixed with a variety of housing accommodations, often on upper floors, creating a mixed-use neighborhood character.

101.6. Highway Business Use District - HB, The intent of the Highway Business Use District is to designate those areas of the Town where an appropriate land use consists of services, storage, light fabricating processing and a similar mixture of commercial land uses. The nature and scale of such activities often makes them unsuitable for location in the General Business District. Farming and housing development are also suitable land uses in this district. Such districts are related to the existing major highway system in the Town.

SEC. 102.0. ZONING MAP AND SCHEDULE

The boundaries of the districts set forth in Sec. 101 are hereby established on a map entitled "Zoning Map Town of Middlesex" which map, as may be amended from time to time is located in the office of the Town Clerk and is hereby declared to be part of this Local Law.

SEC. 103.0. DISTRICT BOUNDARIES

In determining the boundaries of zoning districts, the following shall apply:

103.1. Boundaries shown as approximately following the center lines of streets or highways, or established lot lines, shall be construed to follow center lines and lot lines.

103.2. Boundaries indicated as parallel to or extensions of the features indicated in Sec. 102.0. shall be construed to be parallel to or extensions of such features.

103.3. Distances not specifically set forth on the Zoning Map shall be determined by the scale of the map.

103.4. Questions or disagreements concerning the exact location of a district boundary line shall be resolved by the Zoning Board of Appeals.

SEC. 104.0. SCOPE AND TERMS

104.1. Scope. No building, structure or land shall hereafter be used, and no building, structure or part thereof shall be erected, moved or altered unless for a use specifically permitted by, and in conformity with, the regulations herein specified for the district in which it is located, except as hereinafter provided. Within each use district the regulations established by this Local Law shall be minimum regulations and shall be applied uniformly to each class or kind of building, structure or land.

104.2. Terms. The present tense shall include the future and the singular number shall include the plural, and the plural the singular. The word "shall" is mandatory.

ARTICLE II: DEFINITIONS

SEC. 200.0. Certain words and terms used in this Local Law are defined for the purposes thereof, as follows:

200.1. Adult Residential Care Facility. Residential facilities for adults where minimal medical care and personal hygiene are provided to residents on a 24-hour basis for persons who, by reason of limitations associated with age or physical disabilities, are unable to live independently. There are two types of ARC facilities:

- a. Facilities for 3 or fewer adults, licensed and periodically inspected by Yates County.
- b. Facilities for four or more adults, licensed and periodically inspected by New York State.

200.2. Agriculture. The production of crops, plants, vines, trees and accessory uses customarily incidental to such activity. (See also Customary Agricultural Operation)

200.3. Animal Husbandry. The keeping, feeding, grazing and care of animals.

200.4. Appeal. A request for a review of the Code Enforcement Officer's interpretation of any provision of this Local Law, or a request for a variance.

200.5. Area, Building. The total of area, taken in a horizontal plane at the main grade level of the principal buildings, and all accessory buildings, exclusive of uncovered

porches, terraces and steps. All dimensions shall be measured between the exterior faces of walls.

- 200.6. Area, Land. The total area within the property lines exclusive of streets and other public open space.
- 200.7. Arts and Crafts. Activities carried on for the perpetuation and further development of arts and skills necessary for the production of unique hand-crafted products such as such as glass blowing, iron work, leather work, pottery, glass, wood working, etc.
- 200.8. Basement. A habitable space, partly below grade. and which has one-half of its height, measured from floor to ceiling, above the average established finished grade of the ground adjoining the building. (See Cellar.)
- 200.9. Bed and Breakfast, See Tourist Home.
- 200.10. Billboard. Any outdoor sign, advertising medium, structure or device which advertises, directs or calls attention to any business, article, substance, service or any other thing which is offered at a different location from where the sign is installed, and which is larger than six square feet.
- 200.11. Boarding House. A structure in which more than three persons are supplied with meals and/or lodging.
- 200.12. Buffer Strip. A strip of land, generally adjacent to a property line in which a screen of plantings is installed and maintained by the property owner. Such screen shall be planted with deciduous and evergreen trees and shrubs, in any combination deemed effective, which is dense enough and high enough to be a visual buffer between properties. A decorative fence, or a combination of fence and plantings, may be used as a buffer strip when the objective of screening can be met.
- 200.13. Building. Any structure having a roof supported by columns or by walls and constructed or used for any residence, business, industry or other public or private purpose, or accessory thereto.
- 200.14. Building, Accessory. A subordinate building or structure, the use of which is customarily incidental to that of the principal building and which is located on the same lot with the principal building. Accessory buildings include a private garage, swimming pool, stable, tool house, children's playhouse and similar uses. (See Home Occupation) (*Amd 10/22/2004*)
- 200.15. Building, Alteration of. Any exterior change, rearrangement or addition to a

building, or any change in use from one land use activity to another, or moving of a building from one location to another.

- 200.16. Building Height of. The vertical distance measured from the lowest point visible of finished construction to the highest point visible of finished construction not to exceed 35 feet. (See also Grade.) A weathervane, and other similar decorative attachments to the roof shall not be considered in determining the height of a building.
- 200.17. Building and Zoning Permit. A permit issued by the Code Enforcement Officer stating that the purpose for which a building or land is to be used is in conformance with the requirements of this Local Law for the district in which such building or land is, or is to be, located.
- 200.17. Building Lines. The lines that delineate the area within which a structure may be legally erected.
- 200.18. Building, Non-conforming. A structure or building, the size, dimensions or location of which was lawful prior to adoption of this Local Law, but which fails by reason of such adoption, revision or amendment, to conform to the present requirements of the zoning district in which it is located.
- 200.19. Building, Principal. A building, including covered porches, in which is conducted the principal use of the lot on which it is situated. In a residential district, any dwelling shall be deemed the principal building for the lot on which the same is situated.
- 200.20. Camping Unit. Any tent, cabin, camper, travel trailer, recreation vehicle, lean-to or similar structure or vehicle, established, maintained, or used for seasonal occupancy as living quarters for recreation, vacation or educational purposes, and lacking one or more basic amenities. For purposes of this Local Law, a camping unit is not considered a dwelling or a cottage.
- 200.21. Campground, Travel Trailer Park. A parcel of land upon which two or more camping units are located, established or maintained for public or private occupancy as temporary living quarters for recreation, vacation or education purposes and for which a charge is made. For purposes of this Local Law, a mobile home park is not considered a campground .
- 200.22. Campsite A plot of ground intended primarily for occupancy by one or more camping units and for which no charge is made.
- 200.23. Cellar. A story partly underground and having more than one-half of its clear height below the average level of the adjoining ground. A cellar shall not be

considered in determining the permissible number of stories unless it is finished for human occupancy.

- 200.24. Cemetery. Land used or intended to be used for the burial of dead human beings and dedicated for cemetery purposes, including columbariums, mausoleums and mortuaries operated within the bounds of such cemetery.
- 200.25. Center Line of Street or Private Road. A line midway between and approximately parallel to street or private road boundary lines, as shown on a site survey map.
- 200.26. Church or Other Place of Public Worship. A building or space for public worship and used by an organization that is registered by the State of New York.
- 200.27. Club. Membership, social or recreational building, but excluding the type of service that is customarily carried out as a business.
- 200.28. Cluster Development. The subdivision of an area into lots that are smaller than would normally be permitted by this Local Law, where the dwelling unit density of development is no greater than would be permitted in the district by conventional development and where the residual land produced by the smaller lot size is preserved and used for common open or recreation space.
- 200.29. Code Enforcement Officer. The duly appointed officer of the Town of Middlesex charged with the duty of enforcing this Local Law.
- 200.30. Commercial and Business Activity. Establishment or use that provides goods, merchandise, services or entertainment to the general public for gain.
- 200.31. Commercial Recreation. A recreation facility operated as a business and open to the public for a fee. Includes both indoor and outdoor facilities as listed in Schedule I of this Local Law.
- 200.32. Community Residence, State Regulated. Any residential facility operated by the State or which is operated by a State-certified or licensed provider of services and which is designed to assist mentally disabled individuals in the transition from institutional to independent living in the community, to provide long-term supervised residence to individuals whose mental disability is such that independent living is improbable, to provide temporary shelter for short periods of time in order to offer an alternative for admission to an institution, to provide a brief-stay substitute home to mentally disabled individuals, or to allow respite or vacation to such individual's family or legal guardian. A community residence shall include, but not be limited to, halfway houses and hostels.

- 200.33. Convenience (Mini) Mart. A small commercial activity that may offer for sale convenience goods, beverages and sundries, including motor fuel.
- 200.34. Cottage. A detached building that is intended for seasonal occupancy as a dwelling and does not contain the full range of facilities necessary for occupancy on an all-year-round basis. For purposes of this Local Law, a cottage is not a camping unit.
- 200.35. Customary Agricultural Operation. The use of a parcel of land for gain in the raising and sale of agricultural products, livestock, poultry and dairy products, including the production of crops, plants, vines, or trees. It also includes necessary farm structures within the prescribed limitations, and the storage of necessary equipment.
- 200.36. Dependent Relative. A person who, for economic or medical reasons, is dependent on another person who is related by blood, marriage or adoption.
- 200.37. Development. Any man-made change to the natural condition of a site including, but not limited to the addition to or erection of one or more structures or buildings, grading, dredging, filling, excavating, paving, clearing or providing a means of ingress and egress to and from, or through, said site, whether already improved or unimproved.
- 200.38. Drive-in. An establishment which by design, physical facilities, or packaging procedures encourages or permits customers to receive services, obtain goods or be entertained while remaining in their motor vehicles.
- 200.39. Dwelling. A building or portion thereof that meets the following criteria:
- a. Designed, used, or intended to be used as a year-around and complete living quarters for one family or household.
 - b. Provides cooking and bathroom facilities and an independent entrance from the outside or from a common hall or entryway.
 - c. Meets applicable requirements of the New York State Uniform Fire Prevention and Building Code.
 - d. Meets applicable minimum floor area requirements of Sec. 604 of this Local Law.
- 200.40. Dwelling, Factory Manufactured. A one-family dwelling that meets all applicable New York State building codes and is constructed by a method or system of construction whereby the basic structure or its components are wholly,

or in a substantial part, manufactured in a remote facility, designed to be transported to a lot for assembly and permanent installation on a foundation. For purposes of this Local Law a mobile home is not construed to be a Factory Manufactured Dwelling.

- 200.41. Dwelling, Mobile Home. A one-family dwelling that has the following distinguishing characteristics:
- a. Manufactured as a moveable or portable dwelling for year-round occupancy and for installation on a masonry or concrete foundation, or a mobile home stand, or piers, with or without a basement or cellar.
 - b. Designed to be transmitted on its own chassis and wheels and connected to utilities after placement on a lot.
 - c. May contain parts that can be folded, collapsed or telescoped when being towed and expanded later to provide additional living space.
 - d. May be constructed in two or more separately towable components designed to be joined into one integral unit that is capable of being again separated into the components for repeated towing.
 - e. Meets applicable requirements of the New York State Uniform Fire Prevention and Building Code.
- 200.42. Dwelling, Multiple Family. A building containing three or more dwellings that are independent of each other and have separate kitchen and bathroom facilities for each dwelling.
- 200.43. Dwelling, Townhouse. A building containing two or more owner-occupied dwellings, each of which has one or two side walls in common with side walls of abutting dwellings and are party or lot-line walls.
- 200.44. Dwelling, Two-Family. A detached building containing no more than two dwellings.
- 200.45. Factory. A building or group of buildings, usually with equipment, where goods are manufactured or assembled.
- 200.46. Family. One or more persons occupying a premises and living as a single, nonprofit household whether or not such persons are related by blood, marriage or adoption.
- 200.47. Family Day Care Facility. (As defined in Section 390 of the Social Services

Law) Day care shall mean the care provided for three or more children away from their own homes for less than twenty-four hours per day in a family home that is operated for such purpose, for compensation or otherwise, for more than five hours per week. A permit or certificate as appropriate, is issued by New York State Department of Children and Family Services to regulate this type of day care.

200.48. Farm. A parcel of land with a minimum area of 5 acres that is used for the raising of agricultural products, livestock, poultry, and dairy products and including necessary farm structures and equipment for the operation thereof.

200.49. Flood, Flooding. A general and temporary condition of partial or complete inundation of normally dry areas from an overflow of a stream or other body of water caused by severe storms or unusual and rapid surface water runoff.

200.50. Flood, 100-Year. The highest level of flooding that, on average, is likely to occur every 100 years. The base flood.

200.51. Footprint. The foundation of an existing building.

200.52. Frontage. See Lot, Frontage.

200.53. Garage, Attached. A private garage that is attached to, or forms an integral part of, the main structure on the lot.

200.54. Garage, Private. A structure used for the storage of motor vehicles owned or used by the occupants of the lot on which it is erected for a purpose accessory to the permitted use of the lot, and with no provision for the repairing or servicing of such vehicles for profit.

200.55. Garage, Public. Any garage that is not a private garage, designed or used for the repair or storage of motor vehicles for a fee.

200.56. Grade. The average level of the finished surface of the ground adjacent to the exterior walls of the building.

200.57. Greenhouse, Plant Nursery. Any building or structure in which light, temperature and humidity can be controlled for the growing and protection of flowers and other plants that are to be sold commercially.

200.58. Habitable Area. That area of a building designed to be occupied by one or more persons for living, sleeping, eating or cooking, exclusive of cellars, garages and unheated breezeways or porches.

- 200.59. Habitable Floor. Any floor usable for living purposes including working, sleeping, eating and recreation space, or a combination thereof.
- 200.60. Home Occupation. Any activity customarily conducted entirely within an owner-occupied dwelling or accessory structure and meeting the performance standards in Sec. 501.7. of this Local Law.
- 200.61. Junk. Any scrap, waste paper, rags, scrap metal, white goods, junked automobiles, reclaimable material or debris, whether or not stored or used in conjunction with dismantling, processing, salvage, storage, baling, disposal or other use or disposition.
- 200.62. Junk Yard. See Salvage Yard.
- 200.63. Kennel. Any premises including cages, runs and structures, wherein are harbored more than four animals that are four months old or older, regardless of the number of owners and whether or not for gain.
- 200.64. Land Use Activity. Any action that occurs on land or in a structure or that affects the use or appearance of land or a structure or the intensity of use of land or a structure. Includes but is not limited to new structures, expansions of existing structures, new uses, changes in or expansion of existing uses, and excavations for the purpose of extracting soil or mineral deposits.
- 200.65. Livestock. Large animals, usually herding in nature, and traditionally considered to be farm animals such as, but not limited to, horses, cattle, pigs, goats or sheep, that are kept for personal use or profit.
- 200.66. Living Space. The sum of all habitable areas, measured from centerline to centerline of walls, but not including cellars, garages, carports, terraces, decks and similar areas not specifically designed to be living quarters.
- 200.67. Lot. An area of land, with or without buildings or structures, delineated by lot lines and having frontage on a street or road. A parcel of land.
- 200.68. Lot, Corner. A lot or parcel of land abutting on two or more streets or roads at their intersection.
- 200.69. Lot, Depth. The average horizontal distance from the center line of the street or road to its opposite, or rear, line, measured along the median between the two side lot lines.
- 200.70. Lot, Flag. A lot on a street that consists of lot frontage of at least 50 feet, the "pole" portion of which is at least 50 feet wide, and the "flag" portion of which

meets the minimum area requirements for the district in which it is located. There shall be no flag lots on private roads.

- 200.71. Lot Frontage. The portion of the lot which adjoins the street or road. Notwithstanding the above, the lot frontage of property on Canandaigua Lake shall be the shoreline of the said property, and the rear lot line shall adjoin the street or the road; and the front property line of a flag lot shall be the line approximately parallel to the street.
- 200.72. Lot Line. A line of record bounding a lot and which divides one lot from another or from a street, road, or any other public space.
- 200.73. Lot, Non-conforming. A lot of record lawfully existing at the date of adoption of this Local Law, as amended, which does not meet the minimum area or dimensional requirements of the district in which such lot is located.
- 200.74. Lot, Width. The horizontal distance between the side lot lines, measured parallel to the front lot line at the minimum required building setback distance.
- 200.75. Mobile Home. See Dwelling, Mobile Home.
- 200.76. Mobile Home Park. Any plot of land under common ownership upon which three (3) or more occupied mobile homes are located.
- 200.77. Motor Vehicle Service Station. Any area of land, including structures thereon that is used for the sale of gasoline or other motor vehicle fuel and oil and other lubricating substances, including state inspection of motor vehicles and any sale of motor vehicle accessories, and which may or may not include facilities for lubricating, washing, repair or otherwise servicing motor vehicles, but not including the painting thereof or body and fender work.
- 200.78. New Construction. Structures for which the start of construction commenced on or after the effective date of this Local Law.
- 200.79. Non-Conforming Lot or Use. See Lot, Non-conforming or Use, Non-conforming.
- 200.80. Noxious Matter or Material. Any material that is capable of causing injury to living organisms by radiation or chemical reaction, or is otherwise capable of causing detrimental effects to the physical or economic well-being of communities or individuals.
- 200.81. Nursery School. A facility or an activity solely designed to provide daytime care or instruction for five or more children from two to five years of age, which

is operated on a regular basis.

- 200.82. Nursing or Convalescent Home. Any licensed establishment where persons are lodged and furnished with meals and nursing and/or custodial care, for gain or as a not-for-profit operation.
- 200.83. Occupancy. The use of a building, structure or land.
- 200.84. Open Space. That portion of a lot that is not used for buildings, structures, parking or service. Open space may include lawns, shrubbery, trees, garden areas, footpaths, play areas, pools, water courses, wooded areas and paved surfaces that are not used for vehicular parking of any kind.
- 200.85. Open Storage. The holding of any material in such a way that the material is exposed to the elements of nature.
- 200.86. Parking Space. An area for the temporary open storage and parking of motor vehicles which has at least nine feet of width, eighteen feet of length and seven feet of clear height, together with adequate provision for maneuvering and access thereto.
- 200.87. Private Road. A private vehicular way used to provide access to two or more lots and meeting the provisions of Sec. 703 of this Local Law.
- 200.88. Professional Office. The office of a member of a recognized profession (a vocation requiring knowledge of some aspect of learning, science or art) and maintained for the conduct of that profession.
- 200.89. Restaurant. A permanent structure used for the serving of meals, with table and chair and/or counter facilities, but not including drive-in facilities.
- 200.90. Roadside Stand. A stall or booth used for commercial purposes where farm products are offered for sale on a seasonal basis.
- 200.91. Salvage Yard. A lot, land or structure, or part thereof, where junk or discarded or salvaged materials are bought, sold, exchanged, sorted, baled, packaged, disassembled, handled or abandoned, whether for the purpose of sale or resale of used parts therefrom, for the purpose of reclaiming for use some or all of the materials therein, or the purpose of storage or disposal of the same or for any other purpose.

Salvage yard includes, but is not limited to: the place of storage or deposit of two or more unregistered or uninspected motor vehicles, or parts or waste material therefrom which, taken together, equal in bulk two or more motor vehicles and are

kept outside or in an unenclosed structure; vehicle or machinery wrecking or dismantling yards; places or yards for the unenclosed storage of construction and demolition material.

Exceptions: The following are specifically excluded from the above definition.

a. The storage of agricultural equipment, machinery or vehicles in the Agriculture/ Residential or Low Density Residential districts when such material is part of an active farm operation.

c. Solid waste disposal operations that are run by or authorized by the Town, if otherwise permitted by related provisions of this Local Law.
(Amd 10/5/2000)

200.92. School. Any building or part thereof, designed, constructed or used for general educational purposes under the supervision of the State of New York or a lawfully constituted ecclesiastical governing body, or a corporation or entity meeting the requirements of the State.

200.93. Seasonal Occupancy. Occupancy for a total or cumulative period that does not exceed six months in any one calendar year.

200.94. Sign. Any device for visual communication that is used for the purpose of bringing the subject thereof to the attention of the public, but not including any flag or insignia of any government or governmental agency or of any civic, charitable, religious or similar organization. See Sec. 706 of this Local Law.

200.95. Site Plan. A plan of a proposed development or use of land that is prepared for site plan review pursuant to the provisions of Sec. 700 of this Local Law.

200.96. Stable, Private. Accessory building in which horses and ruminants such as cattle, sheep and goats are kept for private use only and are not for hire, sale or training for remuneration of any type.

200.97. Stable, Public. A building in which horses and cattle are boarded for a fee or are kept and made available for hire, sale or other type of remuneration.

200.98. Story. The portion of a building that is between one floor level and the next higher floor level or the roof. If a mezzanine floor area exceeds one-third of the area of the floor next below, it shall be deemed to be a story. A cellar shall not be deemed to be a story if unfinished and without human occupancy.

200.99. Street. Any public right-of-way maintained by the Town, County or State. A highway. A public road.

- 200.100. Street or Road Line. The line that is the joint boundary line of a lot and a street or road.
- 200.101. Structure. Anything constructed or erected with a fixed location on the ground or attached to something having a fixed location on the ground. "Structure" includes but is not limited to buildings, walls, retaining walls, steps, tram systems, solid fences, decks, storage tanks, wells, swimming pools, radio towers, billboards, poster panels. (*Amd 10/22/2004 and 10/31/ 2008*)
- 200.102. Structure, Non-Conforming. See Building, Non-Conforming.
- 200.103. Structurally Altered. Any change or alteration in the supporting structure of a building or structure; any enlargement of a building or structure, or moving of a building or structure from one location to another.
- 200.104. Substantial Improvement. Any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the market value of the structure either before the repair or improvement is started, or if the structure has been damaged and is being restored, before the damage occurred. For the purpose of this Local Law, substantial improvement is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not the alteration affects the external dimensions of the structure.
- 200.105. Temporary Use. An activity or land use established for a specific, limited period of time (less than 6 months) that might not otherwise be permitted by the provisions of this Ordinance. Examples of such uses are buildings incidental to new construction that are removed after completion of the construction work.
- 200.106. Tourist Home/Bed and Breakfast. A dwelling in which overnight accommodations are provided for not more than ten transient paying guests whether or not any meals are provided.
- 200.107. Trailer, Camper or Travel. A vehicle or portable structure not over 250 square feet in floor area that is equipped but not regularly used for sleeping and which may or may not have internal sanitary facilities; a recreation vehicle.
- 200.108. Tram Systems/Replacement Trams. A construction or an assembly of materials the use or occupancy of which requires a fixed location on the ground which is a mechanical lifting device to transport people and personal property to and from an upland area and a lowland area. The device may consist of tracks affixed to the ground or above the ground on posts or pilings, and a cart raised or lowered along

the tracks by an electrical winch and cable system or other similar system, provided it is designed and built in a manner that ensures control of soil and water erosion practices, as well as manufacturer's and national standards (See section 609). A tram system as defined herein shall be built and used as an accessory structure to a one-family dwelling and may not be built or used for commercial purposes. This definition shall apply to construction of new tram systems as well as replacement of tram systems existing as of the effective date of this law. *Add. 10/31/2008*)

- 200.109 Use. The specific purpose for which land or a building is designed, arranged or intended, or for which it is or may be occupied or maintained. The term "permitted use" shall not be deemed to include any non-conforming use.
- 200.110. Use, Accessory. A use not otherwise contrary to the provisions of this Local Law, that is incidental and subordinate to the principal use and located on the same lot therewith, and which does not dominate in area, extent or purpose the principal, lawful use of the said lot.
- 200.111. Use, Non-Conforming. An established use of a building, structure or land, lawfully existing at the time of adoption or amendment of this Local Law that does not conform with the permitted use provisions of this Local Law (see Schedule I) as they apply to the district in which the building, structure or land is located. (See also Lot, Non-conforming and Building, Non-conforming.)
- 200.112. Variance. Written authority to deviate from any of the provisions, including the use of land, of this Local Law, said authority to be granted by the Zoning Board of Appeals in accordance with Sec.902. of this Local Law.
- 200.113. Variance, Area. Authorization by the Board of Appeals to deviate from dimensional and area regulations of Schedule II of this Local Law governing such things as lot area, lot frontage, yard setbacks, building height and lot coverage. Deviation from parking and sign regulations also requires an area variance from the Board of Appeals.
- 200.114. Variance, Use. Authorization by the Board of Appeals to use land or a building for a purpose that would not otherwise be permitted pursuant to the provisions of Schedule I of this Local Law.
- 200.115. Vehicle Body Shop. Any building or portion thereof used primarily for the repair or painting of motor vehicle bodies, whether or not such activity also includes motor service or repair and the sale of motor vehicle fuel.
- 200.116. Waste Management Facility. A facility for the treatment, storage, transfer or

disposal or discarded residential, commercial or industrial material with insufficient liquid material to be free flowing.

200.117. Yard. An unoccupied space open to the sky, on the same lot with a building or structure.

200.118. Yard, Front. An open space extending across the entire width of a lot, between the front line of the principal building and the centerline of the adjacent street or road (or front property line in the case of a flag lot) and into which space there shall be no extension of building parts other than steps, open porches, eaves, cornices and similar structures. For purposes of this Local Law, a lot located on Canandaigua Lake shall have the front yard facing the lake.

200.119. Yard, Rear. An open space extending across the entire width of the lot, between the rear line of the lot and a line parallel to the said rear lot line, and at a distance therefrom as specified in Schedule II for the district in which the lot is located.-

200.120. Yard, Side. An open unobstructed space on the same lot with the principal building, between the principal building and the side line of the lot, and extending through from the front yard line to the rear yard line.

200.121. Zoning Board of Appeals (ZBA). The officially established Zoning Board of Appeals of the Town of Middlesex. (See Article IX.)

ARTICLE III: NON-CONFORMING LAND USES, BUILDINGS AND LOTS

SEC. 300.0. INTENT

The intent of this Article III is to provide for the use of land, buildings and lots that do not comply with the regulations of this Local Law and to set forth the circumstances and conditions under which such non-conformity may be continued.

SEC. 301.0. CONTINUANCE

Except as otherwise provided in this Article III, the lawful use of land, buildings and lots existing at the date of adoption of this Local Law may be continued.

SEC. 302.0. ALTERATION OF NON-CONFORMING BUILDING OR USE

a. No non-conforming building shall be enlarged, extended, expanded, replaced, or moved unless such alteration would tend to reduce or not increase the degree of nonconformance.

b. No non-conforming use may be expanded.

SEC. 303.0. CHANGES TO OTHER NON-CONFORMING USES

A non-conforming use of land or a building may not be changed to another non-conforming use unless a use variance therefore has been granted by the Zoning Board of Appeals.

SEC. 304.0. UNDERSIZED LOTS

Any parcel of land which was lawfully existing on February 26, 1999, the effective date of this Law, and which has become illegal by the adoption of this Law because it now has dimensions less than the minimum required in the district in which such lot is located, may be used, or subsequently sold and used, for any purpose permitted in the district, provided that (1) the yard and coverage requirements for the district can be complied with, and (2) such lot does not adjoin any other lot held by the same owner whose aggregate area is equal to or greater than the minimum lot area required by the district, unless such undersized parcel was listed by separate tax map number on the assessment roll of the Town of Middlesex on the effective date of this Local law. If yard and coverage requirements cannot be met, an area variance will be required to permit the use of such undersized lot. (*Amd. 10/22/04*)

SEC. 305.0. TRANSFERENCE

Non-conforming use rights, subject to the provisions of this Article III, remain with the land when title is transferred.

SEC. 306.0. REVERSION

Non-conforming use of land or a building shall not , if once changed to a conforming use, be changed back to the previous or a new non-conforming use unless a use variance therefore has been granted by the Zoning Board of Appeals.

SEC. 307.0. ABANDONMENT OF A NON-CONFORMING USE

Failure to use land or a building that contains a non-conforming use for a period of twenty four consecutive months shall terminate the right to such nonconformity. Thereafter, no nonconformity shall be reestablished unless a use variance therefore has been granted by the Zoning Board of Appeals.

SEC. 308.0. MAINTENANCE AND REPAIR

Nothing in this Local Law shall be deemed to prevent strengthening, or otherwise restoring to a safe condition, any non-conforming land use or building declared unsafe by the Code Enforcement Officer.

SEC. 309.0. DISTRICT CHANGES

When the boundaries of a district are changed so as to transfer an area from one district to another district of a different classification, the foregoing provisions of this Art. III shall also apply to any non-conformity existing therein or created thereby.

SEC. 310.0. PREVIOUSLY PREPARED PLANS

Nothing in this Local Law shall require any change in plans, construction or designated use of a building for which a building permit has been issued prior to the adoption of this Local Law provided, however, that construction is begun within twelve (12) months from the date of issuance of the permit and thereafter diligently pursued.

SEC. 311.0. DAMAGED OR DESTROYED BUILDINGS

If a non-conforming building is damaged or destroyed, by fire or otherwise, the building may be repaired or rebuilt, provided the new construction does not exceed the original footprint of the pre-existing building, nor increase the non-conformity of the building; and further provided the repair or rebuilding is completed within thirty six months of the date the building sustained such damage.

ARTICLE IV: DISTRICT REGULATIONS

SEC. 400.0. SCHEDULES

Regulations and controls for allowable land uses or activities, or land uses or activities requiring a Special Use Permit (SP) or having Special Conditions (SC) applied to them, are set forth in Schedule I of this Local Law. Regulations for lot size, yards, lot coverage, building height and similar bulk requirements for each zoning district are set forth in Schedule II of this Local Law. Regulations governing the minimum floor area for dwellings are set forth in Schedule II of this Local Law.

SEC. 401.0. EXCLUDED USES OR ACTIVITIES

A land use or activity that is not specifically set forth in Schedule I of this Local Law is not permitted in the Town of Middlesex except by Special Use Permit authorized by the Zoning Board of Appeals. (See Section 902.2)

SEC. 402.0. SCHEDULE I. SCHEDULE OF LAND USES OR ACTIVITIES (Attached)

SEC. 403.0. SCHEDULE II. AREA AND COVERAGE REQUIREMENTS (Attached)

SEC. 404.0 SCHEDULE III. PRE-EXISTING PRIVATE ROADS AND DWELLINGS
(Attached)

SEC. 402 SCHEDULE I: SCHEDULE OF LAND USES OR ACTIVITIES, TOWN OF MIDDLESEX

P = Permitted as of Right SC = Special Conditions Apply - §501 SP = Special Use Permit Required - §502 N = Not Permitted All uses require a permit unless otherwise noted - See §1001.3	Agricultural/Residential	Lake Residential	Hamlet Residential	Low Density Residential	General Business	Highway Business		Site Plan	Required Article VII
LAND USE OR ACTIVITY	AR	LR	HR	LDR	GB	HB			REFERENCE
A. Residential Uses	SC	N	SC	SC	N	SC			Sec. 501.2.
1. Keeping of livestock for personal use									
2. Cottage for seasonal occupancy	SC	SC	N	SC	N	N		X	Sec. 501.3(b).
3. Camping unit	SC	SC	SC	SC	N	N			Sec. 501.3(a)
4. Campground; travel trailer park	SP	N	N	N	N	N		X	Sec. 502.2.1. Sec. 502.2.2.
5. Stable, private	SC	N	N	SC	N	SC		X	Sec. 501.2.
6. Dwelling, one-family	P	P	P	P	P	P		X	
7. Dwelling, two-family	SC	N	SC	N	SC	SC		X	Sec. 501.1.
8. Dwelling, multi-family	SC	N	SP	N	SC	SC		X	Sec. 502.0 Sec. 501.1.
9. Dwelling, townhouse	SC	N	SP	N	SC	SC		X	Sec. 502.0 Sec. 501.1.
10. Dwelling, factory manufactured	P	P	P	P	P	P		X	
11. Dwelling, mobile home	SC	N	SC	N	N	SC		X	Sec. 501.4.
12. Conversion of an existing one-family dwelling into a two or three-family dwelling	SC	N	SC	N	SC	SC		X	Sec. 501.1
13. Mobile home park	SP	N	N	N	N	SP		X	Sec. 502.2.3
14. Residential Cluster Development	SP	N	SP	N	SP	SP		X	Sec. 502.2.1. Sec. 502.2.4.
15. Garage, private	P	P	P	P	P	P		X	

SEC. 402 SCHEDULE I: SCHEDULE OF LAND USES OR ACTIVITIES, TOWN OF MIDDLESEX

P = Permitted as of Right SC = Special Conditions Apply - §501 SP = Special Use Permit Required - §502 N = Not Permitted All uses require a permit unless otherwise noted - See §1001.3	Agricultural/Residential	Lake Residential	Hamlet Residential	Low Density Residential	General Business	Highway Business		Site Plan	Required Article VII
LAND USE OR ACTIVITY	AR	LR	HR	LDR	GB	HB			REFERENCE
16. Play house, tool house, garden house and similar accessory building	SC	SC	SC	SC	SC	SC		X	Sec. 501.5.
17. Flag lot	SC	N	SC	SC	SC	SC		X	Sec. 501.1 & 704
18. Private road	SC	SP	SC	SC	SC	SC		X	Sec. 703; 502.2.9
B. Business and Industrial Uses									
1. Farm and customary agricultural operation; animal husbandry	SC	N	N	SC	N	SC		X	Sec. 501.1
2. Roadside stand	SC	N	SC	SC	SC	SC		X	Sec. 501.1
3. Kennel	SC	N	N	N	N	SC		X	Sec. 501.1 Sec. 501.6.
4. Home occupation	SC	SC	SC	SC	SC	SC		X	Sec. 501.1. Sec. 501.7. Sec. 501.1
5. Boarding house	SC	N	SC	N	SC	SC		X	
6. Bed & breakfast; tourist home	SC	N	SC	SC	SC	SC		X	Sec. 501.1
7. Professional office	SC	N	SC	N	SC	SC		X	Sec. 501.1 Sec.502.2.5 Sec.501.1
8. Veterinarian	P	N	N	N	SC	SC		X	Sec. 501.8.
9. Plant nursery, greenhouse	P	N	N	SC	SC	SC		X	Sec. 501.1.
10. Lawn and garden supply sales and service	SC	N	N	N	SC	SC		X	Sec.501.1
									Sec.501.1

SEC. 402 SCHEDULE I: SCHEDULE OF LAND USES OR ACTIVITIES, TOWN OF MIDDLESEX

P = Permitted as of Right
 SC = Special Conditions Apply - §501
 SP = Special Use Permit Required - §502
 N = Not Permitted
 All uses require a permit unless otherwise noted - See §1001.3

LAND USE OR ACTIVITY	Agricultural/Residential	Lake Residential	Hamlet Residential	Low Density Residential	General Business	Highway Business		Site Plan	Required Article VII
LAND USE OR ACTIVITY	AR	LR	HR	LDR	GB	HB			REFERENCE
25. Residential/"mini" storage facility	SC	N	N	N	SC	SC		X	Sec. 501.14
26. Car wash	N	N	N	N	SC	SC		X	Sec. 501.1.
27. Convenience (mini) mart	N	N	N	N	SC	SC		X	Sec. 501.1.
28. Motor vehicle sales, service and repair (except body shop)	N	N	N	N	SP	SP		X	Sec. 502.2.1. Sec. 502.2.7.
29. Vehicle body shop	N	N	N	N	N	SC		X	Sec. 501.10
30. Vehicle wrecking/salvage yard	N	N	N	N	N	SP		X	Sec. 502.1
31. Truck or motor freight terminal	N	N	N	N	N	SC		X	Sec. 501.1.
32. General processing, light manufacturing, assembly	N	N	N	N	N	SC		X	Sec. 501.1
33. Scientific/research laboratory	SP	N	SP	N	SP	SP		X	Sec. 502.2.1 Sec. 502.2.5
34. Restaurant	SP	N	SP	N	SP	SP		X	Sec. 502.2.1 Sec. 502.2.5
35. Nursery school/Adult day care	SC	N	SC	SC	SC	SC		X	Sec. 501.1 Sec. 501.12

C. Community Uses									
1. Church, place of public worship and related uses	SC	SC	SC	SC	SC	SC		X	Sec. 501.1. Sec. 501.11.
2. School, fire station, town hall and similar public buildings	SC	SP	SC	SP	SC	SC		X	Sec. 501.1 Sec. 502.2.1
3. Club, fraternal organization	SC	N	SC	SP	SC	SC		X	Sec. 501.1.

SEC. 402 SCHEDULE I: SCHEDULE OF LAND USES OR ACTIVITIES, TOWN OF MIDDLESEX

P = Permitted as of Right SC = Special Conditions Apply - §501 SP = Special Use Permit Required - §502 N = Not Permitted All uses require a permit unless otherwise noted - See §1001.3	Agricultural/Residential	Lake Residential	Hamlet Residential	Low Density Residential	General Business	Highway Business		Site Plan	Required Article VII
	LAND USE OR ACTIVITY	AR	LR	HR	LDR	GB	HB		REFERENCE
									Sec. 502.2.1
4. Playground; park	SC	N	SC	SC	SC	SC		X	Sec. 501.1.
5. Arts and crafts	SP	N	SP	N	P	P		X	Sec. 502.2.1.
6. Golf Course	SP	N	N	N	SP	SP		X	Sec. 502.2.1 & 502.2.2
D. <u>Utility & Miscellaneous Uses</u>	SC	SC	SC	SC	SC	SC		X	Sec. 501.1
1. In ground swimming pool, tennis court and similar private outdoor recreation facility									
2. Above ground swimming pool	P	P	P	P	P	P			
3. Signs	SC	SC	SC	SC	SC	SC		X	Sec.501.1 Sec. 501.13. Sec. 706
4. Billboard	N	N	N	N	N	N			
5. Public utility substation	SP	N	N	N	N	SP		X	Sec.502.2.1 Sec. 502.2.8.
6. Public utility service/distribution (gas, electric, phone, water, sewer, tv cable); but excluding substations, storage yards and transmission towers	P	P	P	P	P	P		X	
7. Electric/gas transmission lines	SP	N	N	N	N	SP		X	Sec.502.2.1 Sec. 502.2.8.
8. Wind mill, solar panel, similar	SP	SP	SP	SP	SP	SP		X	Sec. 502.2.1

SEC. 402 SCHEDULE I: SCHEDULE OF LAND USES OR ACTIVITIES, TOWN OF MIDDLESEX

P = Permitted as of Right SC = Special Conditions Apply - §501 SP = Special Use Permit Required - §502 N = Not Permitted All uses require a permit unless otherwise noted - See §1001.3	Agricultural/Residential	Lake Residential	Hamlet Residential	Low Density Residential	General Business	Highway Business		Site Plan	Required Article VII
	LAND USE OR ACTIVITY	AR	LR	HR	LDR	GB	HB		REFERENCE
alternative energy sources									
9. Solid waste recycling or transfer operation	N	N	N	N	N	SP		X	Sec.502.2.1 Sec. 502.2.8
10. Solid waste landfill	N	N	N	N	N	N			
11. Tower for commercial reception or transmission of electronic signals	SP	N	N	SP	SP	SP		X	Sec.502.2.1 Sec. 502.2.8.
12. Toxic waste disposal	N	N	N	N	N	N			
13. Removal of rock, gravel, sand, soil or other natural deposits for commercial purposes	SP	N	N	SP	N	SP		X	Sec. 502.2.1 Sec. 502.2.6.
14. Tram systems	P	P	P	P	P	P		X	Sec.609

(Amd. 5/29/08, 10/31/2008, 1/27/14))

**SEC. 403. SCHEDULE II: AREA AND COVERAGE REQUIREMENTS FOR LOTS AND STRUCTURES,*
TOWN OF MIDDLESEX**

District	MINIMUM Lot Area	MINIMUM Frontage ^a	MINIMUM YARDS (ft)			Maximum Height ^d	MAXIMUM Coverage
			Front**	Side	Rear		
AGRICULTURAL AR	one acre	200 ft.	100	20	30	35 ft.	20%
LAKE LR	20,000 sf	100 ft. ^b	40/60 ^c	15	30/60 ^e	35 ft.	20%
HAMLET HR	20,000 sf	100 ft.	60	15	30	35 ft.	20%
LOW DENSITY LDR	five acres	300 ft.	100	20	30	35 ft.	20%
GENERAL GB	20,000 sf	75 ft.	50	15	30	35 ft.	50%
HIGHWAY HB	one acre	200 ft.	100	20	30	35 ft.	20%

NOTES:

* Bulk requirements shown in this Schedule II are not necessarily consistent with the requirements specified for those Schedule I uses that have Special Conditions attached (SC) or that require a Special Permit (SP) or site plan approval. Where there are such inconsistencies, the requirements of such special conditions, or special permit, or site plan approval shall take precedence over this Schedule II.

** Front yard set back measured from the center line of the road.

a. Road or Street frontage on a "flag lot" (see definitions) serving a one or two-family dwelling can be reduced from the minimums shown on this schedule. The width of the "pole" portion of the lot connecting the street or road to the "flag" portion of the lot, shall be at least 50 feet. (See Sec. 704.)

b. For waterfront sites, frontage is located along the lakeshore. On other sites in the LR District, frontage is along the private or public road. (See footnotes c and e)

c. For waterfront sites, front yard set back is 40 feet from the high water mark. For other sites in the LR District, front yard set back is 60 feet from the center line of the adjacent street or road.

d. Applies only to non-farm land uses and activities. There are no height restrictions on agricultural buildings.

e. For waterfront sites, rear yards are located adjacent to the street or road and the rear yard set back is 60 feet from the centerline of the street or road.

(Amd 10/22/04)

**SECTION 404.0 SCHEDULE III
PRE-EXISTING PRIVATE ROADS AND DWELLINGS**

The following residential addresses are deemed to have existed prior to the passage of this Zoning Law, and are therefore permitted to continue as is, so long as the private road frontage meets the road frontage requirements for the district. Any new dwelling to be constructed on any private road listed below must comply with the criteria set forth in Section 703 of this Law before a building permit may be issued. Any modification to a property address listed below must also comply with the area and coverage requirements for the zoning district in which it is located.

<u>Private Road</u>	<u>Residential Address</u>
Bay Road	1316, 1328
Burgess Drive	5507, 5524, 5535
Clark Road	5258, 5264
Clutz Road	874, 916
Berry Patch Lane	829, 836, 844
Emerson Road	5199, 5242 & 1 un-numbered house in between
Fisher Road	638, 640, 647, 650, 651, 657, 658, 662, 666
Garden Lane	1221
Genundewah Drive	624, 620, 614, 610, 600, 576
Glenn Avenue	6335, 6336, 6340, 6341, 6344, 6345, 6346, 6347, 6350, 6351, 6354, 6355, 6356, 6357, 6359, 6360, 6363, 6364, 6365, 6366, 6368, 6369, 6370, 6371, 6373, 6374
Green Cove Drive	818, 828, 834, 842, 848, 858, 860
Hilton Road	1300
Knollwood Drive	1084, 1092
Newago Avenue	763, 766, 767, 769, 771, 773, 775, 777, 781, 783, 785, 786, 788, 789, 790

North Drive	1155
Old Vineyard Road	887, 991, 996, 997, 1017, 1074
Red Clover Lane	620 Bagley Road
Robeson Tract	700, 708, 712, 714, 718, 722, 724, 728, 730
Sky View Drive	6114, 6115, 6122, 6136
South Lane	1194
Sunflower Drive	5127, 5138, 5144, 5154
Tennessee Drive	678, 684, 692
Trillium Drive	5109
Tuscany Avenue	803, 804, 814, 818, 834
Sunnyside Road Extension	5410, 5420, 5430, 5440, 5450, 5500
Widmer Road	5530, 5550, 5600, 5650, 5680, 5820, 5840, 5860, 5940, 5960, 5970, 5980, 6060, 6080, 6100
Woods Road	6156, 6186, 6230

ARTICLE V: REGULATIONS GOVERNING SPECIAL CONDITIONS AND SPECIAL USE PERMITS

SEC. 500.0. APPLICABILITY

No building or zoning permit shall be issued for any use or activity listed in Schedule I (Sec. 402) of this Local Law as having Special Conditions applicable thereto (SC) or requiring a Special Use Permit (SP) until the Code Enforcement Officer is satisfied that the conditions and other requirements set forth in this Article V have been complied with or that a variance thereof has been duly granted.

SEC. 501.0. SPECIAL CONDITIONS

Land uses or activities listed in Schedule I as having "Special Conditions Apply" (SC) shall be considered permitted when the Code Enforcement Officer has determined that applicable conditions, as set forth in this Sec. 501, have been met.

501.1. ALL USES IN ANY DISTRICT FOR WHICH SITE PLAN APPROVAL IS A REQUIREMENT

Permitted when site plan approval by the Planning Board has been obtained pursuant to Sec. 700 of this Local Law, and parking has been complied with pursuant to Article VIII of this Local Law. (*Amd. 10/22/04*)

501.2. KEEPING OF LIVESTOCK FOR PERSONAL USE IN AR LDR and HR DISTRICTS; PRIVATE STABLE IN ALL DISTRICTS

501.2.1 Permitted when:

- a. A minimum lot area of at least five acres is provided.
- b. A separation of at least 100 feet can be maintained between any lot line and a structure used for animal shelter or storage of any animal material.
- c. There will be no outdoor storage of manure, feed, bedding or other material within 100 feet of a lot line or waterway. (*Amd. 10/22/04*)

501.2.2. Additional conditions in HR District only:

- a. No more than a maximum of 4 sheets and/or goats. No pigs or houses.
- b. Odor, management of animal waste, and noise do not adversely affect neighboring properties.

- c. Annual site review by CEO to affirm compliance with these conditions.

(Amd. 1/27/14)

501.3. CAMPING UNIT OR COTTAGE FOR SEASONAL OCCUPANCY IN LR and LDR DISTRICTS

- a. Camping Unit is permitted when:
 - i. Such camping unit can meet the yard and setback requirements set forth in this Local Law for the district in which it is located.
 - ii. If a camping unit is to be occupied for more than 14 consecutive days, the user must register the camping unit with the CEO and notify the CEO of its location on the lot.
 - iii. There is an approved septic or waste management facility.

b. Cottage is permitted when:

- i. Such cottage can meet the yard and setback requirements set forth in this Local Law for the district in which it is located.
- ii. Such cottage is not constructed as, and is not intended to be used as an all-year-round residence.
- iii. There is an approved septic or waste management facility.

501.4. DWELLING, MOBILE HOME

Permitted when:

- a. Such mobile home is placed on a frost-free stand or permanent foundation, is skirted within six months and has provisions for indoor storage of lawn equipment, tools and similar items, (See Sec. 604.)
- b. Such mobile home has at least 850 square feet of living space.

501.5. PLAY HOUSE, TOOL HOUSE, GARDEN HOUSE AND SIMILAR ACCESSORY BUILDING IN ALL DISTRICTS

- a. Permitted without a building permit when such accessory building consists of one floor only and does not exceed eighty square feet in area. -

- b. Permitted upon registration with the CEO when such accessory building is between eighty and one hundred fifty square feet in area.
- c. Permitted upon obtaining a building permit when such accessory building is between one hundred fifty and three hundred square feet in area.
- d. Permitted when such building can meet the yard, setback and height requirements set forth in this Local Law for the district in which it is located.

501.6. KENNEL

Permitted when applicable provisions of the Middlesex Dog Control Ordinance are complied with.

501.7. HOME OCCUPATION IN ALL DISTRICTS

Permitted when:

- a. The use is located in an owner-occupied dwelling, or a building accessory to such dwelling, and on the same lot.
- b. All activity related to the home occupation is conducted entirely inside the dwelling or accessory building.
- c. There is no outdoor storage of material or equipment.
- d. The home occupation does not create the need for off-street parking for more than three (3) vehicles and does not create outside the building, any evidence of the occupation, except that one non-illuminated sign, no larger than 6 sq. ft. in area, shall be permitted in all districts except the Lake Residential Use District.
- e. The business is operated by the owner-occupant of the dwelling and up to three (3) persons who do not live in the dwelling.
- f. No offensive noise, odor, smoke, dust, heat, glare or electrical disturbance is produced by the occupation.

501.8. VETERINARIAN IN GB and HB DISTRICTS

Permitted when no outside runs are provided.

501.9. USE OF ACCESSORY FARM BUILDINGS FOR SALE OF FARM
COMMODITIES, LIGHT FABRICATION OR ASSEMBLY

- a. Space used for the outdoor storage of non-farm material is screened from the view of adjacent non-farm properties by a buffer strip. (See Article II)
- b. Any outside lighting shall be designed and located so that it does not shine directly on, or produce glare on, adjacent properties and roads.

501.10. VEHICLE BODY SHOP IN HB DISTRICTS

Permitted when any area that is to be used for outdoor storage of vehicles and vehicle parts is screened from public view by a buffer strip as defined in Art. II of this Local Law.

501.11. CHURCH, PLACE OF PUBLIC WORSHIP, AND RELATED USES

Permitted when such use is appropriately registered with the State of New York.

501.12. NURSERY SCHOOL, FAMILY/GROUP DAY CARE FACILITY, HEALTH
RELATED CLINIC, HOSPITAL, NURSING HOME, ADULT RESIDENTIAL
CARE

Permitted when applicable regulations of New York State law can be complied with.

501.13. SIGN IN ALL DISTRICTS

Permitted when the provisions of Sec. 706 of this Local Law are complied with.

501.14. OUTDOOR SALES OF FARM EQUIPMENT, BOATS, TRAILERS,
RESIDENTIAL OR "MINI" STORAGE FACILITY IN AN AR DISTRICT

- a. No such land use shall be located less than 100 feet from the lot line of an residence existing at the time of adoption of this Local Law or less than 50 feet from any lot line.
- b. A buffer strip shall be provided between such land use and any adjacent residence existing at the time of adoption of this Local Law. (See Art. III)
- c. Exterior lighting shall be designed and located so that it does not produce objectionable glare on a public road or on adjacent property.

d. One identification sign shall be permitted with a maximum area of 32 sq. ft. Such sign may be two-sided.

501.15. CONVERSION OF A ONE-FAMILY DWELLING INTO A TWO- OR THREE-FAMILY DWELLING

Permitted when it is demonstrated that any on-site sewage disposal system is approved by the NYS Department of Health and NYS Building Code regulations.

SEC. 502.0. SPECIAL USE PERMIT

502.1. GENERAL REQUIREMENTS.

Authorization for any Special Use Permit shall be conditioned upon the provision of adequate safeguards to protect the health, safety and general welfare of the public and to mitigate possible detrimental effects on adjacent property. To this end, before a Special Use Permit is authorized by the ZBA, or other agency as may be specified elsewhere in this Local Law, it shall be determined, after a duly advertised public hearing, that the following general requirements will be complied with, as well as any other applicable requirements for certain specific land uses or activities as may be set forth in Section 502.2. of this Local Law. It shall be determined by the authorizing agency:

502.1.1. That the proposed land use or activity is to be located, constructed and operated so that the public health, safety and welfare will be protected.

502.1.2. That existence of the proposed land use or activity will not cause substantial injury to the value of other property in the surrounding neighborhood.

502.1.3. That adequate landscaping and screening is provided.

502.1.4. The adequate off-street parking and loading are provided and that ingress and egress are so designed as to cause minimum interference with traffic on abutting roads.

502.1.5. That the proposed land use or activity will not result in excessive erosion and will not increase surface-water runoff onto abutting properties.

502.1.6. That existing roads and utilities serving the proposed project are determined to be adequate.

502.2. SPECIFIC REQUIREMENTS.

In addition to the general requirements for a Special Use Permit, as set forth above, the specific requirements for certain land uses or activities, as set forth in this Section 502.2. shall be complied with.

502.2.1. SITE PLAN APPROVAL. Any land use or activity for which a Special Use Permit is required shall receive site plan approval by the Planning Board pursuant to Art. VII of this Local Law.

502.2.2. CAMPGROUND, TRAVEL TRAILER PARK.

- a. It must be demonstrated that adequate systems for water supply and sewage disposal will be provided.
- b. Any camp or vehicle used as a camp shall be located at least fifty (50) feet from any property line.
- c. Appropriate landscaping shall be provided to buffer the campground or park from neighboring properties.
- d. An adequate system of roadways shall be provided to serve occupants of the site.
- e. Signs, if any, shall not exceed one in number and shall be no larger than six (6) square feet in area.
- f. As part of the site plan submission, the owner of such campground or trailer park shall provide an acceptable plan for control and upkeep of the site during periods of the year when it is not fully occupied.

502.2.3. MOBILE HOME PARK IN AR and HB DISTRICTS

- a. License Required. A written license, renewable annually, must be obtained from the Town Board. Application for such license shall be filed with the Town Clerk, accompanied by the fee therefor as may be established in the Schedule of Fees for the Town of Middlesex. Each license or renewal thereof shall expire on the 31st day of December following the issuance thereof.
- b. Application. An applicant for a mobile home park license shall certify as to responsibility for proper maintenance and upkeep of the proposed park and shall furnish the following information:

1. Owner's and operator's name and address.
2. Survey boundaries of the mobile home park.
3. Layout of roads, parking areas, mobile home stands and open space/recreation areas.
4. Method and plan for sewage disposal.
5. Proposed water supply and source of water.
6. Proposed system for solid waste and garbage disposal.
7. Landscaping plan showing approximate location and type of plantings.
8. Short form environmental assessment.

c. Minimum Standards for Mobile Home Park Development.

1. General requirements. The park shall be located on a well-drained site, suitable for the purpose. Topography, soil conditions, surface drainage and groundwater level shall not be such as to create a hazard to the property or to the health and safety of the park occupants. No developed portion of the site shall be subject to flooding or excessive erosion or settling.
2. Minimum lot area. The minimum lot area for a mobile home park shall be ten (10) acres in an AR District and one (1) acre in an HB District.
3. Setback from lot lines. The minimum distance between any mobile home or office or other structure and the nearest property line of the park shall be one hundred (100) feet in an AR District and fifty (50) feet in a HB District.
4. Density of development. The total number of mobile home lots shall not exceed six (6) per gross acre.
5. Required separation. Mobile homes may be positioned in a variety of ways within the park provided that a separation of at least thirty (30) feet is maintained between units.
6. Mobile home stand. Each mobile home site shall be provided with a stand that will give a firm base and adequate support for the home and

meets manufacturer's recommendations. Such stand shall have a dimension at least equal to the length and width of the home and any expansions or extensions thereto. Well anchored tie-downs shall be provided at least on each corner of the stand.

7 Landscaping. Margins along the front, side and rear property lines shall be suitably planted to trees and shrubs for a depth of not less than twenty five (25) feet.

8. Entrance road. The park shall provide an adequate connection to a street. Such entrance road shall be sufficient to permit free movement to and from the public road. In no case shall a park entrance road be less than twenty five feet wide for a distance of fifty feet from the pavement edge of the street.

9. Parking. Off-street parking shall be provided at the rate of one car space for each mobile home and one additional space for each lot.

10. Storage space. At least one hundred square feet of enclosed storage space shall be provided for each mobile home in the park.

11. Lighting. The park shall be provided with adequate lighting to illuminate roads, driveways and parking areas. Electric service shall be installed underground where ever possible.

d. Water Supply. Where available, connection to a municipal water supply shall be made. When a private water supply is necessary, the quality, volume, storage, distribution methods and materials used for all components of the system shall be approved by the New York State Department of Health.

e. Sewage Disposal. A private sewage disposal system, approved by the New York State Department of Health, shall be established for the park.

f. Fuel Systems. All mobile homes shall be provided with adequate facilities for the safe storage and distribution of required fuels. All systems shall be installed and maintained in accordance with applicable codes and regulations governing such systems.

g. Garbage Receptacles. One garbage receptacle of metal with a tight fitting cover shall be provided for each mobile home, and/or a larger container for several mobile homes shall be provided. These receptacles shall be kept in sanitary condition and emptied as necessary by the park owner or the owner's agent.

h. Mail Service. The location of mailboxes shall be in accordance with U.S. Postal Department regulations and shall provide for safe and easy access for pick-up and delivery of mail.

i. Camp Trailers, Travel Trailers and RV. No camp or travel trailer or recreational vehicle, as defined herein, shall be permitted in mobile home parks for residential purposes.

j. Responsibility of Park Management.

1. The person to whom a license for a mobile home park is issued shall be responsible for operating the park in compliance with this local law and for providing adequate supervision to maintain the park, its grounds, facilities and equipment in good repair and in a clean and sanitary condition.

2. The park operator shall supervise the placement of each mobile home on the mobile home stand which includes insuring its stability and the installation of utility connections and tie-downs.

3. The park operator shall maintain a register containing the names of all occupants and the make, year and serial number of each mobile home.

4. The park shall keep a copy of the register available for inspection by an authorized person and shall not destroy such register.

k. Inspection. Before the park commences operation, the Code Enforcement Officer shall make an inspection of the premises to determine that all requirements of this Local Law, and other applicable regulations, have been complied with, and shall issue a Certificate of Occupancy. No occupancy of any mobile home shall be permitted until a Certificate of Occupancy has been issued.

l. Revocation or Suspension of License. The Town Board shall have the authority to enter and inspect, for health and sanitation purposes, any mobile home park licenses hereafter, at any reasonable time. If, upon inspection, it shall be found that the park operator has violated any provisions of this Local Law, the Town Board shall have the authority to revoke or suspend such license and order the mobile home park closed, after notice and an opportunity to be heard.

502.2.4. RESIDENTIAL CLUSTER DEVELOPMENT.

a. Such development shall contain no less than 3 or more than 8 residential lots.

b. The minimum area for any residential lot shall be that required for the

provision of an approved sewage disposal system.

- c. A plan shall be submitted as part of the site plan approval process for the use, preservation and maintenance of open space created by the development.
- d. Adequate and safe access and egress to the public road system shall be provided.
- e. Setback from contiguous property lines shall be at least 3 times that required in that district.

502.2.5. PROFESSIONAL OFFICE, RESTAURANT, TAVERN, CRAFT OR ANTIQUE SHOP, SCIENTIFIC/RESEARCH LABORATORY

- a. Off-street parking areas shall be located no closer than 30 feet from any property line and provided with a buffer strip to partially screen them from public view.
- b. Exterior lighting shall be designed and located so that it does not produce objectionable glare on a public road or adjacent property.
- c. One identification sign shall be permitted with a maximum area of 32 sq. ft. Such sign may be two-sided.
- d. Commercial activity shall occur only within a building.

502.2.6. REMOVAL OF ROCK, GRAVEL, SAND, SOIL OR OTHER NATURAL DEPOSITS FOR COMMERCIAL PURPOSES IN AR, LDR and HB DISTRICTS

Permitted when a plan for reclamation of disturbed land has been approved by the Town Board and/or NYS Environmental Laws are met.

502.2.7. MOTOR VEHICLE SALES, SERVICE AND REPAIR (EXCEPT BODY SHOP) IN GB and HB DISTRICTS

- a. Special use permit must be authorized, and a license for such use issued, by the Town Board after review by the ZBA.
- b. Such uses shall be so located and arranged so that all services are provided on the premises and not on the road right-of-way.
- c. No gasoline pump shall be located closer to any road right-of-way line than ten (10) feet or closer to any other property line than fifty (50) feet.

- d. The location of driveways shall not create a traffic hazard on adjacent streets.
- e. No inoperative, unlicensed and uninsured motor vehicle shall be kept on the premises for longer than two (2) months.
- f. All waste material shall be stored within a structure or enclosed within approved fencing so as not to be visible from off the property.
- g. In the event such use violates any of the conditions imposed upon the issuance of a license therefore, such license may be revoked by the Town Board after due hearing on not less than ten (10) days notice to the licensee.
- h. Any such license granted for this land use shall be deemed to be indefinitely extended, subject to the provisions of subsection 502.2.G above.

502.2.8. PUBLIC UTILITY SUBSTATION, ELECTRIC OR GAS TRANSMISSION LINES IN AR, LDR and HB DISTRICTS, SOLID WASTE RECYCLING OR TRANSFER OPERATION IN HB DISTRICT, TOWER FOR COMMERCIAL RECEPTION OR TRANSMISSION OF ELECTRONIC SIGNALS IN ALL DISTRICTS

- a. Authorization of a special use permit by the ZBA is required after review and recommendation by the Planning Board.-
- b. The above listed structures may be erected, altered or used and public service uses may be maintained upon findings by the ZBA that such structure or use, together with such conditions and safeguards as it may fix, is necessary for the public convenience and welfare and that the location proposed therefor is appropriate.
- c. In keeping with the Yates County Looking Ahead Master Plan, no commercial towers are allowed on South and Bare Hills, or on any state and federal lands in the Town of Middlesex. The reason is that Bare Hill (Genundewao) and South Hill (Nundawao) are areas of rich cultural and historical significance. Their history has been detailed in many books and the Seneca Nation has oral and written accounts of their importance in the Seneca cultural, history and heritage.

Dr. Arthur C. Parker, Director Emeritus of the Rochester Museum and Science Center, made many archaeological excavations on Bare Hill and South Hill. Evidence shows the Seneca Nation consider these hills to be the ancestral Birthplace of the Seneca Nation. There are several stone mounds on South Hill (especially Clark's Gully) that are considered by some to be Hopewell Mounds.

A yearly ceremony (Seneca Heritage Days) is still held on Bare Hill to commemorate ancient Seneca harvest rituals.

All construction and development of towers for commercial reception or transmission of electronic signals in the Town of Middlesex shall comply with applicable provisions of the Town of Middlesex Telecommunication Towers Law.

502.2.9 PRIVATE ROADS IN LR DISTRICT

502.2.9.1 In determining whether to issue a Special Use Permit for a private road in Lake Residential District, primary consideration shall be given to the impact of the private road on the surrounding environment.

502.2.9.2 An application for a Special Use Permit for a private road in Lake Residential District shall contain two sets of preliminary site plans: one set which depicts the proposed site without a private road (in other words, a site which is permitted under the Zoning Law without a special use permit); and one set which depicts the site with the proposed private road. The number of building lots on the site plan with a private road shall not exceed the number of building lots permitted on the site without a private road.

502.2.9.3. A private road in Lake Residential District shall only be allowed if it is determined that it will result in the least negative impact on the environment when considering all development alternatives.

502.2.9.4. Private roads shall be designed and sited to meet the minimum required for service to permitted development; and shall be adequate in width, grade, alignment, visibility, and safety, as determined by the Zoning Board of Appeals upon recommendation of the Planning Board, taking into consideration:

- a. Appropriateness of the proposed site including the physical features and topography, and general character and present use of the neighborhood.
- b. Arrangement, location and width of the road, its relation to the types of soil, lot size, sewage disposal and stormwater drainage systems, preservation of vegetation; and present and future development of the site and adjoining lands.
- c. Significant adverse consequences such as adverse drainage, erosion, visual and other adverse impacts during and after construction to the subject property and to surrounding properties.
- d. Unique environmental, engineering, or topographical characteristics on the proposed site such as slopes, wetlands, wooded areas, watercourses, or floodplains.

(Added 5/13/11)

ARTICLE VI: GENERAL PROVISIONS APPLICABLE IN ALL DISTRICTS

SEC. 600.0. LOT IN TWO DISTRICTS

Where a lot in one ownership is divided into two or more districts by a zone boundary line, the regulations of any one district may be extended into the other district or districts for a distance of not more than 100 feet. Extensions of more than 100 feet shall be permitted only by the Zoning Board of Appeals.

SEC. 601.0. REDUCTION OF LOT SIZE

No lot or yard now existing shall be reduced in size below the minimum requirements of this Local Law. Any lot or yard area created after the date of adoption of this Local Law, as amended, shall meet minimum requirements for the district in which such lot or yard is located.

SEC. 602.0. HEIGHT EXCEPTIONS

Unless specifically regulated in Art. V of this Local Law, nothing contained herein shall limit or restrict the height of any building used for agricultural purposes; or any church spire, belfry, clock tower, chimney flue, grain elevator, control tower, personal television or radio antenna or similar structure; or any communication tower operated by a private or governmental agency for public convenience, health and safety.

SEC. 603.0. INDOOR STORAGE REQUIREMENTS

Each dwelling unit for which a building permit is issued after the adoption of this Local Law shall provide an indoor storage space located within, or on the same lot as, the dwelling and providing at least 100 sq. ft. of enclosed storage area in addition to typical clothes closet space within the dwelling. Such storage area shall not be located in any required front yard.

SEC. 604.0. MINIMUM FLOOR AREA

604.1. Any multi-family dwelling constructed in the Town of Middlesex after the date of adoption of this local law shall meet minimum square footage requirements for living space as follows:

Studio or efficiency dwelling	500 sq. ft.
One bedroom dwelling	750 sq. ft.
Two bedroom dwelling	850 sq. ft.
Three bedroom dwelling	950 sq. ft.

Note: Living space is defined in Article II of this Local Law.

604.2. Any one or two family dwelling constructed in the Town of Middlesex after the

date of adoption of this Local Law shall meet minimum square footage requirements for living space as follows:

One story structure	850 sq. ft.
One & one-half story structure	1,100 sq. ft.
Two or more story structure	1,300 sq. ft.

Note: Living space is defined in Article II of this Local Law.

SEC. 605.0. FENCES AND HEDGES

No solid fence or solid hedge shall be erected or maintained where such fence or hedge produces a public safety problem or constitutes an unreasonable obstruction of a scenic view from an adjacent property.

SEC. 606.0. EXCAVATION, FILLING, GRADING OR CLEAR CUTTING

Excavation, filling, grading or clear cutting of any area shall be permitted only when such activity is carried out in compliance with the Stormwater Management and Erosion Control ordinance of the Town of Middlesex.

SEC. 607.0. VISIBILITY AT INTERSECTIONS

At the intersection of two or more streets, no hedge, tree, fence, wall or other obstruction to vision that is over 36 inches in height shall be permitted within the triangle of land bounded by the street right-of-way lines and an imaginary line connecting points on such right-of-way lines that are 30 feet from their intersection.

SEC. 608.0. GENERAL PERFORMANCE STANDARDS

All non-farm land uses or activities in the Town of Middlesex shall be established, constructed or operated in accordance with the following performance standards:

- 608.1. The activity shall not produce objectionable vibration, glare, heat or loud continuous noise that is evident beyond the property line.
- 608.2. The activity shall not result in the dissemination of noxious dust, gas; smoke, chemicals or odors into the air.
- 608.3. The activity shall not produce perceptible electromagnetic interference with normal radio or television reception in any area.

SEC. 609. TRAM SYSTEMS

A tram system shall be constructed or replaced in the Town of Middlesex in accordance with the following procedures and standards.

609.1 Application for permit

- a. A tram system is permitted with a building permit as an accessory structure to a single family residence.
- b. The building permit shall be issued only to serve a private single-family residence tram system as defined in the American Society of Mechanical Engineers (ASME) Standard 17.1, section 5.4.
- c. A building permit will be issued upon Site Plan approval by the Town Planning Board (see sec. 700)
- d. The application shall include an emergency access plan to be filed with the Fire Chief of the Town of Middlesex to document the location of the tram system and the site's accessibility for emergency services in the event of a fire or accident.

609.2 Site Plan requirements – In addition to adherence to the requirements of Section 700 herein, the Site Plan shall include the following:

- a. Mechanical plan - must adhere to the National Standard ASME A17.1., section 5.4 Residential/Private Use Elevators, and must include a certification of compliance with this standard.
- b. Site plan shall be a site specific foundation plan stamped by a NYS licensed Professional Engineer which shall include geotechnical investigation of the site, and foundation design for landings, equipment and above grade structure.
- c. Site Plan shall comply with Town of Middlesex Storm Water and Erosion Control Management Law.
- d. Site plan shall include a Soil and Erosion Plan approved by Yates County Soil and Water Conservation Services.
- e. Site Plan is subject to SEQRA review.
- f. Proof of liability insurance coverage for engineer or installer of tram system

609.3 Aesthetics

- a. In granting site plan approval, the Planning Board shall consider the steep nature of terrain, natural features and vegetation, scenic views within the Town, particularly the view from and use of the lake, and the character of the surrounding neighborhood.
- b. Tram systems and their landings in the Lake Residential District shall be located in the most visually inconspicuous portion of

the property as viewed from the surface of the lake assuming summer leaf-on conditions whenever practical and as advised by a NYS licensed geo-technical engineer.

- c. Canopies and roofs are not permitted on the tram system or the landing.
- d. The site plan shall include a site reparation plan for replanting groundcover for stabilization of the land, as well as visual camouflage.
- e. Paint or trim colors on the tram system shall be of earth tones so as to blend into the environment.

609.4 Inspection

- a. An independent NYS certified elevator inspector or certified engineer shall inspect the system at completion to certify that the system was properly constructed in accordance with the submitted plans. The inspection report shall be filed with the Town CEO upon completion of the tram system.
- b. Use of the tram system may not occur until the inspection report has been so filed.
- c. Property owner shall be solely responsible for future periodic inspections and maintenance requirements.

(Added 10/31/2008)

ARTICLE VII: SUPPLEMENTARY REGULATIONS

SEC. 700.0. SITE PLAN REVIEW

700.1. Town Policy. It is declared to be a policy of the Town of Middlesex to consider the development of certain lots in the Town as part of the overall plan for the orderly, efficient, economical, compatible and consistent development of the Town. This means, among other things, that:

700.1.1. Land to be developed shall be of such character that it can be used safely without danger to health or peril from fire, flood, erosion or other menace.

700.1.2. Proper provision shall be made for surface water drainage, water supply, sewage disposal, erosion control, vehicular access and other needed improvements.

700.1.3. Such development will not adversely affect the natural environment or the use and enjoyment of surrounding land.

700.1.4. All development shall be so laid out and of such size as to be in harmony with the development pattern of neighboring properties.

700.2. Purpose. The purpose of this local law is to provide for Planning Board review and approval of site plans for certain uses in the Town of Middlesex for one or more of the following purposes:

700.2.1. Achievement of an acceptable level of compatibility between new development and existing uses on adjacent land.

700.2.2. Identification and minimization of adverse effects of some development on storm water drainage, traffic, surface and ground water quality, wildlife habitat and other natural resources and community services.

700.2.3. Preservation and enhancement of visual quality in the Town as development occurs.

700.3. Land use Activities Exempt from Site Plan Review. The following land uses and activities are specifically exempt from site plan review:

700.3.1. Any land use or activity listed in Schedule I of this Law that does not require site plan approval.

700.3.2. Any project, activity or action related to an existing farm or agricultural activity.

700.3.3. Normal maintenance or repair of an existing building, parking area, road, driveway, or similar structure. (*Amd. 10/22/2004*)

700.3.4. Uses and structures that are lawfully in existence as of the date this law becomes effective, except that future alteration of any existing structure, or change of any existing use, for which site plan review is required under this law shall not be exempt from site plan review.

700.3.5. Land use and activities on land owned by Town of Middlesex, County of Yates, State of New York or federal government.

700.4. 700.4 Application for Site Plan Approval. Prior to the issuance of any building permit for the construction of any structure in the Town of Middlesex; or whenever development is proposed for one or more lots and before such development commences; or prior to the subdivision of a lot into two or more lots; or prior to excavation necessary therefor, the developer or a duly authorized agent shall make application for approval of such construction or development in accordance with the provisions set forth below. [*Amd 5/29/2008*]

700.4.1. Submission of Proposed Site Plan. At least twenty-one (21) days prior

to a regular or special meeting of the Planning Board the developer shall submit to the Code Enforcement Officer seven (7) copies of the proposed site plan which shall conform to Subsection 700.20 of this Local Law. (*Amd. 10/22/2004*)

700.4.2. Attendance at Planning Board Meetings. The developer or a duly authorized agent shall attend the next regular or special meeting of the Planning Board to discuss the proposed site plan and the requirements of this Section 700.

700.4.3. Consideration of Proposed Site Plan.

- a. At the initial meeting the Planning Board shall consider the site plan and discuss the proposed development with the developer, or agent.
- b. Should the Planning Board determine that additional information is needed to assist it in considering the application for site plan approval, it shall endeavor to notify the developer of such need in time to have such additional information for the initial meeting. Otherwise, the matter shall be adjourned to the next meeting following the receipt of such additional information.
- c. When appropriate, the Planning Board shall submit the site plan application to the Town Highway Superintendent for review and comment regarding the impact of such development on the Town's highway system.
- d. If the Planning Board shall deem it necessary for the proper consideration of the site plan, it shall be authorized to have a qualified professional study the proposed plan and advise the Planning Board regarding any recommendations concerning the plan. Referral to such professional shall be at the expense of the developer. Such referral shall not be made without first notifying the developer and obtaining written consent. The developer's failure to consent will constitute a withdrawal of the application.

700.5. PLANNING BOARD DECISION.

700.5.1. At the initial meeting with the developer, the Planning Board shall determine whether or not to hold a public hearing on the proposed development, such hearing to be held within 30 days from the date of the initial meeting. A public hearing shall be held if the development is believed to be controversial or if it is likely to change traffic volumes or patterns, the character of the neighborhood or the value of adjacent land.

700.5.2. The Town shall mail notice of such public hearing to the applicant at least 10 days before said hearing and shall give public notice in a newspaper of general circulation in the Town at least 5 days prior to the hearing.

700.5.3. The Planning Board shall have 45 days after the public hearing or, if no public hearing is held, within 45 days from the date of its initial meeting with the developer, to issue its decision on the proposed plan. The time within which the Planning Board must make its decision may be extended by mutual consent of the developer and the Board. (*Amd 10/22/2004*)

700.5.4. The Planning Board shall be authorized to impose any reasonable conditions upon the approval of the plan which tend to advance the objectives of this Zoning Law. Such conditions shall become a part of the plan to be complied with should the proposed development proceed.

700.5.5. In reviewing an application for approval of a site plan, the Planning Board shall, unless otherwise set forth in Town Law, act as lead agency and shall make a determination on the environmental impact of the proposal in accordance with the provisions of NYCRR Part 617 of the NYS Environmental Conservation Law. A long-form environmental assessment or an environmental impact statement may be required by the Planning Board before an environmental determination is made.

700.5.6. Before taking final action on certain site plan review applications, such applications shall be referred to the Yates County Planning Board for review and report in accordance with the provisions of Sec. 239-m of General Municipal Law.

700.5.7. The decision of the Planning Board shall be in writing and filed immediately in the office of the Town Clerk, and a copy mailed to the developer, and shall be in the form of an approval as proposed, an approval subject to conditions, or a disapproval. In the event the Planning Board disapproves the plan, it shall set forth its reasons for such disapproval in its decision.

700.5.8. If the Planning Board considers the proposed site development to be in compliance with this law it shall approve the site development plan, with or without conditions, and direct the Code Enforcement Officer to issue a permit for such development and for the construction of any building included in the development plans if there is also compliance with all other State, County and local code requirements and if all applicable fees, as set forth in the Town's schedule of fees, have been paid.

700.5.9. When a site development plan contains one or more features that do not comply with the Town zoning regulations the developer shall submit an application for an area variance directly to the Zoning Board of Appeals and obtain such variance as well as submitting the site plan review application to the Planning Board.

700.6. Appeals. An appeal from the decision of the Planning Board imposing conditions on approval of the plan, or disapproving the plan, shall be taken to the Supreme Court by way of an Article 78 proceeding, pursuant to the provisions of Town Law Section 274-a. Subdivision 10.

700.7. Applicability of Other Standards. In deciding on an application for the development of a site, the Planning Board shall be guided by the standards and considerations hereinafter enumerated, which shall be in addition to any specific provisions of any other applicable State or local statutes, laws, ordinances or regulations.

700.8. General Health, Safety and Welfare of the Town. Any site to be developed shall be of such character and condition as to be used safely for building purposes without danger to health or peril from fire, flood, erosion or other menace, and the development shall not adversely affect the environment, including streams, tributaries or lakes, and shall not adversely affect the use and enjoyment of surrounding lands or create impediments, either directly or indirectly, to any private or public street, highway, access road or right-of-way.

700.9. Water supply and sewage disposal systems.

700.9.1. A percolation test and deep hole analysis shall be provided by the applicant.

700.9.2. Plans and specifications for waste management or on-site sewage disposal shall be submitted for review and approval by the Code Enforcement Officer and shall conform to applicable New York State Department of Health regulations and Canandaigua Lake Watershed regulations.

700.9.3. All new systems for the disposal of human sewage/waste shall need the approval of either the Town Code Enforcement Officer or Canandaigua Lake Watershed Inspector. Existing systems that fail or need repairs must also follow the above standards as much as possible.

700.10. Flood and Erosion. Development on lots with erodible soils or steep slopes shall be designed to minimize erosion during construction and after construction has been completed. Erosion plans shall be submitted with the application for site plan development of such lots and shall comply with applicable provisions of Section 705 of this Local Law.

700.11. Street Construction. Streets to be developed and dedicated to the Town shall be constructed in accordance with Town of Middlesex specifications and applicable requirements of the NYS Department of Transportation.

700.12. Driveways.

700.12.1 Driveways to and within developed areas shall be designed and constructed so that surface drainage will not run onto, or across, Town highways.

700.12.2. Culverts and swales shall be designed and constructed as to properly convey surface water to highway swales and other recognized drainage courses.

700.12.3. The design and installation of all driveways and culverts shall be approved by the appropriate highway official.

700.12.4. Multiple or extra-wide (over 32 feet) driveway cuts to provide access to any site shall be avoided in the site design whenever possible. On corner lots at intersecting roads the location of driveway cuts shall only be approved by the Planning Board after review by the appropriate highway official.

700.13. Drainage. The developer shall be responsible for preserving the integrity of all major drainage ways on the site. Provisions shall be made on all plans for upland drainage conveyance through the property to be developed. Where required by the Planning Board, drainage easements shall be given to the Town for future planning of developed areas.

700.14. Exterior Lighting. Exterior lighting of the site, if any, shall be designed and located so that it does not produce glare on adjacent properties and does not interfere with the vision of drivers an adjacent roads.

700.15. Buffer Strips. No commercial building or use shall hereafter be located less than 50 feet from the boundary line of an adjacent residential zone. A landscaped buffer strip along such zone boundary lines or equivalent approved by the Planning Board, may be required. (See definition of Buffer Strip, Art. II)

700.16. Operating Characteristics. No offensive noise, traffic, odor, smoke, dust, heat, glare or electrical disturbance shall be produced that cannot be contained inside a building on the site.

700.17. Special Permit Requirements. All applicable requirements for land uses requiring Special Use Permits, as may be set forth in Sec. 502 of this Local Law, shall be complied with.

700.18. Modification of Standards. When warranted, and upon application, the Planning Board may, by resolution, modify any of the standards set forth in this Sec. 700.

700.19. Conformity with Town Plan and Map. All site developments shall conform to the provisions of the Official Map of the Town of Middlesex as may exist or be adopted, and the Town Comprehensive Plan, as may exist or be adopted.

700.20. Specifications for Site Plans. The initial site plan presented to the Town Code Enforcement Officer shall include the following, as applicable, in addition to the name and address of the land owner of record and the applicant, if not the same. A north arrow, scale, date and location map should be provided on each drawing submitted.

700.20.1. A dimensioned plan drawn to a scale of 1" to 100' or 1" to 50' indicating the shape, size, height and location of all structures existing or to be built on the site, showing their relationship to the site boundaries and all adjoining roads and streets as well as all roads, driveways and parking facilities present or to be developed on the site, and the location of all water supply and sewage disposal systems.

700.20.2. All wooded areas, streams, lake front and other significant physical features within the site to be developed shall be indicated on the plan. If topographic conditions are significant, contours shall be indicated. USGS contours shall suffice unless a closer contour interval is required by the Planning Board.

700.20.3. Satisfactory evidence of the location of the boundary lines of the lot, indicating the size and area of the lot, using instrument surveys where these exist or if required by the Planning Board.

700.20.4. A statement of the intended use of the site, including all structures that will exist there.

700.20.5. Designs and specifications for the laying out of all water supply systems, sanitary sewage and water drainage systems, including any run-off that will join a stream, gully, lake or the ditch for any street or road, and a statement of whether or not any existing streams or gullies will be diverted or altered. Percolation and deep-hole test data shall be set forth.

700.20.6. A set of schematic, sketch or building plans for any proposed structure to be erected on the site.

700.20.7. A statement of what utility services presently exist for the site and what proposed plans exist for obtaining new or increased utilities, if applicable.

700.20.8. A list of all deed restrictions, rights-of-way and easements that affect all or part of the site.

700.20.9. A statement, with drawings if required, of intended landscaping for the site, with special attention given to potential areas of flooding and/or erosion that could result from the development, and the developer's specific plans to prevent, minimize or control such potential flooding and/or erosion.

700.20.10. Performance Guarantee. The Planning Board may require the applicant to provide a performance guarantee to assure that the proposed project or improvement will be completed in accordance with the provisions and conditions of the approved site development plan. The type and amount of such performance guarantee shall be determined by the Town Board upon request from the Planning Board.

700.20.11. Upon reviewing a written request from the applicant explaining the justification therefore, any of the above site plan requirements may be waived or modified by the Planning Board if conditions warrant. The Planning Board may request additional information when this is necessary to make an informed judgment about the proposal. Such additional information shall be requested, in writing, after discussion with the applicant.

700.21 Site Plan Regulations. The Planning Board is authorized to adopt such further regulations as may be necessary and relevant for the purpose of reviewing, approving, approving with modifications, or disapproving site plans under this section, which regulations shall be subject to approval of the Town Board. *[Added 5/29/08]*

SEC. 701.0. FLOOD HAZARD AREAS

701.1. Purpose. The purpose of these regulations is to protect the inhabitants of the Town of Middlesex from hazards resulting from periodic flooding of certain areas adjacent to Canandaigua Lake and its tributaries, and to prevent the encroachment of development and other construction on such areas, thereby helping to preserve adequate flood flow capacity.

701.2. Location. Floodplain areas are so designated on floodplain maps and determined by data developed by the U.S. Army Corps of Engineers, the United States Geological Survey, the Flood Hazard Boundary maps issued by the U.S. Department of Housing and Urban Development and the Town of Middlesex. This section does not imply that land outside the designated floodplain areas will be free from flooding or flood damage.

701.3. Applicability. Provisions regulating use of, and development on, floodplain areas shall take precedence over the provisions of any other article or section of this Local Law, or other regulation or laws of the Town of Middlesex, to the extent that floodplain provisions are inconsistent with such other provisions.

701.4. Special Conditions

701.4.1. No structure, facility or landfill shall be erected or placed that would impede or change the direction of the flow of water in the flood area, or that could collect or catch floating debris, or be placed in such a way that the natural force of floodwater could carry dislodged material downstream to damage public and private property and improvements.

701.4.2. Any structure, facility or landfill shall be constructed so as to offer the minimum opportunity for scour or erosion of soil surface and shall be designed to have minimum effect on the natural flow and height of floodwater.

701.4.3. Structures and facilities shall be firmly anchored and interconnected to prevent disjoining and to prevent them from floating downstream where they could become a threat to life and property.

701.4.4. Service facilities such as electrical and heating equipment shall be constructed at, or above, the flood protection elevation, or shall be flood proofed.

701.4.5. Flood proofing measures may be required by the Town Board for all buildings and structures other than those with a low flood damage potential.

SEC. 702.0. WETLANDS

Notwithstanding any other provisions of this Local Law, and particularly Schedule I, to the contrary, the use of all wetlands in the Town of Middlesex, as set forth on any wetland map that may be duly adopted by the Town Board, or Yates County or the NYS Department of Environmental Conservation pursuant to Article 24 of the NYS Environmental Conservation Law, shall be subject to the said Article 24 and other applicable regulations of the Town of Middlesex, Yates County, and New York State.

SEC. 703.0. PRIVATE ROADS

Private roads will be permitted in all zoning districts, when the following criteria have been met:

703.1.1 Construction. A private road must service two or more lots, have a fifty foot right of way, with a fifteen foot drivable surface and a eight-twelve inch base and proper drainage to protect the road and surrounding property. There shall be a turnaround at the end of the road. Construction of the road shall be inspected and approved by the Town Code Enforcement Officer, Highway Superintendent and Fire Chief prior to acceptance by the Town Board as a private road on the Town Map.

703.1.2. Approval by Planning Board. A site plan of a private road showing its location, number and dimensions of lots to be serviced must be approved by the Planning Board prior to construction.

703.1.3. Acceptance by Town Board. Upon approval by the CEO, Town Highway Superintendent, Fire Chief, and Planning Board, the Town Board may name the road and place it on the official Town Map. An appropriate street sign shall be placed at the intersection of the private road and adjoining street.

703.1.4. A private road must adjoin a street.

703.1.5. An agreement among the property owners providing for maintenance and repair of the private road has been filed with the Middlesex Town Clerk and recorded in the Yates County Clerk's office.

703.1.6. Notwithstanding the criteria listed in this section, pre-existing private roads may continue and the dwellings thereon shall be allowed to continue as non-conforming lots. Any new dwellings to be constructed on a pre-existing private road, or the extension of a pre-existing private road, shall require the road to comply with the above criteria before a building permit may be issued. A list of such pre-existing private roads and the house number of dwellings thereon is annexed hereto as Schedule III, Private Road Survey. Any existing private road with only one dwelling shall not be considered a pre-existing private road for the purpose of this sub-section, and instead shall be considered a driveway.

703.2. Notwithstanding the above criteria, private roads will be permitted in Lake Residential District only by Special Use Permit issued by the Zoning Board of Appeals upon the recommendation of the Town Planning Board.

703.3 In addition to the criteria contained in this section, development of private roads is also regulated by the Town of Middlesex Private Driveways and Private Roads Law, Local Law #3 of the Year 2009 and any amendments thereto.

(Amd. 5/13/11)

SEC. 704.0. FLAG LOTS

704.1. Other regulations in this Local Law to the contrary notwithstanding, no flag lot shall be permitted in the LR district.

704.2. Flag lots are intended to provide the ability to use land to the interior of streets and roads and in a manner that does not adversely increase density and meets the general objectives of this law.

704.3. Flag lot frontage must be separated from other flag lot frontage by frontage that is

at least the minimum frontage required in that district.

SEC. 705.0. STORMWATER MANAGEMENT AND EROSION CONTROL

All construction and development in the Town of Middlesex shall comply with applicable provisions of the Town's Stormwater Management and Erosion Control Ordinance.

SEC. 706.0. SIGNS

706.1. General Provisions.

706.1.1. No sign shall be hereafter erected, placed or maintained in any place in the Town of Middlesex unless specifically herein permitted or unless a permit therefore has been obtained in compliance with the provisions of this Section 706.

706.1.2. Signs must be constructed of durable materials and maintained in good condition. If allowed to become dilapidated, they shall be repaired or removed within 30 days, by direction of the Code Enforcement Officer, at the owner's expense.

706.1.3. Other than an official traffic sign or a sign required by law, no sign shall be erected within the right-of-way lines of a street or road.

706.1.4. Signs shall not project beyond property lines and shall not block sight lines for vehicles entering or exiting a premises.

706.1.5. Temporary signs erected for 30 days or less shall not require a permit and shall be removed at, or before, the end of such 30 day period. Temporary signs erected for a period of time longer than 30 days shall be by permit only.

706.1.6. For signs painted or installed on opposite sides of a board or standard (two-sided signs), only one side shall be considered in determining the area of such sign.

706.1.7. No illuminated sign shall be permitted or installed that would be distracting or hazardous to traffic.

706.1.8. No sign shall be higher than 30 feet from the ground to the top of the sign.

706.1.9. A sign to be installed on the face of any new building may be included in the permit covering the construction of the new building and no other permit or

fee shall be required. Such sign shall not exceed 2 feet 6 inches in height and 50 sq. ft. in total area.

706.1.10. No permit issued under the terms of this Sec. 706 shall be transferable to any person other than the original applicant except by approval of the Zoning Board of Appeals.

706.2. Signs Permitted Without a Permit

706.2.1. An on-premises sign erected by the owner or occupant thereof and advertising the sale of such premises, or to advertise the sale of produce or for the sale of goods or for services rendered, provided that such sign shall not be larger than 6 sq. ft. in area.

706.2.2. A nameplate or identification sign not larger than 4 sq. ft. in area.

706.2.3. A real estate sign or rental sign not larger than 6 sq. ft. in area.

706.2.4. An institutional sign (church, school, government, etc.) not larger than 20 sq. ft. in area and located not less than 25 feet from a street or highway line.

706.2.5. A home occupation sign, which is not to be larger than 6 sq. ft. in area and not illuminated, except that no such sign is permitted in LR.

706.2.6. A political sign, which must be removed within 7 days from the date of the election to which it pertains.

706.3.0. Signs for Which a Permit is Required

706.3.1. A sign erected in connection with a temporary sales promotion, construction or similar temporary activity that will last longer than 30 days but less than 6 months. Such permit may be renewed for additional periods of like duration, under the same procedures and conditions, and for a like fee, as required for the original permit.

706.3.2. An advertising sign directing attention to a business, commodity, service or entertainment conducted at another location may be erected only in a General Business or Highway Business District provided that:

a. Such sign is located no closer to the highway right-of-way line than the minimum front yard setback requirements of Schedule II of this Local Law.

b. Such sign does not exceed an area of 6 sq. ft.

706.3.3. An advertising sign directing attention to a business, product or profession located on the same lot as the sign may be erected only in General Business (GB) and Highway Business (HB) districts provided that:

- a. Such sign is located no closer to the highway right-of-way line than 25 feet except that, in a General Business District (GB), such sign shall be no closer than 5 feet from the right-of-way line.
- b. Such sign does not exceed 50 sq. ft. in any Highway Business District (HB) and 16 sq. ft. in any General Business District (GB).

706.3.4. Off-premises signs shall be no larger than 6 sq.ft. and located only on State highways.

706.4.0. Procedure. A permit to erect or place any sign for which a permit is required shall be obtained from the Code Enforcement Officer. No such permit shall be issued unless authorized by the Zoning Board of Appeals upon a finding that:

706.4.1. The proposed sign conforms with the provisions of this Local Law or a variance therefrom is warranted.

706.4.2. The proposed sign will not be detrimental to adjacent properties.

706.4.3. The proposed sign will not create a hazard to the general public or to any adjacent owner or occupant.

706.5.0. Permit Revocation. Any permit granted hereunder may be revoked by the Zoning Board of Appeals after due hearing after not less than 10 days written notice to the permit holder. A permit, may be revoked if the holder violates any conditions attached to the permit or if the sign is not maintained in good condition.

ARTICLE VIII: PARKING AND TRAFFIC

SEC. 800.0. GENERAL PROVISIONS

800.1. Permanent off-street vehicle storage, parking or standing space shall be provided as set forth in Sec 801.0 of this Local Law, at the time of the erection of any building, at the time any building is enlarged or increased in capacity by adding dwelling units, guest rooms, seats or floor area, or by conversion from one land use activity to another. Such space shall be deemed to be required and associated with the land use activity, and shall not thereafter be reduced or encroached upon

in any manner.

- 800.2. No required front yard, or portion thereof, in any Residential District shall be used to provide the parking space required by this Local Law.
- 800.3. If the vehicle storage, parking or standing space required by this Local Law cannot be reasonably provided on the same lot on which the principal use is located, the Zoning Board of Appeals may permit such space to be provided on other off-street property, provided such space is within a reasonable walking distance from the principal use. In this case, such off-site space shall be deemed to be required space associated with the principal land use and shall not thereafter be reduced or encroached upon in any manner.
- 800.4. Off-street parking space for any number of separate uses may be combined on one lot. Required parking space for one land use may be assigned to another land use when the Zoning Board of Appeals is satisfied that the intent of this Article VIII for providing adequate off-street parking space has been met.
- 800.5. No off-street parking space shall be used or designed to be used in a manner that will obstruct or interfere with the free use of any street, road or adjoining property.
- 800.6. All off-street parking space, and access thereto, shall be adequately drained and treated in a manner that will minimize dust and mud problems. Plans for such spaces are to be included with plans for construction of buildings or other structures and are to be presented to the Code Enforcement Officer at the time an application for a building permit is filed.
- 800.7. Off-street parking areas are to be kept free of obstructions and unsightly objects. Intersections with sidewalks or streets must be made in an approved manner.

SEC. 801.01. PARKING REQUIREMENTS

Convenient and adequate parking space shall be provided and satisfactorily maintained by the owner thereof, on the premises or in convenient connection therewith, pursuant to the following minimum standards:

<u>Land Use Activity</u>	<u>Parking Spaces Required</u>
1. One and two family dwelling; mobile home	2 for each dwelling unit
2. Multi-family dwelling; townhouse	1 for each studio unit; 2 each for all other units.

3. Tourist home; Bed and Breakfast	1 for the dwelling unit + 1 for each sleeping room
4. Church, place of public worship or assembly; club house	1 for each three seats
5. Funeral home	10 spaces in addition to space required for business vehicles
6. Office	1 for each 200 sq. ft. of office space
7. Clinic; nursing home	1 for each two patients or residents + 1 for each doctor, dentist and employee
8. Indoor retail business	4 for the first 1,000 sq. ft of total floor area + 1 for every additional 150 sq.ft.
9. Outdoor retail business	2 for every employee at peak season in addition to space for business vehicles.
10. Personal service business	1 for each 200 sq. ft. of gross floor area
11. Amusement facility	10 spaces + 1 for each two employees
12. Eating establishment	1 for each 100 sq. ft. of gross floor area
13. Wholesale business; research; industry	1 for each two employees + space for all business vehicles

*Minimum parking requirements for uses requiring a Special Permit may be modified during the review and authorization procedure.

SEC. 802.0. OFF-STREET LOADING

In all districts, for all uses involving vehicles for the receipt or distribution of goods, merchandise, raw materials or finished products, adequate off-street space for vehicle standing, loading and unloading shall be provided so as to avoid undue interference with off-street parking and the public use of streets, roads and other public rights-of-way.

SEC. 803.0. VARIANCE

A request for a variance from off-street parking or loading requirements shall be considered by the Zoning Board of Appeals to be an area variance. (See Sec. 902.5. of this Local Law.

ARTICLE IX: ZONING BOARD OF APPEALS

SEC. 900.0. CREATION AND ORGANIZATION

900.1. Creation. A Zoning Board of Appeals is hereby established in accordance with Section 267 of the Town Law.

900.2. Size. The Zoning Board of Appeals shall consist of three (3) or five (5) members. If the said Board of Appeals already has seven members, it may continue to act as a duly constituted board until the Town Board, by local law, reduces such membership to five or three. However, no incumbent shall be removed from office except on expiration of his or her term.

900.3. Appointment. The Town Board shall appoint the members of the Zoning Board of Appeals and shall designate its chairman. No person who is a member of the Town Board shall be eligible for membership on such Zoning Board of Appeals. Of the members of the Zoning Board of Appeals first appointed, terms shall be so fixed that one member's term shall expire at the end of the first year and the remaining members' terms shall be so fixed that one member's term shall expire at the end of each year thereafter. Thereafter, member's terms shall be equal in years to the number of members of the Board.

Notwithstanding the provisions of Section 267(11), the Town Board shall have the authority to appoint up to two alternate members of the Zoning Board of Appeals who shall have the power to act and vote in the event a member is unable to participate either because of a conflict of interest or where a quorum is lacking.

900.4. Removal. The Town Board shall have the power to remove any member of the Zoning Board of Appeals for cause. Absence by a member of the Zoning Board of Appeals from three consecutive meetings or from five meetings within a twelve-meeting period shall be considered grounds for removal. Failure of a member to attend training sessions as may be determined by the Town Board to be necessary shall be considered grounds for removal. (*Amd6/9/2003*)

900.5. Vacancies. Vacancies shall be filled by the Town Board. If a vacancy shall occur otherwise than by the expiration of term, it shall be filled by appointment for the unexpired term.

900.6. Compensation. The Town Board may provide for compensation to be paid to Zoning Board of Appeals members, experts, clerks, a secretary and other expenses as may be necessary and proper.

SEC. 901.0. GENERAL PROCEDURES

901.1. Meetings. All meetings of the Zoning Board of Appeals shall be held at the call of the chairman and at such other times as the Board may determine. All meetings shall be open to the public.

901.2. Oaths. The chairman or, in his/her absence, the acting chairman, may administer oaths and compel the attendance of witnesses.

901.3. Minutes. The Zoning Board of Appeals shall keep minutes of its proceedings sharing the vote of each member on every question or, if absent or failing to vote, indicating said fact, and shall also keep records of its examinations and other official actions. Each rule, regulation, every amendment or repeal thereof, and every order, requirement, decision or determination of the Zoning Board of Appeals shall immediately be filed in the office of the Town Clerk and shall be a public record.

SEC. 902.0. PERMITTED ACTIONS

902.1. Administrative Review. To hear and decide appeals from and review any order, requirement, decision or determination made by the Code Enforcement Officer or other administrative officer in carrying out or enforcing any provisions of this Local Law. The concurring vote of a majority of the members of the Board shall be necessary to reverse the action of any administrative official or to decide in favor of the applicant on any matter upon which the Board is required to act.

902.2. Special Use Permits. To hear and decide on applications for special use permits if so authorized by Sec. 401.0 and Art. V of this Local Law.

902.3. Use Variance. The Zoning Board of Appeals, on appeal from the decision or determination of the Code Enforcement Officer, shall have the power to grant a use variance, as defined in Art. II of this Local Law. No such use variance shall be granted without a showing by the applicant that applicable zoning regulations and restrictions have caused unnecessary hardship. In order to prove such unnecessary hardship the applicant shall demonstrate to the Board of Appeals that:

a. Under applicable zoning regulations the applicant cannot realize a reasonable return or benefit from the property in question, which must be established by competent financial evidence;

- b. That the alleged hardship relating to the property in question is unique and does not apply to a substantial portion of the district or neighborhood;
- c. That the requested use variance, if granted, will not alter the essential character of the neighborhood; and,
- d. That the alleged hardship is not self-created.

In granting a use variance, the Board shall grant the minimum variance that it shall deem necessary and adequate to address the unnecessary hardship proven by the applicant, and at the same time preserve and protect: the character of the neighborhood and the health, safety and welfare of the community.

902.4. Area Variance. The Zoning Board of Appeals, on appeal from a decision or determination of the Code Enforcement Officer shall have the power to grant area variances as defined herein. In making its determination, the Board shall take into consideration the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. In making such determination the Board shall also consider:

- a. Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by granting the variance;
- b. Whether the benefit requested by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance;
- c. Whether the requested variance is substantial;
- d. Whether the requested variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and,
- e. Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Board, but shall not necessarily preclude the granting of the variance.

In granting an area variance, the Board of Appeals shall grant the minimum variance that it shall deem necessary and adequate and, at the same time, preserve and protect the character of the neighborhood and the health, safety and welfare of the neighborhood.

902.5. Conditions. In the granting of both use and area variances and Special Use

Permits, the Zoning Board of Appeals shall have the authority to impose such reasonable conditions and restrictions as are directly related to, and incidental to, the proposed use of the property. Such conditions shall be consistent with the spirit and intent of this Local Law and shall be imposed for the purpose of minimizing any adverse impact such variance may have on the neighborhood or community.

SEC. 903.0. REFERRAL TO THE YATES COUNTY PLANNING BOARD

- 903.1. Requests for Zoning Board of Appeals actions that require referral to the Yates County Planning Board shall be so referred pursuant to General Municipal Law, Article 12-B, Sections 239-1 and 239-m, as amended.
- 903.2. No action shall be taken by the Zoning Board of Appeals on any matter referred to the Yates County Planning Board until a recommendation has been received or until 30 days have elapsed from the date of submission to the County.
- 903.3. To act contrary to a recommendation of disapproval from the County Planning Board requires the vote of a majority plus one of the Zoning Board of Appeals along with a resolution setting forth the reasons for such contrary action.

SEC. 904.0. SPECIAL PROCEDURES RELATIVE TO AN APPEAL

- 904.1. Who May Appeal. An appeal to the Zoning Board of Appeals for administrative review, variance, special use permit or modification of a non-conforming use or non-conforming lot may be taken by any person, firm or corporation aggrieved, or by any governmental officer, department or board affected by any action of the Code Enforcement Officer, based in whole or in part upon the provisions of this Local Law. Such appeal shall be taken by filing with the Board a Notice of Appeal specifying the grounds thereof. The Code Enforcement Officer shall forthwith transmit all papers constituting the record of the case being appealed to the Board of Appeals.
- 904.2. Time of Appeal. Said Notice of Appeal shall be filed within sixty (60) days from the date any decision, interpretation or determination has been made by the Code Enforcement Officer. Failure to file Notice of Appeal within sixty (60) days shall constitute a waiver of the right to appeal.
- 904.3. Stay. An appeal shall stay all proceedings in furtherance of the action appealed from unless the Code Enforcement Officer certifies to the Board that, by reason of facts stated in the certificate, a stay would, in his or her opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise

than by a restraining order which may be granted by the Board or by a court of record to the Code Enforcement Officer, on due cause shown.

SEC. 905.0 HEARING, NOTICE, SEQR FINDINGS, DECISION AND COST

905.1. Hearing. The Zoning Board of Appeals shall fix a reasonable time and date for the hearing of any appeal or other matter upon which it is required to make a finding pursuant to the provisions of this Local Law.

905.2. Notice. The Zoning Board of Appeals shall give public notice of any hearing by publication in the official newspaper at least five (5) days prior to the date thereof. In addition, the Board shall mail a notice of the hearing at least five (5) days before the date thereof to the parties and, if applicable, to the regional State Park Commission. Notice shall also be given by regular US mail, at least ten (10) days prior to the date of a hearing, to all persons, firms or corporations owning property or residing within 200 feet of the boundary of the property which is the subject of the said hearing. (*Amd 10/22/2004*)

905.3. State Environmental Quality Review Act. Prior to taking action on any appeal, the Zoning Board of Appeals shall comply with the provisions of the State Environmental Quality Review Act (SEQR) under Article 8 of the Environmental Conservation Law and its implementing regulations as codified in Part 617 of Title 6 of New York Codes, Rules and Regulations.

905.4. Time of Decision. At the hearing, any party may appear in person or by agent or attorney. The Board of Appeals shall decide upon the appeal within sixty-two (62) days after the final hearing. The time within which the Board must render its decision may be extended by mutual consent of the applicant and the Board.

905.6. Cost and Fees. All costs of publication and notice and any fees as may be assessed by the Town Board shall be paid by the applicant.

SEC. 906.0 PROVISION OF APPEAL

If the variance is granted, or other Board approval authorized by this Local Law is obtained, the necessary permits shall be subject to the terms and conditions imposed by the Board. Should the applicant fail to comply with such terms and conditions, it shall be conclusively presumed that the applicant has waived, withdrawn or abandoned the appeal or application. In such case, any permissions, variances and permits granted to the applicant shall be deemed automatically rescinded.

SEC. 907.0 SCOPE

In exercising the above mentioned powers, the Zoning Board of Appeals may wholly or

partly reverse or confirm, or may modify, the order, requirement, decision or determination appealed from, and shall make such order, requirement, decision or determination as, in its opinion, ought to have been made for the premises and, to that end, shall have the powers of the officer from whom the appeal was taken.

SEC. 908.0. RECOURSE

Any person or persons jointly or severally aggrieved by any decision of the Zoning Board of Appeals, or any officer, department, board or bureau of the Town, may apply to the Supreme Court by proceeding under Article 78 of the Civil Practices Law and Rules. Such action must be instituted within thirty (30) days after the filing of a decision in the Office of the Town Clerk.

ARTICLE X: ENFORCEMENT

SEC. 1000.0. INTERPRETATION

In interpreting and applying the provisions of this Local Law, they shall be held to be the minimum requirements for promotion of the public safety, convenience, prosperity and general welfare, and protection of the natural environment, of and for the Town of Middlesex.

SEC. 1001.0. ENFORCEMENT

1001.1. Code Enforcement Officer. The provisions of this Local Law shall be administered and enforced by the Code Enforcement Officer appointed by the Town Board, who shall have the power to make inspections of buildings or premises as necessary to carry out the enforcement duties of this Local Law.

1001.2. Duties. It shall be the duty of the Code Enforcement Officer to keep a record of all applications for permits and a record of all permits issued with a notation of all special conditions involved. The Code Enforcement Officer shall file and safely keep copies of all plans submitted, and the same shall form a part of the records and shall be available for use by Town and other officials.

1001.3. Building and Zoning Permit. Unless stated to the contrary elsewhere in this Local Law, no building or structure shall be erected or altered, and no land used, unless a building and zoning permit has been issued by the Code Enforcement Officer and complies with Soil Management and Erosion Control Law. Except upon a written order from the Zoning Board of Appeals, no building and zoning permit shall be issued for any building, or structure, or alteration, or land use that would be in violation of any provision of this Local Law and other pertinent laws,

ordinances and regulations of the Town of Middlesex.

- 1001.4. Refusal. Where the proposed construction, alteration or use of a building, structure or land is in violation of a provision of this Local Law, or when a Special Permit or Site Plan Approval is required, the building and zoning permit shall not be issued. Such refusal shall be in writing, a copy of which shall be sent to the applicant. Such refusal will enable the applicant to submit an appeal to the Zoning Board of Appeals, the Planning Board or the Town Board, as specified elsewhere in this Local Law, for relief from the Code Enforcement Officer's action.
- 1001.5. Revocation. The Code Enforcement Officer shall be empowered to revoke a building and zoning permit if it is found that there is a significant deviation from the plans or conditions upon which such permit was issued.
- 1001.6. Appearance Ticket. The Code Enforcement Officer shall have the authority to issue and serve an appearance ticket with respect to any violation of a State statute, local law, ordinance, rule or regulation of the Town of Middlesex, which said Enforcement Officer is required or authorized to enforce. Any such appearance ticket shall be served personally.

SEC. 1002.0. CERTIFICATE OF OCCUPANCY/CERTIFICATE OF COMPLIANCE

- 1002.1. Requirement. No building or structure for which a building and zoning permit is required shall be occupied or used, and no land shall be used or changed in use, until a Certificate of Occupancy or Compliance, as the case may be, has been issued by the Code Enforcement Officer. This subsection shall not apply to non-residential buildings of an agricultural nature.
- 1002.2. Issuance. Within five (5) days after notification that land, a dwelling or other building, or part thereof is ready for occupancy or use, the Code Enforcement Officer shall make a final inspection thereof and issue a Certificate of Occupancy if such land, dwelling or other structure, or part thereof, is found to conform with the provisions of this Local Law.
- 1002.3. Refusal. Except upon a written order of the Zoning Board of Appeals, no Certificate of Occupancy shall be issued for any building or land use that would be in violation of any provision of this Local Law.
- 1002.4. Temporary Certificate of Occupancy. Upon request, the Code Enforcement Officer may issue a temporary Certificate of Occupancy allowing occupancy of a building or structure, or part thereof, before the entire work covered by the building and zoning permit shall have been completed, provided such portions as

have been completed may be occupied safely without endangering life or the public welfare. A temporary Certificate of Occupancy shall remain valid for a period not exceeding thirty (30) days from the date of issuance, except that, for good cause, the Code Enforcement Officer may allow up to two extensions for periods not exceeding thirty days each.

SEC. 1003.0. ENVIRONMENTAL ASSESSMENT

Until authorized by the appropriate lead agency, no building and zoning permit shall be issued for any proposed building or land use that, in the judgment of the Code Enforcement Officer would require an environmental assessment to comply with the State Environmental Quality Review Act, and any such Town or County rules and regulations enacted pursuant thereto. Such application shall be referred to the appropriate lead agency for a determination as to whether an environmental assessment will be required.

ARTICLE XI: AMENDMENTS

SEC. 1100.0. AUTHORITY

The Town Board may, on its own motion, or on petition or recommendation of the Planning Board, amend, supplement, modify or repeal this Local Law in accordance with the applicable provisions of State law.

SEC. 1101.0. PLANNING BOARD AND ZONING BOARD OF APPEALS REVIEW

Each such proposed amendment or change shall be referred to the Town Planning Board and Zoning Board of Appeals for a report before the public hearing as provided for in Sec. 1102 below. If the Planning Board or Zoning Board of Appeals fails to submit such report within 30 calendar days, it shall be deemed that these bodies have approved the proposed amendment or change.

SEC. 1102.0. PUBLIC NOTICE AND HEARING

The Town Board, by resolution, shall fix the time and place of a public hearing on the proposed amendment or change and give notice as follows:

1102.1. By publishing a notice at least ten (10) days in advance of such hearing in the official Town newspaper.

1102.2. A written notice of any proposed amendment or change affecting property within 500 feet of the boundaries of any state park or parkway shall be given to

the regional State Park Commission of jurisdiction at least ten (10) days prior to the date of the public hearing.

SEC. 1103.0. PROTEST

In case of a protest against such amendment or change signed by the owners of twenty (20) percent or more of the area of land included in such proposed amendment or change, or of that immediately adjacent extending 200 feet therefrom, or of that directly opposite thereto extending 100 feet from the road frontage of such opposite land, such amendment shall not become effective except by the favorable vote of at least four (4) members of the Town Board.

SEC. 1104.0. REFERRAL TO THE COUNTY PLANNING BOARD

Before taking final action on certain proposed amendments to this Local Law, the Town Board shall refer such amendments to the Yates County Planning Board for a report. Referral shall be made pursuant to General Municipal Law, Sections 239-1 and 239-m, as amended.

SEC. 1105.0. ENVIRONMENTAL DETERMINATION

Before taking final action on any proposed amendment or change to this Local Law, an Environmental Determination must be made by the Town Board in accordance with the provisions of the State Environmental Quality Review Act.

ARTICLE XII: MISCELLANEOUS PROVISIONS

SEC. 1200.0. PENALTIES

A violation of this Local Law is an offense punishable by a fine not exceeding \$350, or imprisonment for a period not exceeding 90 days, or both for conviction of a first offense. Each week's continued violation shall constitute a separate additional violation.

SEC. 1201.0. FEES

Fees for building and zoning permits, certificates of occupancy, variance and special permit applications shall be in accordance with the Fee Schedule of the Town of Middlesex, as amended.

SEC. 1202.0. SEVERABILITY

If any section, subsection, sentence, clause or phrase of this Local Law is, for any reason, held to be invalid or unconstitutional, such decision shall not affect its remaining

portions. The Town Board hereby declares it would have enacted this Local Law and each section and subsection thereof, irrespective of the fact that any one or more of its sections, subsections, clauses or phrases may be found by court action to be unconstitutional or otherwise invalid.