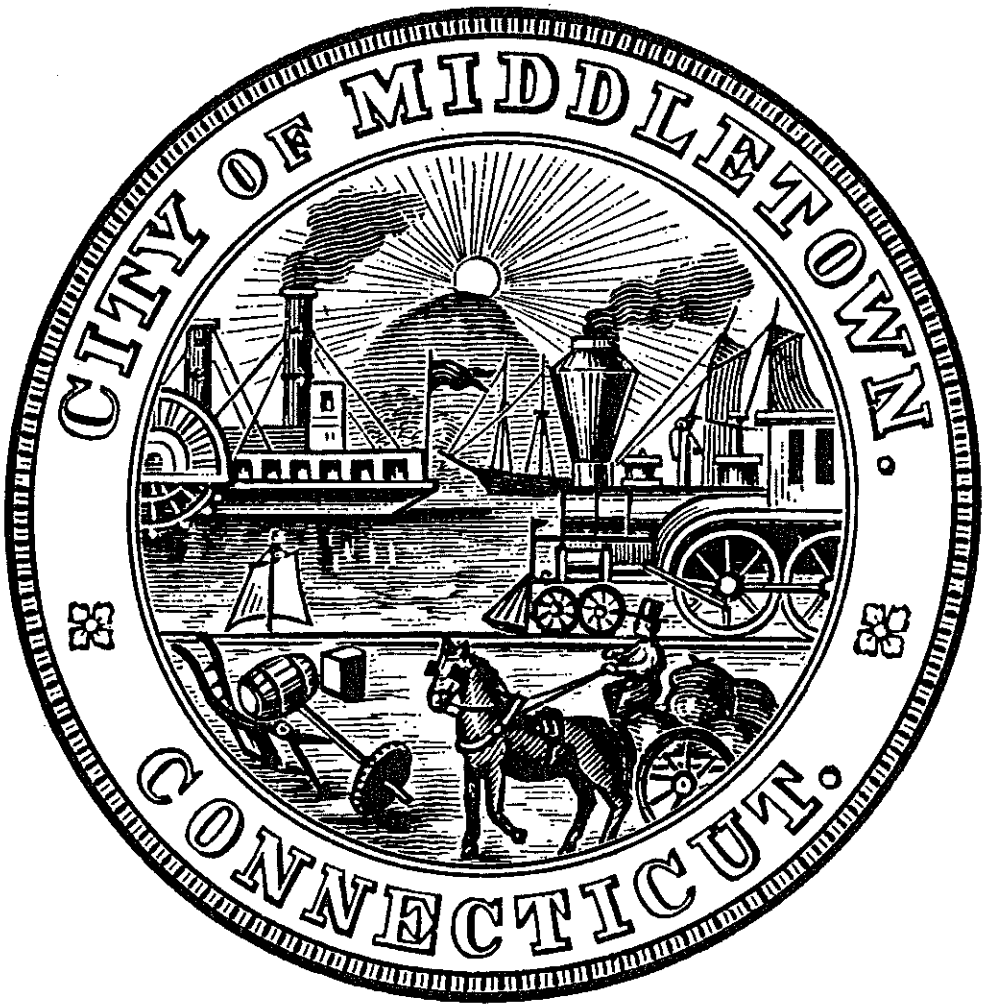
# ZONING CODE




## PLANNING & ZONING COMMISSION

TABLE OF CONTENTS


ARTICLE I ZONING PROVISIONS

| | | |
|---|---|---|
| Section 10 | General Provisions | 3 |
| Section 11 | Establishment of Zones | 11 |
| Section 12 | Supplementary Provisions | 14 |
| Section 13 | Exceptions and Modifications | 17 |
| Section 14 | Non-Conforming Building and Uses | 21 |
| Section 15 | Performance Standards | 23 |
| Section 16 | Definitions | 25 |

ARTICLE II ZONES

| | | |
|---|---|---|
| Section 21 | RPZ, R-15, R-30, R-45, R-60 | 40 |
| Section 21A | R-1 | 42 |
| Section 22 | M | 44 |
| Section 23A | MX | 45 |
| Section 24 | PRD | 46 |
| Section 24A | (DELETED) | 46 |
| Section 25 | I T Interstate Trade | 47 |
| Section 26 | P L Park Land | 47 |
| Section 27 | None | 47 |
| Section 28 | NRCD Neighborhood/Rural Commercial Development | 47a |
| Section 29 | IRA Industrial Redevelopment Area | 48 |
| Section 30 | I D Institutional Development | 49 |
| Section 31 | R F Riverfront Recreation | 52 |
| Section 32 | B-1 Central Business | 53 |
| Section 33 | B-2 General Business | 54 |
| Section 33A | B-3 Business Office/Transitional | 54a |
| Section 34 | IOP Interstate Office Park | 55 |
| Section 35 | I-1 Service Industrial | 57 |
| Section 36 | I-2 Restricted Industrial | 58 |
| Section 36A | I-4 Limited Industrial | 58 |
| Section 37 | I-3 Special Industrial | 59 |
| Section 38 | NPC Newfield Street Planned Retail Business Commercial | 60 |
| Section 39 | T D Transitional Development | 61 |
| Section 39A | I M Interstate Mixed Use | 61a |
| Section 39B | PSUZ Public Service Utility | 61k |
| Section 39C | SMH Substance Abuse/Mental Health Floating | 61m |
| Section 39D | DVD Downtown Village District | 61p |

ARTICLE III (none)

ARTICLE IV SUPPLEMENTARY REGULATIONS

| | | |
|---|---|---|
| Section 40 | Off-Street Parking & Loading | 62 |
| Section 41 | Adult Uses | 72 |
| Section 42 | Protection of Water Sources | 73 |
| Section 44 | Special Exceptions | 74 |

Section 45 (DELETED) 121
Section 45A Wireless Communication Facilities Special Exception 122
Section 46 Flood Area Management 127
Section 47 Swimming Pools 130
Section 48 Signs 131

ARTICLE V ADMINISTRATION AND ENFORCEMENT
Section 53 Commission 142
Section 54 Zoning Code Enforcement Officer 143
Section 55 Site Plan Approval Requirement 144

ARTICLE VI USE SCHEDULES
Section 60 Residential Zone Uses 155
Section 61 Business and Industrial Zone Uses 162
Section 62 Moratoriums 177

ARTICLE VII LEGISLATIVE
Section 70 Reference 179
Section 71 Amendment Procedure 179
Section 72 Repealer 180
Section 73 Controlling Regulation 180
Section 74 Effective Date 180

APPENDIX I
Trip Generation Table 181

APPENDIX II
City of Middletown Regulations Aquifer Protection Areas 181a

## ARTICLE I ZONING PROVISIONS

### SECTION 10 GENERAL PROVISIONS

10.00 GENERAL

Except as hereinafter specified, it shall be unlawful to use any land, structure, or building or to construct, erect, structurally alter, enlarge or rebuild any building or structure or part thereof unless in conformity with the provisions of this Code. No use or occupancy of building, structure, land or premises and no trade or industry shall hereafter be permitted within the City of Middletown which will produce irritating, corrosive, toxic or noxious fumes, gas vapor, smoke, cinders, or odors or obnoxious dust or waste or undue noise or vibration so as to be detrimental to the public health, safety or general welfare. The provisions of this Code shall not require modifying or changing the height, location or size of any building now existing or any change in the construction or arrangement of any such building or any change in the present use of any building, structure or premises.

10.01 PURPOSE

The purpose of this Zoning Code and the intent of the legislative authority in its adoption is to promote and protect the public health, safety, convenience, comfort, prosperity and the general welfare of the City of Middletown, Connecticut; by regulating the use of buildings, other structures and land for residences, public facilities, institutions, business, services, industry or other purposes; by regulating and restricting the bulk, height, design, percent of lot occupancy, and location of buildings; by regulating the limiting population density; and, for the aforesaid purposes, to divide the land within the corporate limits of the City into zones of such number and dimensions in accordance with the objectives of the Plan of Development; and to provide procedures for administration and amendment of it.

10.02 INTENT

This Zoning Code is intended to achieve, among others, the following objectives: to protect the character and values of residential, institutional and public uses, business, commercial, and manufacturing uses - and to insure their orderly and beneficial development; and to provide adequate open spaces for light, air and outdoor uses; and to prevent excessive concentration of population - and, on the other hand, to prevent sparse and uncoordinated development; and to regulate and control the location and spacing of buildings on the lot and in relation to the surrounding property so as to carry out the objectives of the Plan of Development; and to regulate the location of buildings and intensity of uses in relation to streets according to

plans so as to cause the least interference with, and be damaged least by traffic movements, and hence result in lessened street congestion and improved public safety; and to establish zoning patterns that insure economic extensions for sewers, water supply, waste disposal and other public utilities, as well as developments for recreation, schools, and other public facilities; and to guide the future development of the City so as to bring about the gradual conformity of land and building uses in accordance with the objectives of the Plan of Development; and to accomplish the specific intents and goals set forth in the introduction to the respective parts.

10.03 APPLICATION OF ZONE REGULATIONS

Except as hereinafter provided, the following general regulations shall apply:

10.03.01 No building, structure, or land shall hereafter be used or occupied; and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, moved, or structurally altered except in conformity with all of the regulations herein specified for the zone in which it is located.

10.03.02 No building or other structure shall hereafter be erected or altered; to exceed the height or bulk; to accommodate or house a greater number of families; to occupy a greater percent of lot area; to have narrower or smaller rear yards, front yards, side yards or other open spaces than herein required; or in any other manner contrary to the provisions of this Code.

10.03.03 No part of a yard, or other open space, or off-street parking or loading space required above or in connection with any building for the purpose of complying with this Code, shall be included as part of a yard, open space, or off-street parking or loading space similarly required for any other building.

10.04 SEPARABILITY CLAUSE

Each section of this Code and each part of such section are declared to be independent sections and parts of sections, and notwithstanding any other evidence of legislative intent, it is hereby declared to be the controlling legislative intent that if any provision of said sections, or parts of sections and the application of such provision to any person or circumstances other than as to those to which it is held invalid, shall not be affected thereby, and it is hereby declared, that this Code would have been passed independently of the section, sections or parts of a section held to be invalid.

10.05 PROVISIONS DECLARED TO BE MINIMUM REQUIREMENTS

In their interpretation and application, the provisions of this Code shall be held to be minimum requirements, adopted for the promotion of the public

health, safety, moral, or general welfare. Wherever the requirements of this Code are at variance with the requirements of any other lawfully adopted rules, regulations, ordinances, deed restrictions, or covenants, the most restrictive or that imposing the higher standards shall govern.

10.06 SITE PLAN APPROVAL

Site Plan approval shall be required in accordance with Section 55 of this Code.

10.07 LIMITATIONS ON ACCESSORY USES

Any use which is incidental only to Permitted Uses and which complies with SECTION 15 PERFORMANCE STANDARDS and all of the following conditions may be operated as an Accessory Use, subject to site plan review except as herein provided. An Accessory Use may not survive the Primary Use.

Any Accessory Use or an expansion of an existing Accessory Use, other than Residential Accessory Uses, which has a point source discharge which is defined for purposes of this section only as a discharge from a fixed point directly to the air or directly to a wetland or watercourse exclusive of storm water, septic system effluent automobile exhaust and other discharges which staff determines are a normal part of building operations (ie exhaust from heating and air conditioning and discharges to the sanitary sewer system) or is within 1000 feet of a Residential Zone and could substantially increase traffic levels shall require the granting of a special exception from the Planning and Zoning Commission. (Amended effective 10\15\93)

10.07.01 RELATIONSHIP

Is clearly incidental and customary to and commonly associated with the operation of the Permitted Uses.

10.07.02 OWNERSHIP

Is operated and maintained under the same ownership and on the same lot as the Permitted Uses.

10.07.03 CONSISTENCY

Does not include structures or structural features inconsistent with Permitted Uses.

10.07.04 RESIDENTIAL OCCUPANCY

Does not include residential occupancy.

10.07.05 DETACHED STRUCTURES

If operated partially or entirely in detached structures, the gross floor area of

such detached structures, shall not exceed ten (10) percent of the area of the lot.

10.07.06 ATTACHED STRUCTURES

If operated partially or entirely within the structure containing the Permitted Uses, the gross floor area within such structures utilized by Accessory Uses (except garages and off-street loading facilities) shall not be greater than twenty (20) percent of the gross floor area, but not to exceed three hundred (300) square feet of a single unit dwelling; ten (10) percent of the gross floor area of a structure containing any Permitted Uses other than a single unit dwelling.

10.08 RESIDENTIAL UNIT BUSINESS PURSUIT

The purpose of permitting this accessory activity is to allow certain small scale quasi-business undertakings by the dwelling occupant that will not influence the immediate neighborhood and would not be economically feasible if conducted in a totally business setting.

I. The activity offered shall meet the following criteria:

A.) Be conducted solely by an occupant of the dwelling unit with no more than one (1) non resident employee on the premises and entirely within the dwelling unit, specifically excluding any area designated as a garage.

B.) Not present any external evidence of the activity including a separate entrance or the parking of any vehicle which displays any evidence, however, a sign shall be permitted no larger than that specified in the sign regulation identifying the activity.

C.) Not utilize more than five hundred (500) square feet of the gross area of the dwelling unit.

D.) No equipment or process used for the activity shall create: noise, vibration, glare, fumes, hazardous waste, electrical interference (visual or audible) with any radio, television, or telephone; or causes fluctuations in electrical line voltage off the premises.

E.) Not generate greater vehicular traffic than would ordinarily be associated with the dwelling location or attract more than four (4) persons to the dwelling at any one time.

F.) Only individual or unique physical items or services shall be created or provided. Sales associated directly with a service provided or a good produced directly on premises may occur at the premises provided the sale of such goods on premises shall not be advertised or constitute the primary business pursuit.

G.) Not involve repairing any item, which would be brought to the dwelling.

II. Following is a list of business pursuit categories, which may be pursued in residential units provided they do not violate any of the above criteria.

1.) Office activity such as: consulting, writing, computer programming, tutoring, telephone answering and drafting.

2.) Fine Arts such as: painting, sculpturing, photography, model making, crafts and weaving.

3.) Culinary activities such: baking, cooking and preserving food.

A Residential Unit Business license shall be issued for a 90 day trial period during which time the activity may be observed to make an initial evaluation possible. Upon issuance, the Planning and Zoning Department shall send a copy of the approved license to abutting property owners along with a letter explaining the license. The adjoining property owners have the right to request a further review by the Planning and Zoning Commission during the ninety (90) day trial period. If a review has been requested, all abutting property owners shall be notified of the time and date of the Planning and Zoning Commission review. If no objections by abutters have been filed during said ninety (90) day period, the issued license may be permanent subject to licensee's compliance of the approved uses contained herein. (Amended effective 3/15/98)

10.08.01 FINDINGS

A Residential Unit Business Pursuit shall be granted when the Director of the Planning and Zoning Department finds that the proposed Residential Unit Business Pursuit will not violate any provision of this Code.

10.08.02 APPROVED USE

No substantial deviation from an approved Residential Unit Business Pursuit shall be permitted without the approval of the Director of the Planning and Zoning Department. Any deviation without approval or violations of the terms of the RUBP shall result in revocation of the Residential Unit Business Pursuit. (Amended effective 3/15/98)

10.09 ENVIRONMENTAL RESPONSIBILITY

10.09.01 GRADING AND SOIL EROSION AND SEDIMENT CONTROL PLAN

When applicable a grading and soil erosion and sediment control plan shall be submitted. This plan shall be at a scale not less than 1" = 40'. The area shown on the grading and soil erosion and sediment control plan may be limited to the portion of the project affected by the proposed regrading, cuts, fills, and\or soil and\or rock removal.

As a part of the grading plan all developers shall provide, using the best available technology proper provisions for soil erosion and sediment control. A soil erosion and sediment control plan shall be submitted with any application for project when the disturbed area is cumulatively more than one half acre. The Planning and Zoning Commission may also require that a bond be posted assuring that the Grading and Soil and Erosion Control Plan is implemented. The Planning and Zoning Commission may petition the Middlesex County Soil and Water Conservation District for a study to establish that a Grading and Soil Erosion and Sediment Control Plan complies with the minimum standards as set forth in this Section.

a. Minimum Standards for Soil Erosion and Sediment Control Provisions.

The developer is requested to use the publication, Connecticut Guidelines for Soil Erosion and Sediment Control (latest edition), as amended, as a tool in providing all the minimum information required for soil erosion and sediment control, peak flow rates, and volumes of water runoff.

The Grading and Soil and Erosion Control Plan shall include but is not limited to, the following:

1.) A narrative describing the development, the schedule of major activities on the land, (including start and completion dates, sequence of grading and construction activities, sequence for installation of erosion and sediment control measures, and sequence for final stabilization measures); the design criteria and construction and installation procedures for soil erosion and sediment control measures and storm water management facilities; and an ongoing maintenance program for erosion and sediment control measures and the storm water management system;

2.) A site development plan as described in Section 4.02 showing the following additional information:

a.) Areas of major regrading, cuts, fill and\or soil and\or rock removal with the estimated amount of material to be added or removed and calculations of proposed cuts and fills;

b.) Existing (dashed lines) and proposed contours (solid lines) at an interval not exceeding two (2) feet based on field and aerial survey as well as existing spot elevations (where appropriate);

c.) The location of and design details for all proposed soil erosion and sediment control measures and storm water management facilities;

d.) Areas in excess of 25 % natural slope highlighted with crosshatching;

e.) Existing and proposed drainage swales, wetlands and water courses;

f.) Existing permanent buildings and structures, including well and septic locations;

g.) Notes indicating if blasting will be required;

h.) Cross section drawings covering proposed excavation areas;

i.) Hydraulic computations for all culverts and bridges, stream crossings and detention/retention structures; and

j.) Any other information deemed necessary and appropriate by the developer or requested by the Commission or its designated agent.

10.09.02 CERTIFICATION

Approval of the project shall constitute certification that the Grading and Soil Erosion and Sediment Control Plan complies with the requirements and purpose of these regulations. After approval of the project, no site development shall begin unless the soil erosion and sediment control measures and facilities in the plan scheduled for installation prior to site development are installed, functional, and maintained until the development is complete.

10.09.03 INSPECTION AND ENFORCEMENT

The Zoning and Inland Wetlands Enforcement Officer (ZEO) and the Public Works Department shall make periodic inspections to ensure compliance with the approved plan and that control measures and facilities are properly performed or installed and maintained. Upon finding improper installation or maintenance, the City has the authority to require compliance to the plan and/or order the contractor/developer to stop work. The Commission may ask for progress reports from the developer and/or the Zoning Enforcement Officer. (Section amended effective 2/28/95)

## 10.10 STORMWATER DETENTION REQUIREMENTS

10.10.01 All land development projects that would increase stormwater runoff from its size shall provide for on site detention of the increase unless specifically excluded herein.

10.10.02 Excluded development projects are:

a. single family dwellings on lots of record.
b. single family dwellings on lots larger than one (1) acre in size that are not built in conjunction with a new subdivision of land involving any new City streets,
c. those on sites on one (1) acre or less.

10.10.03 The design of detention facilities may follow recommendations of the Soil Conservation Service in the publication titled, "Urban Hydrology for Small Watersheds", Technical Release No. 55-SLS, January 1975 or the latest revision thereof.

The design criteria for detention shall be a fifty (50) year storm.

10.10.04 All calculations, designs, plans and specifications, shall be prepared by a State licensed professional engineer. The stormwater detention design proposal shall be shown as part of the site plan review information required in Section 55.

10.10.05 A special review fee scheduled for projects shall be:

| | |
|---|---|
| 1 - 10 acre | $50.00 |
| 10+ - 25 acres | $100.00 |
| 25+ - acres | $250.00 |

10.10.06 A detention facility serving an area of ten (10) or more acres shall be eligible for City ownership.

For such a facility a surety performance bond equal to 100 % of the estimated construction cost, as determined by the applicant subject to approval by the Commission, shall be posted when preliminary approval is granted but prior to actual construction of the facility.

The performance bond shall be released by the Commission in accordance with Section 26-7(c) of the City Code provided that the facility is in sound, usable condition as determined by the Commission and that all other requirements related to the construction and dedication of the facility have been fully and faithfully performed by the applicant.

## SECTION II ESTABLISHMENT OF ZONES

11.01 ZONES

for the purpose of this Code the City of Middletown is hereby divided into the following zones:

| | |
|---|---|
| RPZ | Residential Pre-zoning |
| R-15, R-30, R-45, R-60, R-1 | |
| M | Multi-Family Dwelling Units |
| MX | Mixed Use |
| PRD | Planned Residential Development |
| B-1 | Central Business |
| B-2 | General Business |
| I-1 | Service Industrial |
| I-2 | Restricted Industrial |
| I-3 | Special Industrial |
| TD | Transitional Development |
| IOP | Interstate Office Park |
| RF | Riverfront Recreation |
| ID | Institutional Development |
| IT | Interstate Trade |
| PL | Park Land |
| IRA | Industrial Redevelopment Area |
| I-4 | Limited Industrial Zone (Added effective 11\10\88.) |
| IM | Interstate Mixed-Use Zone (Added effective 3\28\90.) |
| NRCD | Neighborhood/Rural Commercial Development Zone (Added effective 5/1/97) |
| SMH | Substance Abuse/Mental Health Floating Zone (Added effective 5/1/97) |
| NPC | Newfield Street Planned Retail Business Commercial Zone (Added effective 1/15/99) |
| DVD | Downtown Village District (Added effective 10/15/99) |

11.02 ZONING MAP

The Zoning Map, together with the zones as shown and all the explanatory matter thereon, is hereby adopted by reference and declared to be part of this Code.

11.02.01 IDENTIFICATION

The official Zoning Map shall be identified by the signature of the chairman of

the Commission, attested by its Director, and bearing the seal of the Commission under the following words: "This is to certify that this is the Official Zoning Map referred to in Section 11.02 of the Zoning Code of the City of Middletown, Connecticut".

11.02.02 CHANGES

If in accordance with the provisions of this Code and relevant, State Statutes, changes are made in zone boundaries or other matter portrayed on the Official Zoning Map, such changes shall be entered on the Official Zoning Map promptly after the amendment has been approved and adopted by the Commission, with an entry of the Official Zoning Map indicating the date the change became effective. No amendment to this Code, which involves matters portrayed on the Official Zoning Map shall become effective until after such change and entry have been made on said map.

11.02.03 NO CHANGES

Of any nature shall be made in the Official Zoning Map or matter shown thereon, except in conformity with the procedures set forth in Section 71 of this Code.

11.02.04 FINAL AUTHORITY

Regardless of the existence of purported copies of the Zoning Code Map which may from time to time be made or published, the Official Zoning Map which shall be located in the office of the Commission, shall be the final authority as to the current zoning status of land and water areas, buildings, and other structures in the City.

11.03 REPLACEMENT OF OFFICIAL ZONING MAP

In the event that the Official Zoning Map becomes damaged, destroyed, lost or difficult to interpret because of the nature or number of changes and additions, the Commission may be resolution adopt a new Official Zoning Map, which shall supersede the prior Official Zoning Map. The new Official Zoning Map may correct drafting or other errors or omissions in the prior Official Zoning Map, but no such correction shall the effect of amending the original Official Zoning Map or any subsequent amendment thereof. The new Official Zoning Map shall be identified by signature of the Chairman of the Commission, attested by the Planning Director, and bearing the seal of the City under the following words: "This is to certify that this Official Zoning Map supersedes and replaces the Official Zoning Map adopted on (date)", unless the prior Official Zoning Map has been lost or has been totally destroyed, the prior map or any significant parts thereof remaining, shall be preserved, together with all available records pertaining to its adoption or amendment.

11.04 RULES FOR INTERPRETATION OF ZONE BOUNDARIES

Where uncertainly exists as to the boundaries of any zone as shown on the Official Zoning Map, the following rules shall apply:

11.04.01 Boundaries indicated as approximately following the center lines of streets, highways, or alleys shall be construed to follow such center lines;

11.04.02 Boundaries indicated as approximately following plotted lot lines shall be construed as following such lot lines;

11.04.03 Boundaries indicated as approximately following City limits shall be construed as following such City limits;

11.04.04 Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks;

11.04.05 Boundaries indicated as approximately following the center lines of streams, rivers, canals, lakes, or other bodies of water shall be construed to follow such center lines;

11.04.06 Boundaries indicated as parallel to or extensions of features indicated in subsections 11.04.01 through 11.04.05 above shall be so construed; Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of the map.

11.04.07 Where physical or cultural features existing on the ground are at variance with those shown on the Official Zoning Map, or in other circumstances not covered by subsections 11.04.01 through 11.04.06 above, the Commission shall interpret the zone boundaries;

11.04.08 Where a zone boundary line divides a lot which was in single ownership at the time of passage of this ordinance, the Commission may permit, as a special exception, the extension of the regulations for either portion of the lot not to exceed fifty (50) feet beyond the zone line into the remaining portion of the lot.

## SECTION 12 SUPPLEMENTARY PROVISIONS

12.01 VISIBILITY AT INTERSECTIONS IN RESIDENTIAL ZONES

On a corner lot in any Residence Zone, no planting shall be placed or maintained, and no fence, building wall or other structure other than necessary retaining wall shall be constructed after the effective date of this section, if such planting or structure thereby obstructs vision at any point between a height of two and one-half (2-1/2) feet and a height of ten (10) feet above the upper face of the nearest curb and within the triangular area bounded on two sides by the two street lines, or by projections of such lines to their point of intersection and the third side by a straight line connecting points on such street lines (or their projections), each of which points is twenty-five (25) feet distant from the point of intersection of the two street lines. Poles, posts and guys for street lights and for other utility services and tree trunks, exclusive of leaves and branches, shall not be considered obstructions to vision within the meaning of this provision.

12.02 FENCES, WALLS AND HEDGES

Notwithstanding other provisions of this Code, fences, walls and hedges may be permitted in any required yard, or along the edge of any yard, provided that no fence, wall or hedge along the sides or front edge of any front yard shall be over two and one-half (2-1/2) feet in height.

12.03 ACCESSORY BUILDINGS

No accessory building shall be erected in any required yard, and no separate accessory building shall be erected within five (5) feet of any other building.

12.04 ERECTION OF MORE THAN ONE PRINCIPAL STRUCTURE ON A LOT

Every principal building hereinafter erected shall be located on a lot as herein defined, and except as herein provided, there shall be not more than one (1) single-family dwelling on one (1) lot.

12.05 BUILDABLE LOTS

A buildable lot is a lot, which was legally recorded at the time of adoption of this section or which appeared on a preliminary subdivision plat approved by the Planning Commission prior to the adoption of this section and given final subdivision plat approval and filed with the Town Clerk within six (6) months of the adoption of this section and which was a buildable lot under the Zoning Code in effect immediately prior to the adoption of this section. There are no minimum area requirements. The lot must have minimum frontage of fifty (50) feet.

12.06 STRUCTURES TO HAVE ACCESS

Every building, or authorized complex of buildings, hereafter erected or moved shall be on a lot adjacent to a public street, and all structures shall be so located on lots as to provide safe and convenient access for servicing, fire protection and required off-street parking.

12.07 STATUS OF APPROVED PLANNED RESIDENTIAL DEVELOPMENTS AND APPLICATIONS FILED PRIOR TO SEPTEMBER 2, 1972

A.) Planned Residential Development Plans approved and all applications submitted for approval prior to September 2, 1972, shall be subject to, completed and processed under the requirements of Section 45 as it existed on the above date. Copies of Zoning Code Section 45, pertaining to Planned Residential Development are available in the Office of the Commission and the Office of the Town Clerk.

B.) Planned Residential Developments approved and processed under the terms of Section 45 shall not be considered non-conforming uses regardless of the zone or zones in which it is located.

12.08 BUFFER STRIPS

12.08.01 BUFFER BETWEEN DIFFERENT LAND-USES

When an new land-use (including different housing types) is proposed to be located adjacent to an existing use there shall be no less than ten (10) feet in width a landscaped buffer strip at the edge of the new site in addition to any required yards. The new use shall be screened from the abutting existing use by: (a) hedges or coniferous planting having a height of at least four (4) feet at the time of planting, not more than two (2) feet on center or (b) solid fencing at least six (6) feet in height or a combination of these as shown and approved on the site plan. (Addition effective 11/1/85.) (Revision effective 7/1/86.)

12.08.02 ACCESS THROUGH BUFFER STRIP

A private road, private driveway or other private vehicular way serving a Non-Residential Zone shall not be constructed through a Residential Zone or a buffer strip. (Revision effective 7/1/86.)

## 12.09 PARKING, STORAGE OR USE OF MAJOR RECREATIONAL EQUIPMENT

12.09.01 No major recreational equipment shall be parked or stored on any lot in a residential zone except in a carport or enclosed building or behind the nearest portion of a building to a street, provided, however, that such equipment may be parked anywhere on residential premises not to exceed twenty-four (24) hours during loading or unloading. These provisions maybe modified by the Commission provided the Commission finds the modification is necessary to make possible the reasonable use of land and that it will not be injurious to the neighborhood or otherwise detrimental to the public welfare. In granting any modification to these provisions, the Commission may prescribe appropriate conditions and safeguards.

12.09.02 No such equipment shall be used for living, sleeping or housekeeping purposed when parked or stored on a residential lot or in any location not approved for such use.

## 12.10 PARKING AND STORAGE OF CERTAIN VEHICLES

There shall be no more than one unregistered vehicle or trailer allowed on any residentially zoned property other than in completely enclosed buildings or a carport. This unregistered vehicle must be in good condition and stored in the back or side yard. Good condition is defined as having fully inflated tires, all doors, including the hood and trunk, intact, and no broken or missing windows. The vehicle must be capable of passing a motor vehicle inspection as determined by the Zoning Enforcement Officer after consultation with pertinent officials.

An unregistered vehicle which does not satisfy the "good condition" definition may be allowed on a residentially zoned property if the vehicle does not have any foreseeable adverse effects on the public health, safety and welfare and is fully covered with a tarp or fully enclosed with six foot high stockade fence.

An unregistered vehicle may be allowed in the front yard of a residentially zoned property for the purpose of advertisement of sale for a period of thirty (30) days. This vehicle must be in Good Condition, as defined above, and owned by the owner of the property on which the car is displayed. In order to place an unregistered vehicle in the front yard of a residentially zoned lot the owner shall obtain a permit from the Zoning Enforcement Officer (ZEO). If no complaints are filed with the ZEO one additional 30 day time period may be granted. (Amended effective 10/15/90)

12.11 MULTI-FAMILY STRUCTURES

No multi-family dwelling unit, building or structure shall be erected, constructed, reconstructed, altered or used unless served by both public sanitary sewer and public water.

12.12 PEDESTRIAN WALKS

Sidewalks, or other Commission approved system of pedestrian walks, are required for all development involving new streets and for development associated with existing streets within one mile of an existing school or officially designed future school site. Mile measurement to be along the most direct street to school site.

12.13 SUBDIVISION, RESUBDIVISION AND LOT SPLIT

Land may be apportioned into lots in accordance with the requirements of this Code and Subdivision Regulations. (Effective 9/24/86)

12.14 ACCESSORY APARTMENT

Intent – To fulfill an increasing need for smaller, more affordable housing units in owner occupied, single-family homes while preserving the quality of Middletown's housing stock and character of its neighborhoods.

Definition and Applicability – An accessory apartment is herein defined as a second dwelling unit within or attached to a single-family residence. An accessory apartment will be allowed as a permitted use in all areas zoned for single-family homes.

The accessory apartment will be approved only if the applicant has demonstrated that the proposed unit meets the following standards:

1. The principal unit and the accessory apartment shall remain under common and ownership and shall be owner occupied at all times.
2. The accessory apartment shall be within or attached to the single-family residence with a common wall of at least eight (8) feet in width.
3. The accessory apartment shall not alter the basic character of the building as a single-family dwelling.
4. The accessory apartment must connect to the primary unit via an interior doorway. Additional front entrances are prohibited.
5. The accessory apartment must use the existing unit's utilities and meters.
6. One driveway shall service both dwelling units. Off-street parking for both units must be provided with three (3) spaces for the principal dwelling unit and one (1) space for the accessory apartment.
7. The accessory apartment shall include its own kitchen, three-fixture bath and one bedroom.

8. The floor area of the apartment must be at least 425 sq. feet and cannot exceed 800 sq. feet and 33% of the floor area of the existing home.
9. The apartment shall comply with the Middletown Housing Code and all other applicable codes and ordinances.
10. The accessory apartment cannot be converted from a garage or other auxiliary building.
11. The home and apartment shall have only one (1) street number.

(Section added effective 3/3/03)

## SECTION 13 EXCEPTIONS AND MODIFICATIONS

### 13.01 LOTS OF RECORD

#### 13.01.01 DWELLING ON ANY LOT OF RECORD

In any Zone where dwellings are permitted a single family detached dwelling may be erected on any lot of official record at the effective date of this Code. The lot must have fifty (50) feet of frontage, provided, however, that if any such lot of official record established prior to Middletown's adoption of Subdivision Regulations (November 1, 1941) has less than 50 feet of frontage but more than 25 feet of frontage it may be approved as a building lot upon application for a special exception if it has availability of city water and sewer services or, if not, is found acceptable by the Middletown Department of Health for onsite well and septic system. Other area, yard, and open space requirements must be complied with as nearly as possible required that. (Amended eff. 8/1/89)

#### 13.01.02 MINIMUM YARDS

In no case shall the width of any side yard be less than ten (10) percent of the width of the lot, and provided, that on a corner lot, the width of the side yard adjoining the side street lot line shall be not less than eight (8) feet or twenty (20) percent of the frontage, whichever is the greater. In no case shall the depth of the rear yard be less than ten (10) feet. Front, side, or rear yard encroachments as specified in subsection 13.03 shall be prohibited in the case of substandard lots of record.

### 13.02 HEIGHT MODIFICATIONS

#### 13.02.01 HEIGHT LIMITATIONS NOT APPLICABLE

The height limitations stipulated elsewhere in this Code shall not apply to the following:

#### 13.02.02 FARM BUILDINGS, ARCHITECTURAL FEATURES, ETC.

Barns, silos, or other farm buildings or structures on farms; to church spires, belfries, cupolas and domes, monuments, water towers, fire and hose towers, observation towers, transmission towers, windmills, chimneys, smokestacks, flagpoles, radio and television towers, masts and aerials; to parapet walls extending not more than four (4) feet above the limiting height of the building.

#### 13.02.03 PLACES IF PUBLIC ASSEMBLY

Places of public assembly in churches, schools, and other permitted public

and semi-public buildings, provided that these are located on the first floor of such buildings and provided that for each three (3) feet by which the height of such buildings exceeds the maximum height otherwise permitted in the district, its side and rear yards shall be increased in width or depth by an additional foot over the side and rear yards required for the highest building otherwise permitted in the zone.

13.02.04 STRUCTURES

Belfries, chimneys, flagpoles, flues, monuments, radio and television towers, antenna or aerials, spires, tanks, water towers and tanks, air conditioning units or similar roof structures and mechanical appurtenances. No such roof structure, however, shall have a total area greater than twenty-five (25) percent of the roof area; nor shall such structure be used for any purpose other than a use incidental to the main use of the building.

## 13.03 FRONTAGE AND YARD MODIFICATIONS

13.03.01 BUILDINGS ON THROUGH LOTS

Buildings on through lots shall conform to the front yard requirements for each street. In case of reversed frontage an accessory building shall not extend beyond the setback line of the rear street.

13.03.02 FRONTAGE MODIFICATION

In the case of curvilinear streets and cul-de-sacs, the Planning Commission may authorize a reduction of the otherwise specified frontage or lot width in Residential zones along the front property line provided that:

(a) The lot width at the building line shall equal the frontage or lot width required in the zone where located;
(b) The front lot line shall not be less than sixty (60) feet in any event; and
(c) Such reduction of frontage shall not result in a reduction of the required lot area.

13.03.03 AVERAGE DEPTH OF FRONT YARDS

In any Residential Zone, where the average depth of at least two (2) existing front yards on lots within one hundred (100) feet of the lot in question, and within the same block front is less or greater than the least front yard depth prescribed elsewhere in this Code, the required depth of the front yard on such lot shall be modified. In such case, this shall not be less than the average depth of said existing front yards on the two (2) lots immediately adjoining, or, in the case of a corner lot, the depth of the front yard on any lot shall be at least ten (10) feet and need not exceed fifty (50) feet.

13.03.04 REAR AND SIDE YARDS – HOW COMPUTED

In computing the depths of a rear yard or the width of a side yard, where the rear or side yards abuts an alley, one-half (1/2) of the width of the alley may be included as a portion of the required rear or side yard, as the case may be.

13.03.05 SIDE YARD MODIFICATIONS

A SIDE YARD INCREASED

Each side yard, where required, shall be increased in width by one (1) inch for each foot by which the length of the sidewall of the building, adjacent to the side yard, exceeds fifty (50) feet.

B SIDE YARD VARIED – WALL NOT PARALLEL

Side yard width may be varied where the sidewall of a building is not parallel with the side lot line or is broken or otherwise irregular. In such case the average width of the side yard shall not be less than the otherwise required least width; provided, however, that such side yard shall not be narrower at any point than one-half (1/2) of the otherwise required least width or narrower than three (3) feet in any case.

C SIDE YARD – CORNER LOT

A side yard along the minor street lot line of a corner lot in any zone, shall have a depth fronting the side street of not less than one-half (1/2) the depth of the front yard required for the zone in which the corner lot is situated.

13.03.06 DELETED

13.04 PROJECTION OF ARCHITECTURAL FEATURES

Certain architectural features may project into required yards or courts as follows:

13.04.01 BELT COURSES, SILLS AND LENTELS

Belt courses, sills and lentels may project six (6) inches into front, rear and side yards.

13.04.02 CORNICES, EAVES AND GUTTERS

Cornices, eaves and gutters may project three (3) feet into front and side setback space, and five (5) feet into rear yards.

13.04.03 BAY WINDOWS

Any bay window, entrance, vestibule or balcony, ten (10) feet or less in width, may project not more than three (3) feet into front and rear yards.

13.04.04 FENCES

Fences, up to six (6) feet in height, may be erected along the rear boundary, side boundary (from building line to rear boundary only) and front building line of a lot, and "Obstructions" for the purposes of this Code.

13.04.05 STEPS, STOOPS AND PORCHES

Steps and uncovered stoops may extend into any minimum front or rear yard not more than nine (9) feet. On a corner lot having a minimum side yard twenty-five (25) feet or more in width, steps and open uncovered stoops, and porches may extend into such minimum side yard not more than nine (9) feet; but there shall be no encroachment upon the minimum side yard of a corner lot when such yard is less than twenty-five (25) feet in width, nor shall any other minimum side yard be encroached upon by such extensions. Enclosing or roofing of steps and open uncovered stoops, porches and outside open stairways, which extend into the minimum required yards is prohibited.

13.04.06 FIRE ESCAPES

Fire escapes may project not more than five (5) feet into front, side or rear yards.

13.04.07 CHIMNEYS

Chimneys in any Residential Zone may project not more than eighteen (18) inches into a front, side or rear yard. Chimneys used as walls shall not be allowed to project into any yard.

13.04.08 BUILDING ACCESSORIES

Building accessories designed and intended to control light entering a building and being a permanent part of such building may project five (5) feet into the front yard, ten (10) feet into rear yard and three (3) feet into side yard.

13.04.09 AWNINGS, STORM DOORS, ETC.

Building accessories designed and intended to control light entering a building and not being a permanent part of such building, such as summer awnings and winter storm doors and windows, may project five (5) feet into the front yard, ten (10) feet into the rear yard, and three (3) feet into the side yard.

13.04.10 CARPORTS

An open carport without a supporting structural wall or a screen wall, over sixty (60) inches in height, may project into the minimum yards as follows:

1.) Front yard-three (3) feet
2.) Side yard
    a.) To a point not less than twice the minimum side yard requirement from the main building on the adjoining lot, or
    b.) A depth of three (3) feet. In no event shall the remaining side yard be less than three (3) feet.

## SECTION 14 NON-CONFORMING USES

### 14.01 GENERAL CONCEPT

A.) Conforming Uses may continue to exist without any change, except as herein provided.

B.) With the approval of the Planning and Zoning Commission the use may be changed to another non-conforming use provided the new use is less intensive than the existing non-conforming use. In determining intensity, the Commission shall consider: 1) the nature of the use as it relates to the current zoning; 2) the number of customers anticipated and the duration of their stay; 3) the hours of operation; 4) traffic control and safety; 5) available parking; 6) anticipated noise levels; and 7) any other considerations the Commission deems appropriate. In no case shall a non-conforming structure be expanded.

C.) If the non-conforming use is abandoned, with clear intent to abandon for any reason, any subsequent use shall conform to the regulations of the zone in which the land is located. Any use or structure, which is destroyed by fire or natural causes, may be rebuilt within a time period of twelve (12) months of destruction.

(Amended Effective 6/1/93)

### 14.02 NON-CONFORMING LOTS OF RECORD

In any zone permitting single-family dwellings, a single-family dwelling may be erected on a lot provided the lot has not less than fifty (50) feet of street frontage. This provision applies even if the lot does not meet area requirements of the zone. However, City water and sewer facilities must be available or if not the lot must be approved by the Department of Health for on site water and septic systems. Minimum yards for lots of record shall be as follows: side yards not less than ten (10) percent of street frontage; rear yard not less than ten (10) feet; front yard as required by zone located in or as established by adjoining structures.

### 14.03 NON-CONFORMING PARCELS OF LAND WITH STRUCTURES

In any zone where there may have been structures built on parcels of land not in conformance with these regulations, it is in the best interest of this Code to attempt to mitigate the irregularities.

For this purpose the Commission may accept recommendations from the Planning Director for a rearrangement of the parcel, which will eliminate as

many non-conforming features as circumstances permit. No new structures shall be authorized by the parcel rearrangement unless the new lots are in conformance with the current Code. The Commission shall recognize that there may be circumstances for which there is no mitigating arrangement possible.

14.04 USES UNDER SPECIAL EXCEPTION PROVISIONS NOT NON-CONFORMING USES

Any use which is permitted as a special exception in a zone under the terms of this Code shall not be deemed a non-conforming use in such a district, but shall without further action be considered a conforming use.

14.05 CHANGE TO A CONFORMING USE

Any structure, or structure and land in combination, in or on which a non-conforming use is superseded by a permitted use, shall thereafter conform to the regulations for the zone, and the non-conforming use may not thereafter be resumed.

14.06 ADDITIONS, EXPANSION, MOVING

No additional structure or enlargement or increase of land area or relocation in whole or in part of any non-conforming use shall be permitted.

14.07 REPAIRS AND MAINTENANCE

On any non-conforming structure or portion of a structure containing a non-conforming use, work may be done for ordinary repairs. If a non-conforming structure or portion of a structure containing a non-conforming use becomes physically unsafe or unlawful due to lack of repairs and maintenance, and is declared by any duly authorized official to be unsafe or unlawful by reason of physical condition, it shall not thereafter be restored, repaired, or rebuilt except in conformity with the regulations of the zone in which it is located. (Revised effective 2/1/89)

## SECTION 15 PERFORMANCE STANDARDS

15.01 GENERAL REQUIREMENTS

No land or structures in any zone shall be used or occupied in any manner so as to create any dangerous, injurious, noxious, or otherwise objectionable fire, explosive, or other hazard; noise or vibration, smoke, dust, odor or other form of air pollution, heat, cold, dampness, electrical or other substance, condition or element; in such a manner or in such quantities and of such characteristics and duration as to be, or likely to be, injurious to public welfare, to the health of human, plant, or animal life or to property in the adjoining premises or surrounding area (referred to herein as "dangerous or objectionable elements") provided that any use permitted or not prohibited by this Code may be established and maintained provided it conforms to the provisions of this section.

15.02 EXISTING NON-CONFORMING AND NEW USES

15.02.01 PERFORMANCE STANDARDS – REVIEW

Whenever it is alleged that a use of land or structure creates or is likely to create or otherwise produce dangerous or objectionable elements, the Commission shall make a preliminary investigation of the matter. In the event that the Commission concurs in the allegation that there exists or are likely to be created such dangerous or objectionable elements it shall request the Common Council to authorize the employment of a competent specialist or testing laboratory for the purpose of determining the nature and extent of said dangerous or objectionable elements and of practicable means of remedying such condition.

15.02.02 LOCATION WHERE DETERMINATIONS ARE TO BE MADE FOR ENFORCEMENT OF PERFORMANCE STANDARDS

The determination of the existence of any dangerous and objectionable elements shall be made at the location of the use creating the same and at any points where the existence of such element may be more apparent; provided, however, that the measurements necessary for enforcement of performance standards shall be taken, in any industrial zone at the boundary or boundaries of such zone, or at any point within an adjacent Residential Zone.

15.02.03 ENFORCEMENT

Upon receipt of the findings and recommendations of such specialists or laboratory the Commission may approve, partially approve or disapprove the measure recommended therein and instruct the enforcement official to proceed with the enforcement of said measures in accordance with the provisions of this Code.

15.02.04 COST OF INVESTIGATION, ETC.

The City shall bear the costs of various tests, consultant fees or other investigation which are required herein, provided that the owner of the property under investigation shall reimburse the City for all such expenses in the event that operation or use of said property is found to be in violation of the provisions of this section by the Commission, or, if contested, by a court of competent jurisdiction. Such reimbursement shall be made within ninety (90) days from the date of the final Commission ruling or court judgment.

15.02.05 CONTINUAL COMPLIANCE

Any use authorized under the provisions of this Section shall comply continually therewith and shall remedy any additional dangerous or objectionable elements, which may develop in the course of its operation.

15.03 NEW USES

In addition to the standards herein above stated, every use permitted from the effective date if this Section, unless expressly exempted by this Code, shall be operated in its entirety within a completely enclosed structure or a completely enclosed fence except residential uses and shall comply with the following provisions:

15.03.01 A solid wall, cyclone-type fence or uniformly painted fence or fire-resistant material with a minimum of five (5) feet and maximum of eight (8) feet finished grade (or above roof level or on a roof.)

15.03.02 Required walls or fences shall not encroach into front yard but shall be located no closer to the front lot line than the front building line.

15.03.03 Such buffer strips, shrubs, trees, walls or fences shall be maintained in good condition at all times.

15.03.04 The exemption of a use from this requirement of enclosure will be indicated by the phrase "need not be enclosed" appearing after any use exempted.

15.03.05 No parking of vehicles shall be allowed within five (5) feet of the front line except in industrial zones only.

## SECTION 16 DEFINITIONS

16.0 DEFINTIONS

For the purpose of this Code, certain terms or words used herein shall be interpreted in accordance with this section, unless the context clearly indicates a contrary intent. Unless the context otherwise requires, the following definitions shall be used in the interpretation and construction of the Code. Words used in the present tense shall include the future; the singular number shall include the plural, and the plural the singular; the word "building" shall include the word "structure", the word "used" shall include "arranged, designed, constructed, altered, converted, rented, leased" or "intended to be used" and the word "shall" is mandatory and not directory; the word "may" is permissive; and the word "lot" includes the words "plot" or "parcel".

16.01 "A"

16.01.01 ACCESSORY USE OF STRUCTURE

A use or structure subordinate to the principal use of a building or to the principal use of land and which is located on the same lot serving a purpose customarily incidental to the use if the principal building or land use.

16.01.01a ACTIVE ADULT HOUSING

A managed residential community consisting of single-family detached residential structures the occupancy of which is limited, as permitted by state and federal fair housing laws, to those aged 55 and over.

(Added effective 9/1/03)

16.01.02 AGRICULTURE

The use of land for agricultural purposes, including farming, dairying, pasturage, agriculture, horticulture, floriculture, viticulture, and animal and poultry husbandry and the necessary accessory uses for packing, treating or storing the produce; provided, however that the operation of any such accessory uses shall be secondary to that of normal agricultural activities and provided further that the above uses shall not include the commercial feeding of garbage or offal to swine and other animals.

16.01.03 AIRPORT

Any runway, landing area or other facility designed, used or intended to be used either publicly or privately by any persons for the landing and taking off of aircraft, including all necessary taxiways, aircraft storage and tie-down areas, hangers and other necessary buildings and open spaces.

16.01.04 ALCOHOLIC LIQUOR PERMIT

Shall mean the following permits which may be issued by the Liquor Control Commission of the State of Connecticut under Chapter 545 of the Connecticut General Statutes, as amended: druggist permit, package store permit, and grocery beer permit. (Amended effective 8/25/05)

16.01.05 AMBULANCE SERVICE

The term "ambulance service" shall have a meaning commonly and usually give to the term and shall also include uses necessarily incident of accessory thereto, except that it shall not permit limousine service.

16.01.06 APARTMENT

A suite of rooms or a room in a multi-family building arranged and intended for a place of residence of a single family or a group of individuals living together as a single housekeeping unit.

16.01.07 APARTMENT, EFFICIENCY

A dwelling unit in a multi-family building, consisting of not more than one (1) habitable room, together with kitchen or kitchenette and sanitary facilities.

16.01.08 APARTMENT HOTEL

An apartment house which furnishes services for the use of its tenants which are ordinarily furnished by hotels.

16.01.09 APARTMENT HOUSE

See dwelling, Multi-family.

16.01.10 AUTOMOBILE BODY SHOP

The term "automobile body shop" shall have the meaning commonly and usually given to the term and shall also include uses necessarily incident or accessory thereto.

16.01.11 AUTOMOBILE REPAIR AND SERVICE STATION

Building, lot, or both in or upon which business of general motor vehicle repair and service is conducted, but excluding junk and/or auto wrecking business.

16.01.12 AUTOMOBILE OR TRAILER SALES LOT

A lot arranged, designed, or used for the storage and display for the sale of any motor vehicle or any type of trailer (provided the trailer is not for residential uses) and where no repair work is done, except minor incidental repair of automobiles or trailers, displayed and sold on the premises; nor shall it be used for the storage of dismantled or wrecked motor vehicles, parts thereof, or junk.

16.01.13 AUTOMOBILE SERVICE STATION OR FILLING STATION

A building or other structure or a tract of land where gasoline or similar fuel, stored only in underground tanks, is dispensed directly to users of motor vehicles. The following activities are permitted as accessory uses to a gasoline station: the dispensing of oil, greases, antifreeze, tires, batteries, and automobile accessories directly to users of motor vehicles; tuning motors, minor wheel and brake and adjustments, waxing and polishing and other minor servicing and repair to the extent of installation of the items enumerated above; washing of automobiles provided that no chain conveyor, blower, or other mechanical device is employed. All other activities shall be prohibited, including, but not limited to upholstering work, auto glasswork, tire recapping, auto dismantling, and auto sales.

16.01.14 AUTOMOBILE WASH OR AUTOMATIC CAR WASH

A building or structure where chain conveyors, blowers, steam cleaners and other mechanical devices are employed for the purpose of washing motor vehicles.

16.01.15 AUTOMOBILE WRECKING

The dismantling or disassembling of used motor vehicles or trailers, or the storage, sale or dumping of dismantled, partially dismantled, obsolete or wrecked vehicles or their parts.

16.01.16 AQUIFER

Underground geologic unit capable of yielding usable amounts of potable water.

16.02 "B"

16.02.01 BASEMENT

A story whose floor is more than twelve (12) inches but not more than half of its story height below the average level of the adjoining ground (as distinguished from a "cellar" which us a story more than one-half below such level).

16.02.02 BEGINNING OF CONSTRUCTION

The incorporation of labor and material within the walls of the building or buildings.

16.02.03 NONE

16.02.04 BLOCK

In describing the boundaries of a zone, the word "block" refers to the legal description. In all other cases, the word "block" refers to the property abutting on one side of a street between the two (2) intersecting streets or a street and a railroad right-of-way watercourse.

16.02.05 BOARD

The Zoning Board of Appeals if the City of Middletown.

16.02.06 BOARDING OR LODGING HOUSE

A dwelling or part thereof where meals and/or lodging are provided for compensation, for four (4) or more persons not transients, but not exceeding twelve (12) persons. An establishment where meals are served for compensation for more than twelve (12) persons shall be deemed a restaurant.

16.02.07 BUFFER

A strip of land which is planted and maintained in shrubs, bushes, trees, grass or other landscaping materials and within which no structure or building is permitted except a fence.

16.02.08 BUILDING

Any structure having a roof supported by columns or walls used or intended to be used for the shelter or enclosure of persons, animals or property. When such a structure is divided into separate parts by one or more unpierced walls extending from the ground up, each part is deemed a separate building, except as regards minimum side yard requirements, as hereinafter provided.

16.02.09 BUILDING ACCESSORY

A building located on the same lot as a principal building and devoted or intended to be devoted to an accessory use. Any portion of a principal building devoted or intended not to be devoted to an accessory use us not an accessory building.

16.02.10 BUILDING, PRINCIPAL OR MAIN

A building in which is conducted, or is intended to be conducted, the principal use of the lot on which it is located.

16.02.11 BUILDING COVERAGE

The proportion of the lot area, expressed as a percent, that is covered by the maximum horizontal cross-section of a building or buildings.

Structures, which are below the finished lot grade, including shelters for nuclear fall-out, shall not be included in building coverage.

16.02.12 BUILDING, HEIGHT OF
The vertical distance from the average contact ground level at the front wall of the building to the highest point of the coping of a flat roof or to the deck line of a mansard roof, or to the mean height level between eaves and ridge for gable, hip, or gambrel roofs.

16.02.13 BUILDING LINE
The line beyond which no building or part thereof shall project, except as otherwise provided by this Code.

16.02.14 BUILDING LOT AREA
That part of the lot not included within the open areas required by this Code.

16.02.15 BUSTOP PASSENGER SHELTERS
A structure designed to give potential bus passengers refuge from the elements for a short period of time.

16.03 "C"

16.03.01 CARE/NURSING HOME
A facility designed for the care of patients before they are released from medical treatment. It includes rest and nursing homes, convalescent homes and boarding homes for the aged established to render domiciliary or nursing care.

16.03.02 CELLAR
A story, the floor of which is more than one-half (1/2) if its story height below the average contact ground level at the exterior walls of the building. A cellar shall be counted as a story, for the purpose of height regulations, only if used for dwelling purposes other than by a janitor or caretaker employed on the premises.

16.03.03 CEMETERY
Land used or intended to be used for the burial of the human dead and dedicated for cemetery purposes including columbaria crematories, mausoleums, and mortuaries if operated in connection with, and within the boundaries of such cemetery.

16.03.04 CITY
The incorporated City of Middletown, Connecticut.

16.03.05 CLINIC
A place used for the care, diagnosis and treatment of sick, ailing, infirm and injured persons and those who are in need of medical or surgical attention, but who are not provided with board or room nor kept overnight on the premises.

16.03.06 CLUB
A non-profit association of persons who are bona fide members paying regular dues, and are organized for some common purpose, but not including a group organized solely or primarily to render a service customarily carried on as a commercial enterprise.

16.03.07 COMMISSION
Planning and Zoning Commission of the City of Middletown.

16.03.08 COMMUNITY RESIDENTIAL TREATMENT FACILITY
A facility providing care, rehabilitation, and supportive services in an organized program to patients/clients residing on the premises. Included are programs using a family-like setting as a therapeutic method.

16.03.09 COUNCIL
The Common Council of the City of Middletown.

16.03.10 COURT
An open unoccupied and unobstructed space, other than a yard, on the same lot with a building or group of buildings, which is enclosed on three (3) or more sides.

16.03.11 CHURCHES
Churches (including synagogues): institutions of an established religion for worship in public assembly and activities customarily incidental to such worship.

16.03.12 CHILD CARE FACILITIES
Care, supervision, and guidance of five (5) or more children unaccompanied by a parent or guardian, for periods of less than twenty-four (24) hours per day.

16.04 "D"

16.04.01 DENTAL CLINIC BUILDING
An establishment where patients are accepted for special study and treatment by a group of dentists practicing dentistry together.

16.04.02 NONE

16.04.03 DORMITORY
A building or part of a building operated by or for an institution and containing a room or rooms forming one or more habitable units which are used or intended to be used by residents of the institution.

16.04.04 DRIVE-IN RETAIL OR SERVICE ESTABLISHMENTS
Any form of merchandising, servicing or dispensing of goods in which the customer is serviced while sitting in his automobile, or consumes within a parked vehicle on the same lot the goods or service which have been purchased, or awaits at the site for immediate servicing of a vehicle.

16.04.05 NONE

16.04.06 DWELLING
A building arranged and designed for permanent location for the purpose of living and sleeping.

16.04.07 DWELLING, SINGLE-FAMILY
A building designed for or used exclusively for residence purposes by one (1) family or housekeeping unit.

16.04.08 DWELLING, TWO FAMILY
A building designed for or used exclusively by two (2) families or housekeeping unit.

16.04.09 DWELLING, MULTI FAMILY
A building designed for or used by three (3) or more families or housekeeping units.

16.04.10 DWELLING UNIT
One room, or a suite of two (2) or more rooms, designed for or used by one (1) family for living and sleeping purposed and having only one (1) kitchen or kitchenette.

16.04.11 DWELLING GROUP
A group of two or more detached dwellings located on a parcel of land in one ownership and having any yard or court in common.

16.04.12 DWELLING, ROW (TOWN) HOUSE

A building designed for or occupies by three (3) or more families living independently of each other, in units arranged in a row having party walls in common, with one family living on either side of a party wall.

16.05 "E"

16.05.01 ESSENTIAL SERVICES

The erection, construction, alteration or maintenance, by public utilities or municipal or other governmental agencies, of underground or overhead gas, electrical, steam or water transmission or distribution systems, collection, communication, supply or disposal systems, including poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, and other similar equipment and accessories in connection therewith; reasonably necessary for the furnishing of adequate service by such public utilities or municipal or other governmental agencies or for the public health or safety or general welfare, but not including buildings.

16.05.02 ELEEMOSYNARY OR PHILANTHROPIC INSTITUTION

A private, non-profit organization which is not organized or operated for the purpose of carrying on a trade or business, no part of the new earnings of which inures to the benefit of any member if said organization or individual, and which either (a) provides volunteer aid to the sick and wounded of the armed forces in time of war and national relief in the case of great national calamities, or (b) provides any of the following: religious, social, physical, recreational, and benevolent services.

16.06 "F"

16.06.01 FAMILY

An individual, or two (2) or more persons related by blood, adoption, civil union or marriage, or a group of not more than five (5) persons not related by blood, adoption, civil union or marriage, living together as a single housekeeping group in a dwelling unit. The establishment of a family in a dwelling unit with four (4) to five (5) persons but not more than five (5) persons not related by blood, adoption, civil union or marriage, living together as a single housekeeping group in a dwelling unit shall require special exception approval from the Planning and Zoning Commission. Living together as a single housekeeping group in a dwelling unit entails common bath, common kitchen and one lease for all occupants.

(Amended effective 6/29/07)

16.06.02 FRONTAGE

All the property abutting one side of a street between intersecting or intercepting streets, or between a street and a right-of-way, water-way end of a dead-end street; or city street shall determine only the boundary or the frontage on the side of the street which it intercepts.

16.06.03 FRONTAGE, WHERE MEASURED

The frontage of a lot shall be measured along the front property line, but may be modified in the case of curvilinear streets in accordance with subsection 13.03.02.

16.07 "G"

16.07.01 GARAGE, PRIVATE

A detached accessory building or a portion of the principal building used only for the storage of self-propelled passenger vehicles or trailers by the family or families resident upon the premises. A carport or carporch shall be construed to be a private garage.

16.07.02 GARAGE, PUBLIC

A structure or portion thereof, other than a private garage, used for the storage, sale, hire, care, repair or refinishing, of self-propelled vehicles or trailers.

16.07.03 GARDEN APARTMENT BUILDING

A building, formed by two (2) or more attached and/or semi detached dwellings and having a total of four (4) or more dwelling units, which has no main central hallway and rises to no more than three (3) stories.

16.07.03A GOLF DRIVING RANGE

Is an area of not less than five (5) or not more than ten (10) acres where the practicing of golf driving techniques may take place. It includes the necessary structures and materials used therein for rental or sale.

(Added effective 10\30\93)

16.07.04 GRADE

The average elevation of the finished ground level of a structure.

16.07.05 GROUP HOME

A home where no more than eight (8) unrelated disabled or handicapped individuals, as defined by the Federal Fair Housing Act, reside in a single house keeping unit, in accordance with all Fire, Health, Housing and Building Codes. (modified 3/31/04)

16.08 "H"

16.08.01 HAZARDOUS WASTE
See Solid Waste (Item 16.19.06)

16.08.02 HOME OCCUPATION
See Residential Unit Business Pursuit (Amended 6\1\85)

16.08.03 HOSPITAL
A building or portion thereof used for the accommodation of sick, injured or infirm persons, including sanatoriums.

16.08.04 HOTEL
Any building or group of buildings not less than two (2) stories in which contains a public dining room, a public lobby and twenty (20) or more guest rooms which are designed for intended to be used, let or hired out for a fraternity or sorority house, school or college dormitory, tourist home or motel.

16.08.05 HOUSING FOR ELDERLY
Dwelling units designated to be occupied exclusively by persons who meet Federally established criteria as being elderly. Others may occupy units to provide management and maintenance for the units and site or care and companionship for the elderly.

16.09 "I"

16.09.01 INDUSTRY
Storage, repair, manufacture, preparation or treatment of any article, substance or commodity for commercial use.

16.09.02 INSTITUTIONAL USE
The use of land or structures for the non-profit charitable, benevolent, spiritual, residential, instructional or custodial activities of government, education, religious, health care or similar organizations. (Added effective 12/31/03)

16.10 "J"

16.10.01 JUNK
Any worn-out, cast-off, or discarded article or material which is ready for destruction or has been collected or stored for salvage or conversion to some use; or material which is incapable of immediately performing the

function for which it was designed including, but not limited to: abandoned, discarded, or unused objects comprised of equipment such as automobiles, boats, and recreation vehicles which are unregistered and missing parts, not complete in appearance and in an obvious state of disrepair; or parts of automobiles, furniture, appliances, cans, boxes, scrap metal, glass, tires, batteries, containers and garbage which are in public view.

16.10.02 JUNK YARD
The storage, keeping or abandonment of junk, scrap or discarded materials or equipment, including old metal, glass, paper, cordage or other waste or discarded or secondhand material; or the dismantling, demolition or abandonment of automobiles, other vehicles, machinery, equipment or parts thereof.

16.10.03 SALVAGE YARD
A place where waste, discarded or salvaged materials are bought, sold, exchanged, baled, packed, disassembled or handled, including auto wrecking yards, house wrecking yards, used lumber yards and places or yards for storage of salvaged house wrecking and structural steel materials and equipment. (Section amended eff. 1/22/03)

16.11 "K"

16.11.01 KENNEL
Any structure or premises on which five (5) or more dogs over four (4) months of age are kept for commercial purposes.

16.11.02 KITCHEN
Any room in a building or dwelling unit which is used for cooking or the preparation of food.

16.12 "L"

16.12.01 LOADING SPACE
An off-street space or berth on the same lot with a building or contiguous to a group buildings, for the temporary parking of a commercial vehicle while loading or unloading merchandise or materials, and which abuts upon a street, alley or other appropriate means of access.

16.12.02 LOT
A parcel of land occupied or to be occupied by a building or structure and its accessory buildings or used, together with such open spaces as are

required under the provisions of this Code, having at least the minimum areas required by this Code for a lot in the zone in which such lot is situated and having its primary frontage on a public street or public way. (This provision shall not apply to public or quasi-public institutions. The term "record lot" means the land designated as a separate and distinct parcel of land on a legally recorded subdivision plat or in a legally recorded deed filed among the land records of the City of Middletown. A parcel of land in the same ownership or any part thereof designated by its owner or owners as a separate lot. There is a minimum frontage requirement of fifty (50) feet for single family dwellings in zones which permit single family dwellings, except for authorized rear lots, and for two family dwellings in a RPZ zone as a Special Exception.

16.12.03 LOT, CORNER
A lot abutting upon two (2) or more streets at their intersection or upon two (2) parts of the same street, such streets or parts of the same street forming an interior angle of less than one hundred thirty-five (135) degrees. The point of intersection of the street lines is the "corner".

16.12.04 LOT, INTERIOR
A lot other than the corner lot.

16.12.05 LOT, DEPTH
The mean horizontal distance between the front and the rear lot lines.

16.12.06 LOT LINES
The property lines bounding the lot.

16.12.07 LOT LINES, FRONT
The line separating the lot from the street on which it fronts.

16.12.08 LOT LINES, REAR
The lot line opposite and most distant from the front lot line.

16.12.09 LOT LINE SIDE
Any lot line other than front or rear lot line. A side lot line separating a lot from a street is called a side street lot line. A side lot line separating a lot from another lot or lots is called an interior side lot line.

16.12.10 LOT LINE, STREET OR ALLEY
A lot line separating the lot from a street or alley.

16.12.11 LOT WIDTH
The mean width of the lot measured at right angles to its depth at the public street frontage.

16.12.13 LOT AREA per DWELLING UNIT
That portion of the lot area required for each dwelling unit located on a lot.

16.12.14 LOT, THROUGH
A lot having frontage on two parallel or approximately parallel streets.

16.12.15 LOT, REAR
A parcel of land generally located in back of lots with required street frontage and meeting all the specific requirements set forth elsewhere in this Code.

16.13 "M"

16.13.01 MINERAL
Any chemical compound occurring naturally as a product of inorganic processes.

16.13.02 MEDICAL CLINIC BUILDING
An establishment where patients are accepted for special study and treatment by a group of physicians practicing medicine together but not including mental health/substance abuse treatment facilities, offices or clinics. (Amended effective 5/1/97)

16.13.03 MOTEL OR MOTOR HOTEL
A series of attached, semi-attached or detached sleeping or living units, for the accommodation of automobile transient guests not including cooking or kitchen facilities, said units having convenient access to off-street parking spaces, for the exclusive use of the guests or occupants.

16.14 "N"

16.14.01 NON-CONFORMING USE
A building, structure or premises legally existing and/or used at the time of adoption of this Code, or any amendment thereto, and which does not conform with the use regulations of the district in which located. Any such building, structure, premises conforming in respect to use but not in respect to height, area, yards or courts, or distance requirements from more restricted districts or uses, shall not be considered a non-conforming use.

16.14.02 NON-PRIMARY COMPONENTS OR GOODS
Not the original or basic element, material or stage in any process related to manufacturing. (Added effective 11\10\88.)

16.15 "O"

16.15.01 OUTLET

A parcel of land which has not been included on a recorded plat as a numbered lot due to insufficient size or frontage, poor topography, lack of accessibility or other comparable reasons. No building or structure shall be constructed on an outlet so long as such conditions exist.

See also usable open space.

16.16 "P"

16.16.01 PARKING AREA, PRIVATE

An open area for the same uses as a private garage.

16.16.02 PARKING LOT, COMMERCIAL

A lot or portion thereof, other than an automobile sales lot, held out or used for the storage or parking of six (6) or more motor vehicles for a consideration, where service or repair facilities are not permitted. Such parking lot shall not be considered an accessory use; nor shall it be used for the storage of dismantled or wrecked motor vehicles, parts thereof, or junk.

16.16.03 PARKING AREA: PUBLIC

An open area, other than a street or other public way used for the parking of automobiles and available to the public whether for a fee, free, or as an accommodation for clients or customers.

16.16.04 PARKING SPACE

A permanently established area either within a structure or in the open, exclusive of driveways, designated for parking of motor vehicles.

16.16.05 PERCENTAGE OF LOT COVERAGE

The percentage of "lot area" which may be covered by buildings, including covered porches and accessory buildings.

16.16.06 PERFORMANCE, STANDARD

A criterion established in the interest of protecting the public health and safety for the control of noise, odor, smoke, noxious gases and other objectionable or dangerous elements generated by and inherent in or incidental to land uses.

16.16.07 PROFESSION

The term "profession" shall mean but not be limited to the following occupations: accountancy, architecture, art, chiropody, chiropractics, city planning, dentistry, electrology, engineering, healing arts, industrial design, insurance brokerage, law, medicine, music, optometry, osteopathy, pharmacy, real estate brokerage, science, teaching and theology.

16.16.08 PROFESSIONAL OFFICE
Rooms or buildings used for office purposes by members of any recognized profession, but not including medical or dental clinics or mental health/substance abuse treatment facilities, offices or clinics. (Amended effective 5/1/97)

16.17 "Q"

16.18 "R"

16.18.01 RESIDENTIAL PRINCIPAL BUILDING
Any building containing one or more dwelling units, excluding residential accessory building for domestic servants and caretakers employed on the premises and for occasional gratuitous guests.

16.18.02 ROOMING HOUSE
A structure licensed by the Middletown Health Department as a rooming house per Housing Code Regulations.

16.19 "S"

16.19.01 SUBDIVSION
The division of a tract or parcel of land into three or more parts or lot made subsequent to the adoption of Subdivision Regulations by the Commission, for the purpose, whether immediate or future, of sale or building development.

RESUBDIVISION
A change in a map of an approved or recorded subdivision or resubdivision if such change (a) affects any street layout shown on such map, (b) affects any area reserved therein for public use or (c) diminishes the size of any lot shown thereon and (d) creates an additional building lot, if any of the lots shown thereon have been conveyed after the approval of recording of such map.

LOT SPLIT
Any division of land which is not a subdivision or resubdivision. Effective 9/24/86

16.19.02 SHOPPING CENTER
A group of commercial establishments planned developed and managed as a unit with off-street parking provided on the property and related in location, size and type of shops to the trade area that the unit serves.

16.19.03 SOLID WASTE

Unwanted or discarded materials, including solid, liquid, semi-solid or contained gaseous material.

16.19.04 SOLID WASTE FACILITY

Any solid waste disposal area, transfer station or volume reduction plant operated by anyone, including a municipal or regional authority.

( Amended effective 10/15/94)

16.19.05 SOLID WASTE DISPOSAL AREA

A location utilized for ultimate disposal of wastes. No solid waste disposal area shall exceed a height of thirty (30) feet above mean sea level.

(Amended effective 10/15/94)

16.19.06 HAZARDOUS WASTE

a) Any solid waste which when improperly treated, stored, transported, processed, disposed of, or otherwise managed poses a present or potential hazard to human health or the environment;

b) Any solid waste which is ignitable, corrosive, reactive, explosive or toxic and therefore may pose a present or potential hazard to human health or the environment;

c) Any substance identified and listed as hazardous pursuant to or in accordance with federal or state law regulations.

16.19.07 SPECIAL EXCEPTION

A special exception is a use that would not be appropriate generally or without restriction throughout the zoning district but which is controlled as to number, area, location, or relation to the neighborhood, would promote the public health, safety, welfare, morals order, comfort, convenience, appearance, prosperity, or general welfare. Such uses may be permitted in such zoning district as special exception, if specific provision for such special exceptions is made in this Zoning Code.

16.19.08 STORY

That portion of a building, included between the surface of any floor and the surface of the floor next above it, or, it there be no floor above it, then the space between the floor and the ceiling above it.

16.19.09 STORY, HALF

A partial story under a gable, hip or gambrel roof, the wall plates of which on at least two (2) opposite exterior walls or not more than four (4) feet above the floor of such story; provided, however, that any partial story used for residence purposes, other than for a janitor or caretaker and his family, shell be deemed a full story.

16.19.10 STORY, FIRST

The lowest story or the ground story of any building, the floor of which is not more than twelve (12) inches below the average contact ground level at the exterior walls of the building except that any basement or cellar used for residency purposes, other than for a janitor or caretaker or his family, shall be deemed the first story.

16.19.11 STORY, MEZZANINE

A story which covers one-third (1/3) or less of the area of the story directly underneath it. A mezzanine story shall be deemed a full story in case it covers more than one-third (1/3) of the area of the story directly underneath said mezzanine story.

16.19.12 STREET

A public right-of-way which provides a public means of access to abutting property. The term "street" shall include avenue, drive, circle, road, parkway, boulevard, highway, thoroughfare, or any other similar term.

16.19.13 STRUCTURE

Anything constructed, the use of which requires permanent location on the ground, or attachment to something having a permanent location on the ground.

16.19.14 STRUCTURAL ALTERATION

Any change in the structural members of a building, such as walls, columns, beams or girders.

16.19.15 SWIMMING POOL

As regulated by this Code, shall be any pool, pond, lake or open tank, not located within a completely enclosed building, but specifically excluding municipally owned and operated pools, and containing or normally capable of containing water to a depth at any point greater than one and one-half (1-½) feet.

16.20 "T"

16.20.01 TOURIST HOME

A building or part thereof, other than a hotel, boarding house, lodging house or motel, where lodging is provided by a resident family in its home for compensation, mainly for transients.

16.20.02 TRAILER OR MOBILE HOME (INCLUDING AUTOMOBILE TRAILER, TRAILER COACH, HOUSE TRAILER OR MOBILE HOME)
Any vehicle or structure constructed in such a manner as to permit occupancy thereof as sleeping quarters or the conduct of any business, trade or occupation or use as a selling or advertising device, or use for storage or conveyance for goods, equipment, or machinery, and so designated that it is or may be mounted on wheels and used as a conveyance on highways and streets, propelled or drawn by its own or other motor power.

16.21 "U"

16.21.01 USABLE OPEN SPACE
Space on a lot that is: (a) unoccupied by principal or accessory buildings above the finished lot grade, (b) unobstructed to the sky, (c) not devoted to service driveways or off-street parking or loading, (d) devoted to landscaping, drying yards, recreation space and other like uses, and (e) available in the same proportion to all occupants of the building or building on the lot. In addition, up to half the required usable open space of any dwelling unit may be made up of space on exterior balconies and roofs that is designed for the purposes stated in (d).

16.21.02 USE
The Principal purpose for which a lot or the main building thereon is designed, arranged or intended and for which it is used or may be used, occupied or maintained.

16.21.03A USE, ACCESSORY
A use of a building, lot or portion thereof, which is customarily incidental and subordinate to the principal use of the main building or lot.

16.21.03B USE, PERMITTED
A use which is permitted outright in a zone in accordance with Sections 60 or 61.

16.21.04 URBAN CORE LIVING UNIT
A dwelling unit located in the B-1 or T.D. Zone. (Amended 7/15/85)

16.22 "V"

16.22.01 VARIANCE

A variance is a relaxation of the terms of the Zoning Code where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of this Code would result in unnecessary and undue hardship. As used in this Code, a variance is authorized only for height, area, and size of structure or size yards and open spaces; establishment or expansion of a use otherwise prohibited shall not be allowed by variance, nor shall a variance be granted because of the presence of non-conformities in the zoning district or uses in an adjoining zoning district.

16.23 "W"

16.23.01 WALKING DISTANCE

The distance between an outside entrance to a building or part thereof or to an outdoor use, and a parking space assigned to such building, part thereof, or outdoor use, along the shortest, more convenient pedestrian walkway open to the user or users of such parking space.

16.24 "X"

16.25 "Y"

16.25.01 YARD

An open space other than a court, on a lot, unoccupied and unobstructed form the ground upward except as otherwise provided in this Code.

16.25.02 YARD, FRONT

A yard extending the full width of the lot, the depth of which is the minimum horizontal distance between the front lot line and a line parallel thereto on the lot.

16.25.03 YARD, FRONT-HOW MEASURED

Such depth shall be measured from the right-of-way line of the existing street on which the lot fronts (the front lot line).

16.25.04 YARD, REAR

A yard extending across the full width of the lot, the depth of which is the minimum distance between the rear lot line and a line parallel thereto on the lot.

16.25.05 YARD, SIDE

A yard extending from the front yard to the rear yard, the width of which is the minimum horizontal distance between the side lot line and a line parallel thereto on the lot.

16.25.06 DELETED

16.26 "Z"

16.26.01 ZONE

An area within which certain uses of land and buildings are permitted and certain others are prohibited; yards and other open spaces are required; lot areas, building height limits, and other requirements are established; all of the foregoing being identical for the zone in which they apply.

16.26.02 NONE

16.26.03 NONE

16.26.04 ZONING COMMISSION

Planning and Zoning Commission of the City of Middletown.

16.26.05 ZONING MAP

The Zoning Map or Maps of the City of Middletown.

ARTICLE II RESIDENTIAL ZONES

Section 21.00 Residential zones are RPZ, R-15, R-30, R-45, R-60, and R-1 (See Section 21a for R-1 zone). Uses in these zones are limited to those shown in the Use Schedule, Section 60. The geographic locations of the zones are shown on the official zoning maps.

21.01 HEIGHT The maximum height of a structure in these zones shall not exceed three (3) stories or thirty-six (36) feet.

21.02 MINIMUM LOT SIZES FOR NEW LOTS AND YARDS
Shall be in accordance with the following chart.

| ZONE | LOT FRONTAGE (FT) | LOT AREA (SQ FT) | FRONT YARD (FT) | SIDE YARD (FT) | REAR YARD (FT) |
|---|---|---|---|---|---|
| RPZ | 100* | 15,000 | 25 | 10 | 30 |
| R-15 | 100** | 15,000 | 25 | 10 | 30 |
| R-30 | 150** | 30,000 | 40 | 15 | 30 |
| R-45 | 200 | 45,000 | 50 | 20 | 30 |
| R-60 | 200 | 60,000 | 50 | 20 | 30 |

*Modification of lot sizes and uses in the RPZ zones.

1.) New lots in the RPZ zone, along existing City streets and new streets, may be approved, by special exception, to have substantially similar frontage and areas as other lots within the RPZ zone provided all new lots are serviced by both City water and sanitary sewer. No new lot shall have a frontage of less than fifty (50) feet nor an area of less than five thousand (5000) square feet. Side yards shall not be less than ten (10%) percent of the street frontage with a minimum side yard of five (5) feet, except that one side yard shall not be less than ten (10) feet. The use of lots created using this section shall be limited to single family residential.

(Amended effective 3/1/91)

2.) The Commission may approve a two (2) family dwelling on a lot of record as a Special Exception. (See Section 44.08.28)

**See individual lot size variation under water & sewerage requirements.

21.03 LOT COVERAGE

The ground covered by the principal structure and its accessory buildings or structure shall not be greater than twenty-five (25) percent of the lot area.

21.04 OFF-STREET PARKING

Off street parking spaces and related provisions shall be in accordance with Section 40.

**21.05 WATER AND SEWAGE REQUIREMENTS

When in accordance with the Plan of Development all new subdivisions of lots shall be served by city water and sewer unless specifically excluded herein after. Lots in the R-45 and R-60 zones may have uses served by on site water and septic systems if the Department of Health certifies, at the time the lots are authorized by the Commission, that the soil of the lots is suitable for on site water and sewer facilities. However at the discretion of the Commission, lots in the R-15 and R-30 may be established without city sewer, provided they meet the size criteria for lots in the R-45 zone as to adequately support private well and or septic system. Private wells will be considered only if city water is determined to be unavailable (per Section 19-13-B51 of the Connecticut Public Health Code). Lots in the R-15 and R-30 zone may be established without city water provided they can be serviced with city sewer and are approved by both the Water and Sewer Department and the Health Department.

(Amended effective 3/30/93)

NOTE: Rear lots are a Special Exception use unless included as part of a new subdivision. (See Section 44.08.27)

ARTICLE II RESIDENTIAL ZONES

SECTION 21 R-1 RESTRICTED RESIDENCE ZONE

21.00A DESCRIPTION OF ZONE

This zone is composed of certain land so situated as to be suitable for a certain quiet low density residential area. Accordingly, the regulations for this zone are designed to stabilize and protect the essential characteristics of the zone, to promote and encourage a suitable environment for family life and to provide certain enumerated non-residential activities that make a complete neighborhood. To these ends development is limited to a relatively low concentration and permitted uses are limited basically to single detached dwelling units plus certain additional uses such as schools, churches, park lands and certain non-residents of the zone plus public institutions.

21.01A USES

No land shall be used or occupied and no structure shall be erected, constructed, reconstructed, altered or used, except for any use which is indicated in the R-1 columns of the Use Schedule, Section 60 of this Zoning Code and shall be subject to such provisions as referred to in that column.

21.02A HEIGHT

The maximum height shall not exceed three and one-half (3 ½) stories.

21.03A LOT AREA, WIDTH AND YARD REQUIREMENTS

The following minimum requirements shall apply:

| | | | | Side Yards | | |
|---|---|---|---|---|---|---|
| USE | Minimum Lot Area (Sq. Ft.) | Lot Width | Front Yard | Least Width | Sum of Widths | Rear Yard |
| Dwellings | | | | | | |
| With S & W | 15,000 | 100 ft. | 25 ft. | 10 ft. | 30 ft. | 30 ft. |
| Without S & W | 40,000 | 200 ft. | 25 ft. | 10 ft. | 30 ft. | 30 ft. |
| Rear Lots* | 40,000 | 25 ft. | 50 ft. | 20 ft. | 60 ft. | 60 ft. |
| Other Permitted Uses | | | | | | |
| With S & W | 20,000 | 100 ft. | 25 ft. | 10 ft. | 30 ft. | 30 ft. |
| Without S & W | 40,000 | 200 ft. | 25 ft. | 10 ft. | 30 ft. | 30 ft. |

NOTE: S above means Public Sanitary Sewer
W above means Public Water

*Rear lots are a Special Exception use unless included as part of a new subdivision. (See Section 44.08.27)

21.04A REQUIREMENTS FOR LOTS WITHOUT EITHER WATER AND/OR SEWER

The requirements for lots with neither water and/or sewer facilities shall apply to all zones which permit detached single family dwelling and further, the requirements for lots without public sewer or water facilities for 200 ft. of width may be modified by the Commission if:

(a) only one residential building lot is proposed;
(b) the lot area is one acre or more;
(c) the lot is the final lot that could be established from a larger parcel;
(d) any other lots established from the parcel met or will meet frontage requirements.

21.05A LOT COVERAGE

Each main building or structure hereafter erected, together with its accessory buildings or structures; shall not cover more than twenty-five (25) per cent of the net lot area.

21.06A OFF-STREET PARKING AND OFF-STREET LOADING REQUIREMENTS

Off-street parking and off-street loading shall be provided in connection with any use in this zone in accordance with the provisions of Section 40.

21.09A DELETED (effective 5/8/96)

21.10A DELETED (effective 5/8/96)

Section 22 M ZONE

Section 22.00 MULTI-FAMILY DWELLING UNITS ZONE

Uses in these zones are limited to those shown in the Use Schedule, Section 60. The geographic locations of the zones are shown on the official zoning map.

22.01 HEIGHT

The maximum height of multi-family structures in these zones shall be 8 stories, which shall not exceed 100 feet. Maximum height for single and two family dwellings shall be 36 feet. (Revised effective 8/15/96)

22.02 Minimum Lot Sizes shall be in accordance with the number of bedrooms per unit in a proposed project as shown below:

| | |
|---|---|
| one or no bedrooms: | 4356 Sq. Ft./Unit (10 units/acre) |
| 2 bedrooms : | 5445 Sq. Ft./Unit (8 units/acre) |
| 3 or more bedrooms: | 7260 Sq. Ft./Unit (6 units/acre) |

The minimum lot frontage for new lots shall be 100 feet with a minimum lot area of 15,000 sq. ft. (Revised effective 8/15/96)

22.02A Within an existing M Zone the Commission may approve a reduction of the area required per dwelling unit for a parcel of land less than one acre in area that is contiguous to a parcel of land, 20 acres or more in size which is currently occupied with dwelling units, with the result that the small parcel may be developed with dwelling units equal in density as the existing large development. All other site requirements in the Code shall continue to apply to the new development. (Added effective 6/13/89)

22.03 YARDS

Front yard setback twenty-five (25) feet; Other yards: one foot for each foot of wall height except that no yard shall be less than ten (10) feet. Setbacks for single and two family dwellings shall comply with the R-15 Regulations. (Revised effective 8/15/96)

22.04 LOT COVERAGE

The ground covered by the principal structure, accessory buildings and all paving shall not be greater than 50 percent of the lot area.

22.05 OFF-STREET PARKING

Off-street parking spaces and related provisions shall be in accordance with Section 40.

SECTION 23A MX ZONE

SECTION 23.00A MIXED USE ZONE

Multi-Family and Miscellaneous Uses as shown in the Use Schedule, Section 60. The geographic locations of the zones are shown on the official zoning map.

23.01A LOT SIZES

Multi-Family Uses proposals shall comply with the requirements of the M zones.

Other uses, authorizes in the Use Schedule, shall comply with the requirements in the Special Exception Provisions or as below, whichever is most restrictive.

| Lot Frontage (minimum) | Lot Area (minimum) |
|---|---|
| 75 feet | 10,000 square feet |

23.02A YARDS

Front yard setback 25 feet.

Other yards: one foot for each foot of wall height except that no yard shall be less than 10 feet.

23.03A HEIGHT

Maximum height of a structure in this zone, unless specifically permitted elsewhere herein, shall be three stories or thirty-six feet.

23.04A LOT COVERAGE

The ground covered by the principal structure and its accessory building shall not be greater than 30 percent of the lot area.

23.05A OFF-STREET PARKING

Off-street parking spaces and related provisions shall be in accordance with Section 40. (Addition effective 9/1/87)

SECTION 24 P.R.D. PLANNED RESIDENTIAL DEVELOPMENT PROJECTS

Presently designed P.R.D.'s (see Zoning Code item 12.07) may be completed in accordance to previously filed plans of development except that subsequently adopted environmentally sensitive area regulations (wetlands) and requirements and limitations related to public safety and health shall be adhered to.

SECTION 24A DELETED (amended effective 2/28/95)

## SECTION 25 IT INTERSTATE TRADE ZONE

25.00 DESCRIPTION OF ZONE

The zone is designated for development of certain industrial and business uses in close proximity to the Interstate Highway.

25.01 USES

Permitted uses are those indicated in Section 61 of this Code.

25.02 HEIGHT

Maximum height of structure shall not exceed fifty feet in height except office buildings and conference center complexes, which may be up to six (6) stories in height. Other height modifications are noted in Section 13.02. (Effective 8/1/84.)

25.03 LOT AREA, WIDTH, AND YARD REQUIREMENTS

The following minimum requirements shall apply:

| NET LOT AREA | LOT WIDTH | FRONT YARD | SIDE YARD | REAR YARD | |
|---|---|---|---|---|---|
| 2 Acres | 200 Ft. | 75 Ft. | 20 Ft. | 25 Ft. | (Eff. 9/15/85) |

25.04 LOT COVERAGE

Each main building or structure hereafter erected, together with its accessory buildings or structures, shall not cover more than forty (40) per cent of the net lot area.

25.06 PERIMETER BUFFER AREA

Whenever a lot in this zone adjoins a lot in a residential zone, there shall be a sixty (60) foot buffer in addition to the required yard or yards, and a buffer strip, as provided in subsection 12.08 of this Code.

25.07 INTERIOR BUFFER AREA

Within this zone, a buffer area shall be left between contiguous sites. The buffer shall take maximum advantage of existing natural topographical features and existing planting. Where these characteristics do not exist provision for screen planting shall be included in site development proposals.

## SECTION 26 PL PARK LAND

26.00 DESCRIPTION OF ZONE

All uses of Park Land to be controlled by the Park and Recreation Department provided that no alterations shall be made to land involving flood plain areas or streambelts without approval of the Planning and Zoning Commission.

## SECTION 27 NONE

## Section 28 NEIGHBORHOOD/RURAL COMMERCIAL DEVELOPMENT ZONE

28.01 PURPOSE

The purpose of this Zone is to establish a district for small specialty stores, offices, eating places and other compatible land uses which furnish convenience goods and services for the needs of the residents of the area; do not generate large volumes of traffic; are compatible with the surrounding neighborhood; and which are located in buildings of residential design, scale, architecture and exterior materials in order to preserve the residential character of the area.

28.02 USES-ALL USES SHALL BE ALLOWED BY SPECIAL EXCEPTION AND SHALL INCLUDE:

a. Small convenience goods stores (including drug, food, dairy, bakery, and alcoholic beverage products).
b. Business and professional offices.
c. Small scale sit down dining establishments
d. Personal services (i.e. beauty shops, barber shops, laundromats)
e. Residential uses as accessory to permitted
f. No drive thru businesses permitted

28.03 HEIGHT AND AREA REQUIREMENTS

| | |
|---|---|
| Minimum Lot Area | 20,000 sq. ft. |
| Minimum Lot Width | 200 ft. |
| Maximum Lot Coverage | 12.5 % |
| Minimum Front Yard | 30 ft. |
| Minimum Side/Rear Yards | 25 ft. |
| Maximum Building Footprint | 2,500 sq. ft. |
| Maximum Building Floor Area | 3,500 sq. ft., except that the Commission may approve a 50% greater floor area provided that the scale of the enterprise and the bulk of the building is consistent with the purpose of these regulations. |
| Maximum Building Height | 30 ft. |
| Maximum Number of Stories | Two (2) stories |

28.04 BUILDING DESIGN

All Buildings shall be designed by a professional architect licensed in the State of Connecticut and shall be reviewed and recommended with or without prejudice by the Design/Preservation Board prior to submission to the Planning and Zoning Commission.

28.05 LAND USE AND SITE DEVELOPMENT REQUIREMENTS

See Sections 33A.04 thru 33A.11 for additional regulations relating to traffic, landscaping, parking, signage, and other requirements.

(This section amended effective 8/15/96)

## SECTION 29 INDUSTRIAL REDEVELOPMENT AREA ZONE

### 29.00 DESCRIPTION OF ZONE

The IRA zone will preserve Middletown's existing and limited industrial development areas, and encourage the rehabilitation and re-use of the land and buildings for job and tax generating industrial uses. The zone is composed of longstanding industrial uses, and is adjacent to residential and commercial uses. The area(s) are self-contained and well-defined by existing roadways and railroad ROW's. In the zone, older industrial buildings occupy the site(s) and pose industrial rehabilitation opportunities.

### 29.01 USES

Permitted uses are those indicated in Section 61 of this Code.

### 29.02 HEIGHT

The maximum height shall not exceed fifty (50) feet as provided in Section 13.02 (Height Modifications).

### 29.03 LOT AREA, WIDTH AND YARD REQUIREMENTS

The following minimum requirements shall apply:

| NET LOT AREA | LOT WIDTH | FRONT YARD | SIDE YARD | REAR YARD |
|---|---|---|---|---|
| None | 100 ft. | None | 10 ft. | None |

### 29.04 LOT COVERAGE

Each main building or structure hereafter erected, together with its accessory buildings or structures, shall not cover more than fifty (50) percent of the net lot area, except that one hundred (100) percent may be covered provided that the required off-street parking and off-street loading is available.

### 29.05 OFF-STREET PARKING AND OFF-STREET LOADING REQUIREMENTS

Off-street parking and off-street loading shall be provided in connection with any use in this zone in accordance with the provisions of Section 40.

(Added Effective 8/1/86)

## SECTION 30 INSTITUTIONAL DEVELOPMENT ZONE

30.01 DESCRIPTION OF ZONE

This zone is intended to permit institutions and their growth and expansion in a planned manner while protecting the surrounding neighborhoods. (Amended effective 12/31/03)

30.02 USES

Permitted land uses in the zones shall be limited to governmental, health, educational, charitable and religious institutions. The facility should be compatible with its setting in scale and design.

State buildings within the zone may be leased to the private sector provided the use is compatible with the original institutional setting and the proposed use is reviewed and approved by the Planning and Zoning Commission.

Other land in the zone, not used and endorsed by the institution, shall meet the requirements of the MX zone. (Amended effective 12/31/03)

30.03 SITE PLAN REVIEW-WHEN REQUIRED

(a) Site plan review under this section is required in all cases where a site plan is required under Section 55 of this Code.

(b) Application may be made for early review of a preliminary site plan at any time prior to submission of a site plan pursuant to Section 55.00 of this Code. The details and conditions of any preliminary site plan approved hereunder shall be included in any final site plan prepared and submitted according to Section 55 of this Code.

30.04 PRELIMINARY SITE PLAN-REQUIREMENTS AND CONTENTS

The Preliminary Site Plan shall include the following information:

1.) Property zone boundaries

2.) Location of existing and\or proposed building(s), structure(s) and additions with notation as to approximate square footage and number of stories of each building.

3.) Proposed off-street parking and loading including driveway entrances and exits, and diagram of proposed traffic flow.

4.) General location and type of proposed landscaping buffers.

5.) General topography of the entire site.

6.) Location of flood area and stream belts.

7.) A location sketch showing the relationship for the site to the balance of property owned by the application in the Institutional Development Zone.

8.) Statement describing the proposed use of the planned structure or facility.

9.) Statement discussing how the proposed building or development is consistent with an institutional master plan for the area. This master plan shall be on file with the Planning and Zoning Office.

10.) Statement discussing how the proposed building is consistent with the City's Plan of Development.

11.) Drawings of the proposed elevations of proposed buildings.
(Subsection amended effective 12/31/03)

30.05 REVIEW PROCEDURE

(a) Any site plan or preliminary site plan subject to review under this section shall be submitted to the Planning and Zoning Office. Within 30 days of such submission the Office shall: (1) reject such plan if it does not contain all the information required herein or otherwise does not meet the clear requirements of this Code; or (2) refer said plan to the Commission; or (3) approve such plan if it clearly meets the requirements of this Code, and the conditions of this section do not require submission to the Commission.

(b) The submission of any plan pursuant to this section shall be reported to the Commission at its next meeting immediately following such submission. Any disposition of said submission by the Office shall also be reported to the Commission.

(c) Proposed uses consistent with the Campus Masterplan (adopted on 12/10/03) will be treated as Category 3 Site Plan Review.

(d) Where a plan is referred to the Commission, it shall hold a public hearing on any said plan prior to acting on it where the proposed project will have significant impact or major effect on the zone; properties within the zone not owned by the applicant, abutting zones, or the Plan of Development. For the purpose of this section, significant impact of major effect shall include, but not be limited to: (Subsection amended effective 12/31/03)

1. New construction in excess of 20,000 square feet and greater than two stories; or

2. Any change resulting in a significant increase in vehicular traffic in the zone and/or adjoining zones (an increase in ADVT of 10% on any City street); or

3. Any change resulting in a significant increase in parking needs in the zone and/or adjoining zones or;

4. Any change which conflicts with the City's Plan of Development.

(e) In reviewing a site plan hereunder, the Commission shall consider: Whether the plan complies with the City's Plan of Development, the demonstrated adverse effect, if any, on the use and development of adjacent properties or adjacent zones; and the demonstrated adverse effects on the flow of traffic in and around the area of the proposed development. The Commission shall consider whether the site plan is compatible with the proposed use and the surrounding neighborhoods and uses. The Commission shall approve, disapprove, or modify said plan. Once a plan is approved or modified, only a final site construction plan under Section 55.00 shall be required, provided said construction plan is presented as part of the documents submitted for a building permit within two years of approval.

(subsection amended effective 12/31/03)

30.06 HEIGHT

The maximum height of structures in these zones shall not exceed 5 stories or 75 feet. (Amended effective 12/31/03)

30.07 LOT COVERAGE, LOT AREA, WIDTH AND YARD REQUIREMENTS

Where institutional uses extend to several parcels, individual lot requirements are eliminated. Other parcels must meet the requirements of the MX zones consistent with Section 23.00.

(Amended effective 12/31/03)

30.08 OFF-STREET PARKING AND OFF-STREET LOADING REQUIREMENTS

Parking will be in accordance with the approved Campus Parking Management Plan dated May 22, 2003. Off-street loading shall be provided in accordance with Section 40 of this Zoning Code. (Amended effective 12/31/03)

30.09 SIGNS

Identifying graphics or signs shall be limited in accordance with requirements of Section 48 of this Zoning Code.

(Effective April 15, 1987)

## SECTION 31 RIVERFRONT RECREATION ZONE

31.00 PURPOSE AND INTENT

It is the intent of this section to protect the natural character of the Connecticut River Greenway and insure that any development within the zone proceeds in an environmentally sensitive manner. Therefore, tree clearance and other alterations within the zone shall be held to a minimum, as determined by the Commission.

31.01 LOCATION AND DESCRIPTION OF THE RF ZONE

This Zone is composed of the Connecticut River and the strip or land paralleling the river from the northern (at Wilcox Island) to southern municipal boundary. The northern, eastern and southerly boundary is the municipal line. The western boundary, at the northerly end, is the railroad track, which parallels State Highway 9. At Silver Street, at River Road, the 100 year floodplain line becomes the boundary line continuing to a point south of the wetland at the mouth of the Hubbard Brook where the 100 year floodplain line intersects a line 200 feet west of the center line of the railroad right of way. Then continuing southerly along that line paralleling the centerline of the railroad right of way until reaching the northern limit of a parcel known as Map 57 Block 50-1 Lot 103 in the City Tax Assessor's office on the effective date of this amendment. The boundary then runs easterly approximately 100 feet along the northern limit of that parcel to the western limit of the railroad right of way, then south along the western limit of the railroad right of way approximately 1250 feet to the southern limit of a parcel known as Map 57 Block 50-1 Lot 110 in the City Tax Assessor's Office on the effective date of this amendment, and then westerly to a point 200 feet west of the centerline of the railroad right of way and then southerly along a line paralleling the centerline of the railroad right of way to the City boundary.

31.02 USES

Permitted uses are limited to water oriented uses and recreational uses and those uses permitted in the Flood Area Management Regulations (Section 46).

31.03 HEIGHT

The maximum height of any new structure in this zone shall not exceed twenty (20) feet with the exception of the Immediate Harbor Area in which the maximum height of any new structure shall not exceed thirty-five (35) feet. The Immediate Harbor Area is defined as that area bounded North by the Middletown-Portland Bridge; East by the municipal line; South by Sumner Brook; and West by State Highway 9.

31.04 LOT AREA, WIDTH AND YARD REQUIREMENTS

| LOT AREA | LOT WIDTH | YARDS |
|---|---|---|
| No min. | 100 ft. | No Min |

31.05 LOT COVERAGE

Thirty percent (30%) of lot area.

31.06 OFF-STREET PARKING AND OFF-STREET LOADING REQUIREMENTS

In accordance with Section 40 of this Zoning Code.

31.07 APPLICATION

All applications for site development shall adhere to the goals and standards of the Connecticut River Assembly or the City of Middletown. The more restrictive of the standards shall apply. Any proposed use requiring referral to the Connecticut River Assembly shall require a local Planning and Zoning public hearing. In addition to all requirements for site plan approval in Section 55, the applicant shall provide as part of the application pre and post-construction renderings, which display the view of the site from the opposite shore of the Connecticut River.

(Received several subsections effective 10/31/92)

## SECTION 32 B-1 CENTRAL BUSINESS ZONE

### 32.00 DESCRIPTION OF ZONE

This zone is composed and limited to the downtown retail area. It is recognized that within this zone there are two unique classes of structures: Class A structures are those located along Main Street and Class B structures are located to the rear of Main Street buildings. The zone provides for the central retail, cultural and governmental activities of the community. Accordingly, these regulations are designed to permit retail development in the core of the community where there is a concentration of pedestrian activity. To these ends the regulations establish standards retaining such intensity of use and concentration of pedestrian and vehicular traffic as is compatible with the function of this zone.

### 32.01 USES

No land shall be used or occupied and no structure shall be erected, constructed, reconstructed, altered or used, except for any use which is indicated in the B-1 column of the Use Schedule, Section 61 of this Zoning Code and shall be subject to such provisions as referred to in that column. Further, the front fifty percent (50%) of the ground floor space of buildings fronting on Main Street shall be restricted to the following permitted uses: Eating and Drinking Places, Entertainment, Restaurants, Retail Business, Retail Sales, Retail Service, and Theaters. Any other use allowed in the B-1 zone in Section 61 proposed for the front fifty percent (50%) of the ground floor space of buildings fronting on Main Street shall be a Special Exception Use. Cafeterias are not permitted as accessory uses in this zone and exterior storefront security gates are prohibited. (Section amended effective 5/31/11)

### 32.02 HEIGHT

The maximum permitted stories shall be twelve (12) stories (168 ft.), except that any building fronting on Main Street shall have a maximum height of six (6) stories (84 ft.) and a minimum height of two (2) stories (28 ft.).

### 32.03 LOT AREA, WIDTH AND YARD REQUIREMENTS

No minimum lot area or frontage required. Yard requirement is that any building shall have yards sufficient to insure proper design and placement of buildings as determined in the site plan review process. The maximum setback from Main Street shall be five (5) feet with the front line of the building located within the maximum setback area for a minimum of eighty percent (80%) of the lot frontage on Main Street and there shall be no driveway access or parking lot fronting on Main Street.

32.04 OFF-STREET PARKING AND OFF-STREET LOADING REQUIREMENTS

Off-street parking and off-street loading shall be provided in connection with any use in this zone in accordance with the provisions of Section 40. In addition, requirements for the provisions of parking facilities may be satisfied by the permanent allocation of the required number of spaces for each use in a common parking facility, cooperatively established and operated. The total number of spaces so provided may be reduced provided that such reduction is approved by the Commission upon a finding by them that such reduction is justified on the basis of common patrons, overlapping peak needs, and existing public parking facilities. (Section amended effective 9/1/95)

## SECTION 33 B-2 GENERAL BUSINESS ZONE

### 33.00 DESCRIPTION OF ZONE

This zone is composed of certain land along the main highways. This zone comprises certain land and structures used not only to provide the residents of this community with retailing and personal services, but to extend these services to the surrounding rural areas. Accordingly, these regulations are designed to permit retail development, limited by standards designed to protect the abutting or surrounding residential zones. To these ends, the regulations establish standards retaining such intensity of use and concentration of vehicles as is compatible with the function of this zone.

### 33.01 USES

No land shall be used or occupied and no structure shall be erected, constructed, reconstructed, altered or used, except for any use which is indicated in the B-2 column of the Use Schedule, Section 61 of this Zoning Code, and shall be subject to such provisions as referred to in that column.

### 33.02 HEIGHT

The maximum height in the B-2 zone shall not exceed three and one-half (3 ½) stories.

### 33.03 LOT AREA, WIDTH AND YARD REQUIREMENTS

The following minimum requirements shall apply:

| NET LOT AREA | LOT FRONTAGE | FRONT YARD | SIDE YARD | REAR YARD |
|---|---|---|---|---|
| None | 50 ft. (see footnote #1) | 50 ft | 10 ft. | 10ft. |

(Effective 9/15/85)

### 33.04 LOT COVERAGE

Each main building or structure hereafter erected, together with its accessory buildings or structures, shall not cover more than thirty (30%) of the net lot area.

### 33.05 OFF-STREET PARKING AND OFF-STREET LOADING REQUIREMENTS

Off-street parking and off-street loading shall be provided in connection with any use in this zone in accordance with the provisions of Section 40.

---

Footnote #1 No frontage is required for a parcel of land in a shopping center provided that access via an easement of not less than (30) thirty feet is available from a public street with a traffic light at the shopping center entrance. No other access shall be regularly used.

## SECTION 33A B-3 BUSINESS OFFICE/TRANSITIONAL ZONE

33A.01 PURPOSE

The purpose of this zone is to establish a district for office and other compatible uses along state highways, which are already predominantly commercial in character. The uses will be planned so they do not generate large volumes of traffic and do not negatively impact surrounding residential areas. This zone will help to encourage the most appropriate use of land in the most aesthetically pleasing manner while avoiding the negative aspects of strip commercial development, by limiting signage and promoting the consolidation of individual parcels of land into a total integrated plan. (Amended effective 5/8/96)

33A.02 USES

No land shall be used or occupied and no structure shall be erected, constructed, reconstructed, altered or used, except for any use which is indicated in the B-3 column of the Use Schedule, Section 61 of this Zoning Code, and shall be subject to such provisions as referred to in that column.

33A.03

| LOT AREA FOR NEW LOTS | LOT WIDTH FOR NEW LOTS |
|---|---|
| 20,000 sq. ft. | 150 ft. |

| HEIGHT REQUIREMENTS | LOT COVERAGE |
|---|---|
| 36 ft. | 30% |

| FRONT YARD | SIDE YARD | REAR YARD |
|---|---|---|
| 50 ft. | 10 ft. | 20 ft. |

Lots of Record qualify for both permitted and special exception uses provided they satisfy all other zoning criteria. During the special exception and site plan review process the Commission may waive or modify the yard and lot coverage requirements so as to insure proper design and placement of buildings.

33A.04 TRAFFIC IMPACTS

Uses and additions to uses which generate one hundred (100) peak hour vehicle trips or more based on the trip generator table in Appendix I of this Code shall be subject to the follow: Submission of a traffic impact analysis by a traffic engineer containing present roadway conditions, existing roadway capacity, existing and projected traffic volumes (ADT, Peak A.M. and Peak P.M.), existing and projected volume capacity ratios, existing and projected levels of service, existing and proposed sight lines, site generated traffic and traffic distributions, traffic accident experience, and

all on- and off-site improvements which will help mitigate anticipated traffic problems.

33A.05 SIGNS

In addition to Section 48 of this code the following more restrictive standards shall apply:

a.) Attached Wall Signs: In a single tenant building the number of signs shall not exceed three (3) and the sum of the area shall equal one (1) sq. ft. per lineal foot of building frontage and no sign shall exceed 100 sq. ft. In a multi-tenant building each tenant is allowed one wall sign equal to one (1) sq. ft. per lineal foot of store frontage and no sign shall exceed 100 sq. ft.

b.) Detached Identification Signs: One (1) sign per lot, or consolidated parcel, not exceeding 12 sq. ft. in area for an individual lot and 24 sq. ft. for a consolidated parcel and not exceeding five (5) feet in height. Such sign shall be for identification of an occupant, building or complex.

c.) Temporary Signs: No temporary signs or banners are permitted with the exception of signs permitted in Section 48.02 - .03.

33A.06 CONSOLIDATED PARCELS

For the purpose of integrated development, any number of contiguous parcels may be consolidated for the purpose of development, and the consolidated parcel shall be construed to be one lot when computing building coverage and yard requirements, and permitted uses, provided:

A) The owner of each lot shall give to the owner of each lot in the consolidated parcel by deed, easement, or agreement filed in the Office of the Town Clerk, the right of entrance, exit, passage, parking and loading.

B) The consolidated parcel is developed with an integrated plan of buildings, curb cuts, parking, loading and unloading, and open space. The Commission may consider shared parking arrangements for uses when the peak hours for individual uses differ. (i.e., night club and office, movie theater and dental clinic)

33A.07 ORDERLY TRAFFIC MOVEMENT

In the absence of consolidated parcels and in order to assure future orderly vehicular movement between adjoining parking lots and to assure

safe traffic movement onto the street by requiring shared points of ingress and egress between lots, the Commission or its staff during the site plan review process may require vehicular cross easements as part of individual development plans and may waive or modify setback requirements to facilitate unified, well planned development.

33A.08 MERCHANDISE AND MATERIALS STORAGE AND DISPLAY

Merchandise shall not be stored or displayed within the required front yard setback.

Parking spaces and Landscaped Areas shall not be used for sales, storage, display of goods, or advertising purposes of any kind, except for detached signs installed in conformance with these Regulations.

33A.09 AREAS FOR LOADING AND UNLOADING

Any lot developed shall provide adequate space for the loading and unloading of goods and materials so located so as to avoid conflict with vehicular movement and shall be adequately screened from sight.

33A.10 ILLUMINATION

Interior and exterior lighting, including signs, shall not be of such intensity or located or directed in such a way as to produce glare or discomfort on public streets or neighboring properties. All lights shall be directed away from residential zones unless specifically designed to enhance a pedestrian linkage.

33A.11 LANDSCAPING AND BUFFERING

A landscape plan which identifies the location of all landscaped islands and the types of species within the islands shall be submitted with the application materials.

In order to protect the integrity of residential zones abutting B-3 zones, sufficient buffering shall be required when a property in this zone (B-3) abuts a residential zone or a primarily residential street. Further, no access drive shall cross through, traverse or interrupt the required buffer area.

All screening shall take maximum advantage of existing natural topographical features and existing plantings. In approving any site plan for a new use, which abuts a residential zone screening of one of the following types of buffering shall be required. The Commission or its staff during the site plan review process shall exercise final determination of which option should be pursued:

a. an earthen berm accompanied with a six (6) foot high evergreen planting on top of the berm.

b. a six (6) foot high stockade fence on metal fence posts fixed in concrete footings with the side containing the posts facing the B-3 zone, accompanied with a six (6) foot high evergreen planting, at least four (4) feet in width, between such fence and the abutting residential use.

c. an eight (8) foot high, six (6) foot wide protective planting strip in accordance with specifications established by the Planning and Zoning Department.

## SECTION 34 INTERSTATE OFFICE PARK ZONE (IOP ZONE)

34.00 DESCRIPTION OF ZONE

The zone is designed for the development of business and professional offices along the existing interstate corridor in a park or campus type setting as a gradual transition from residential areas with the retention of open spaces and the preservation of natural features of the area.

34.01 USES

Business and professional offices. Business uses shall include, but not be limited to, any occupation or trade primarily of a clerical nature such as insurance company, corporate offices or sales offices, but shall not include commercial activities such as the manufacturing or assembling of wares.

34.02 ACCESSORY USES

In addition to the permitted uses set forth in Section 34.01, uses customarily incidental to the main or principal building or land use shall be permitted, including accessory uses for the convenience of employees within such buildings, such as, but not limited to, cafeterias and like facilities designed to serve only the occupants of the buildings in the zone. Conference and meeting facilities, data processing and storage shall be included within the definition of accessory uses.

34.03 HEIGHT AND AREA REQUIREMENTS

| | |
|---|---|
| Minimum Lot Area: | 6 Acres |
| Minimum Lot Width: | 200 Feet |
| Minimum Front Yard: | 50 Feet |
| Minimum Side Yard: | Minimum side yard 75 feet.<br>50 feet, which shall be landscaped<br>25 feet adjacent to a building may be used for parking or driveway if necessary (Effective 9/15/85) |
| Minimum Rear Yard: | 50 feet, except that any rear yard abutting any portion of Interstate I-91 or land owned by the State of Connecticut as part of Interstate I-91 may be reduced to a minimum of 10 feet, and any rear yard abutting a residential zone shall be increased to a minimum of 75 feet. |
| Maximum Lot Coverage: | 20% |

Maximum Building Height: 3 Stories

34.04 LANDSCAPING

The purpose of landscaping requirements is to protect and preserve property values through the preservation of existing vegetation and planting of new materials to provide privacy from visual intrusion, light, dirt and noise, and to prevent the erosion of soil.

34.04.01 LANDSCAPED AREAS

Landscaped areas shall consist of open spaces and shall be maintained in lawn, natural ground cover, plantings and trees and may include walks and drives from a street.

34.04.02 FRONT YARDS

At least 25 feet of the front yard of each lot in the zone shall be landscaped with no less than one and one half inches (1 ½) to two (2) inch caliper shade tree for each fifty (50) feet of street frontage.

34.04.03 PARKING LOTS

Parking lots for more than ten (10) cars shall contain landscaped areas equal to at least ten percent (10%) of the gross parking area with one and one half (1 ½) inch to two (2) inch caliper shade tree for each fifteen (15) parking spaces.

34.04.04 LANDSCAPED BUFFER

No fewer than two (2) rows of suitable evergreens of one and one half (1 ½) inch to two (2) inch caliper shall be planted fifteen (15) feet apart, staggered in adjoining rows, to provide a visual barrier wherever a lot in this zone adjoins a lot in an R-1 Residential Zone. Where appropriate in the judgment of the Commission, walls and fences may be used in lieu of new plantings. No pedestrian or vehicular access shall be permitted through a landscape buffer area.

34.04.05 EXISTING VEGETATION

Existing vegetation, plant material and trees may be used to meet all or part of the landscape requirements, and existing trees in good condition over twelve (12) inches caliper shall be preserved whenever it is practical to do so.

34.05 OFF-STREET PARKING AND OFF-STREET LOADING REQUIREMENTS

Off-street parking and off-street loading shall be provided in connection

with any use in this zone in accordance with the provisions of Section 40.

34.06 SIGNS

Identifying graphic or signs shall be limited to one (1) per building, not more than two hundred (200) square feet in area, and subject to all other criteria in Section 48 of this Code. No roof graphics or signs are permitted.

## SECTION 35 I-1 SERVICE-INDUSTRIAL ZONE

35.00 DESCRIPTION OF ZONE

The zone is composed of certain lands located along major thoroughfares and railroad right-of-ways and adjoining existing residential and commercial areas. Because of the close proximity of well established industrial uses in this zone to non-industrial uses, proximity of well established industrial uses in this zone to non-industrial uses, flexibility must be provided to allow such industrial uses to operate with limited restraint while protecting other nearby uses. This zone will provide areas for mixed commercial-industrial uses with the emphasis on industrial uses such as manufacturing, warehousing, building material yards, building agricultural and automobile sales and services, etc.

35.01 USES

No land shall be used or occupied and no structure shall be erected, constructed, reconstructed, altered or used except for any use which is indicated in the I-1 column of the Use Schedule, Section 61 of this Zoning Code, and shall be subject to such provisions as referred to in that column.

35.02 HEIGHT

The maximum height shall not exceed fifty (50) feet except as provided in Section 13.02 (height Modifications).

35.03 LOT AREA, WIDTH AND YARD REQUIREMENTS

The following minimum requirements shall apply:

| NET LOT AREA | LOT WIDTH | FRONT YARD | SIDE YARD | REAR YARD |
|---|---|---|---|---|
| None | 100 ft. | None | 10ft. | None |

(Effective 9/15/85)

35.04 LOT COVERAGE

Each main building or structure hereafter erected, together with its accessory buildings or structures, shall not cover more than fifty (50) percent of the net lot area, except that one hundred (100) percent may be covered provided that the required off-street parking and off-street loading is available.

35.05 OFF-STREET PARKING AND OFF-STREET LOADING REQUIREMENTS

Off-street parking and off-street loading shall be provided in connection with any use in this zone in accordance with the provisions of Section 40.

SECTION 36 I-2 RESTRICTED INDUSTRIAL ZONE
SECTION 36A I-4 LIMITED INDUSTRIAL ZONE (added effective 11-10-86)

36.00 DESCRIPTION OF ZONE
The zone is composed of certain lands so situated as to be suitable for industrial development.

36.01 USES
No land shall be used or occupied and no structure shall be erected, constructed, reconstructed, faltered, or used, except for any use which is shown in I-2 and I-4 column of the Use Schedule, Section 61 of this Zoning Code, and shall be subject to such provisions as referred to in that column.

36.02 HEIGHT
The maximum height shall not exceed thirty-five (35) feet, unless it sets back from each street and lot line, in addition to yard requirements, two (2) feet for each one (1) foot of excess height; but in no case shall it exceed fifty (50) feet in height, except as provided in Section 13.02, (Height Modifications) and for office buildings which will be permitted up to six (6) stories in height.

36.03 LOT AREA, WIDTH AND YARD REQUIREMENTS
The following minimum requirements shall apply:

| NET LOT AREA | LOT WIDTH | FRONT YARD | SIDE YARD | REAR YARD |
|---|---|---|---|---|
| 2 Acres | 200 ft. | 75 ft. | 20 ft. | 25 ft. |

36.04 LOT COVERAGE
Each main building or structure hereafter erected, together with its accessory buildings or structures shall not cover more than forty (40) percent of the net lot area.

36.05 OFF-STREET PARKING AND OFF-STREET LOADING REQUIREMENTS
Off-street parking and off-street loading shall be provided in connection with any use in this zone in accordance with the provisions of Section 40.

36.06 INTERIOR BUFFER AREA
Within the industrial zone a buffer area shall be left between the contiguous sites. The buffer shall take maximum advantage of existing natural topographical features and existing planting. Where these characteristics do not exist provision for screen planting shall be included in site development proposals.

## SECTION 37 I-3 SPECIAL INDUSTRIAL ZONE

37.00 DESCRIPTION OF ZONE

The zone is composed of large parcels of land in the Maromas area, which have been used for special industrial purposes. Accordingly, the use of the land is mostly regulated by "performance standards." (Amended effective 12\30\92)

37.01 USES

No land shall be used or occupied and no structure shall be erected, constructed, reconstructed, altered or used, except for any use which is indicated in the I-3 column of the Use Schedule, Section 61 of this Zoning Code, and shall be subject to such provisions as referred to in that column.

37.02 HEIGHT

The maximum height shall not exceed one hundred fifty (150) feet, except as provided in Section 13.02 (Height Modifications).

37.03 LOT AREA, WIDTH AND YARD REQUIREMENTS

The following minimum requirements shall apply:

| NET LOT AREA | LOT WIDTH | FRONT YARD | SIDE YARD | REAR YARD |
|---|---|---|---|---|
| 5 Acres | 200 ft. | None | 20 ft. | None |

(Effective 9/15/85)

37.04 LOT COVERAGE

Each main building or structure hereafter erected, together with its accessory buildings or structures shall not cover more than thirty (30) percent of the net lot area.

37.05 OFF-STREET PARKING AND OFF-STREET LOADING REQUIREMENTS

Off-street parking and off-street loading shall be provided in connection with any use in this zone in accordance with the provisions of Section 40.

## SECTION 38 NEWFIELD STREET PLANNED RETAIL BUSINESS COMMERCIAL ZONE

38.01 PURPOSE

The purpose of this zone is to establish a district of compatible land uses along the area of the Newfield Street Corridor, which is already business industrial and retail in character. Development within this zone shall be in general conformance with the Newfield St. / Rt. 3 Corridor study which has been prepared and adopted as part of the Plan of Development pursuant to Section 8-23 of the Connecticut General Statutes.

The uses shall be planned and located so they do not generate large volumes of traffic and do not negatively impact surrounding residential areas. This zone will help to encourage the most appropriate use of land in the most aesthetically pleasing manner while avoiding the negative aspects of strip commercial development by limiting signage and other distractions to the motorist, limiting curb cuts and promoting the consolidation of individual parcels of land into a total integrated plan.

38.02 USES

No land shall be used or occupied and no structure shall be erected, constructed, reconstructed, altered or used, except for any use which is indicated in the NPZ column of the Use Schedule, Section 61 of this Zoning Code, and shall be subject to such provisions as referred to in that column. Single family homes, multi-family homes, automotive repair, liquor stores and gas stations in existence prior to the effective date of this section shall be considered permitted uses. Any change in use of an existing building from residential to another permitted use shall require the submission of a full site plan demonstrating that the site can satisfy all relevant Zoning Code provisions.

38.03

| LOT AREA FOR NEW LOTS | LOT WIDTH FOR NEW LOTS |
|---|---|
| 30,000 SQ. FT. | 150 FT. |

| HEIGHT REQUIREMENTS | LOT COVERAGE |
|---|---|
| 50 FT. | 30% |

| FRONT YARD | SIDE YARD | REAR YARD |
|---|---|---|
| 50 FT. | 10 FT. | 30 FT. |

(Of which the front 50% of the front yard shall be landscaped).

Lots of record qualify for both permitted and special exception uses provided they satisfy all other zoning criteria. During the special exception and site plan review process the Commission may waive or modify the yard and lot coverage requirements so as to insure proper design and placement of buildings.

38.04 TRAFFIC IMPACTS

Uses and additions to uses which generate one hundred (100) peak hour vehicle trips or more based on the ITE trip generation tables shall be subject to the following: Submission of a traffic impact analysis by a traffic engineer containing present roadway conditions, existing roadway capacity, existing and projected traffic volumes (ADT, Peak A.M. and Peak P.M.) existing and projected volume capacity rations, existing and projected levels of service, existing and proposed sight lines, site generated traffic distributions, traffic accident experience, and all on-and-off-site improvements which will help mitigate anticipated traffic problems.

38.05 SIGNS

In addition to Section 48 of this Code the following more restrictive standards shall apply:

a.) Attached Wall Signs: In a single tenant building the number of signs shall not exceed three (3) and the sum of the area shall equal one (1) sq. ft. per lineal foot of building frontage and no sign shall exceed 200 sq. ft. In a multi-tenant building each tenant is allowed one wall sign equal to one (1) sq. ft. per lineal foot of store frontage and no sign shall exceed 100 sq. ft.

b.) Detached Identification Signs: One (1) sign per lot, or consolidated parcel, not exceeding 12 sq. ft. in area for an individual lot and 24 sq. ft. for a consolidated parcel and not exceeding ten (10) feet in height. Such sign shall be for identification of an occupant, building or complex.

c.) Temporary Signs: No temporary signs or banners are permitted except that temporary banners, balloon signs or pennant signs advertising a special event may be issued by the Zoning Enforcement Officer for not more than ten (10) consecutive days.

38.06 CONSOLIDATED PARCELS

For the purpose of integrated development, any number of contiguous parcels owned by different owners, may be consolidated for the purpose of development and the consolidated parcel shall be construed to be one lot when computing building coverage and yard requirements and permitted uses, provided:

a.) The owner of each lot shall give to the owner of each lot in the consolidated parcel by deed, easement or agreement filed in the Office of the Town Clerk, the right of entrance, exit, passage, parking and loading.

b.) The consolidated parcel shall be developed with an integrated plan of buildings, curb cuts, parking, loading and unloading and open space. The Commission may consider shared parking arrangements for uses when the peak hours for individual uses differ (i.e. night club and office, movie theater and dental clinic.)

38.07 ORDERLY TRAFFIC MOVEMENT

In the absence of consolidated parcels in order to assure future orderly vehicular movement between adjoining parking lots and to assure safe traffic movement onto the street requiring shared points of ingress and egress between lots, the Commission or its staff during the site plan review process may require vehicular cross easements, land dedication, the elimination or narrowing of existing curb cuts and/or combined drives as part of individual development plans and may waive or modify setback requirements to facilitate unified, well planned development.

38.08 MERCHANDISE AND MATERIALS STORAGE AND DISPLAY

Merchandise shall not be stored or displayed, with the exception of car dealers' automobiles, within the required front yard setback.

Parking spaces, with the exception of car dealers and landscaped areas shall not be used for sales, storage, display of goods or advertising purposes of any kind, except for detached signs installed in conformance with these regulations.

Sales: may be conducted in parking spaces on special promotional days by permit issued by the Zoning Enforcement Officer for not more than three (3) consecutive days at a time.

38.09 AREAS FOR LOADING AND UNLOADING

Any lot developed shall provide adequate space for the loading and unloading of goods and materials so located so as to avoid conflict with vehicular movement and shall not be facing Newfield Street corridor and shall be adequately screened from sight.

38.10 ILLUMINATION

Interior and exterior lighting, including signs, shall not be of such intensity or located or directed in such a way as to produce glare or discomfort on public streets or neighboring properties. All lights shall be directed away from residential zones unless specifically designed to enhance a pedestrian linkage.

38.11 LANDSCAPING AND BUFFERING

A landscape plan, which identifies the location of all landscaped islands and the types of species within the islands shall be submitted with the application materials.

In order to protect the integrity of residential zones, sufficient buffering shall be required when a property in this zone abuts a residential zone or a potential incompatible land use. Further, no access drive shall cross through, traverse or interrupt the required buffer area.

All screening shall take maximum advantage of existing natural topographical features and existing plantings. In approving any site plan for a new use, which abuts a residential zone screening of one of the following types of buffering shall be required. The Commission or its staff during the site plan review process shall exercise final determination of which option should be pursued:

a.) An earthen berm accompanied with a six (6) foot high evergreen planting on top of the berm.
b.) A six (6) foot high stockade fence on metal fence posts fixed in concrete footings with the side containing the posts facing the B-3 zone, accompanied with a sic (6) foot high ever-green planting, at least four (4) feet in width, between such fence and the abutting residential use
c.) An eight (8) foot high, six (6) foot wide protective planting strip in accordance with specifications established by the Planning and Zoning Department.

(Section added effective 1/15/99)

## SECTION 39 TRANSITIONAL DEVELOPMENT ZONE

39.00 DESCRIPTION OF ZONE

The zone is designated for older sections of the City developed prior to the application of contemporary zoning technique. These areas generally are at the perimeter of the Central Business District and include a wide mix of existing land-uses.

39.01 USES

No land or existing structure shall be used for a new use or any new structure erected without the granting of Special Exception approval by the Commission. Eligible uses of application for approval are shown in Use Schedule, Section 60 and 61 of the Code.

39.02 HEIGHT

The maximum permitted stories shall be six (6).

39.03 LOT AREA, WIDTH AND YARD REQUIREMENTS

The following minimum requirements shall apply:

Net Lot Area and Street Frontage. No lot shall be reduced below its currently recorded size without the prior approval of the Commission. Any parcel obtained from the existing lot shall comply with all requirements of this Section 39.

| FRONT YARD | SIDE YARD | REAR YARD |
|---|---|---|
| 10 ft. | 10 ft. | 10 ft. |

(Amended effective 9/27/89)

39.04 LOT COVERAGE

Each main building or structure herein after erected, together with its accessory buildings or structure, shall not cover more than fifty (50) percent of the net lot area.

39.05 OFF-STREET PARKING AND OFF-STREET LOADING REQUIREMENTS

Off-street parking and off-street loading shall be provided in accordance with the provisions of Section 40.

## SECTION 39A INTERSTATE MIXED USE ZONE

39A.00 DESCRIPTION OF ZONE

The zone is designed for the development of business and professional offices and multi family residences along the existing interstate corridor in a park or campus type setting with the retention of open spaces and the preservation of the natural features of the area. Recognizing that, if properly planned, such mixed use development is beneficial to the community such uses are allowed by site plan approval and special exception. It is the responsibility of the Planning and Zoning Commission and city staff to ensure, through the site plan approval and special exception process, that this proper planning take place.

The zone shall be limited to property which has at least 50 acres of contiguous land and which abuts an interstate highway as well as one state highway. Additionally, no site plan or special exception for such use may be approved unless the area zoned Interstate Mixed Use has an access road, public or private, within 300 feet of an Interstate Highway entrance or exit. No building constructed in this zone shall exceed eight (8) stories as measured from the property's highest grade, excluding basements and cellars as defined in the Zoning Code and excluding elevator and/or mechanical penthouse facilities. In no case shall the height of the building exceed 100 feet.

39A.01 EFFECTIVE DATE

March 28, 1990

39A.02 USES

No land shall be used or occupied an no structure shall be erected, constructed, reconstructed, altered or used except for any use which is indicated as a permitted use or a special exception use in the IM zone of Section 60 of this Code.

39A.02.01 PERMITTED USES

Permitted Uses shall be Business and Professional Offices as described in Section 34.01 of this Code.

Adopted March 14, 1990

39A.02.01.01 LOT AREA, WIDTH AND YARD REQUIREMENTS

| Lot Area | Lot Width | Front Yard | Side Yard | Rear Yard | Height |
|---|---|---|---|---|---|
| 2 Acres | 200 ft. | 75 ft. | 20 ft. | 25 ft. | 8 stories (100 ft.) |

39A.02.01.02 LOT COVERAGE

Only sixty (60) percent of the total lot area will be allowed to be rendered impervious.

39A.02.01.03 OFF-STREET PARKING AND OFF-STREET LOADING REQUIREMENTS

Off-street parking and off-street loading shall be provided in accordance with the provisions of Section 40.

39A.02.02 SPECIAL EXCEPTION USES

Special Exception Uses shall be multi-family residential as specified in Section 60 of this Code. Such uses shall not exceed 250 dwelling units in any IM Zone.

39A.02.02.01 LOT AREA, WIDTH AND YARD REEQUIREMENTS

| Lot Area | Lot Width | Front Yard | Side Yard | Rear Yard | Height |
|---|---|---|---|---|---|
| 2 Acres | 200 ft. | 75 ft. | 50 ft. | 50 ft | 8 stories (100 ft.) |

39A.02.02.02 YARD MODIFICATIONS

When the site abuts a State or Interstate highway the Commission may modify the yard requirement for the yard, which abuts the highway.

Additionally, the setbacks as set forth above shall be modified as follows: 1.) for those buildings which exceed six (6) stories there shall be an additional setback of five (5) feet for each additional above ground story; 2.) The above setback regulations shall control the construction of all structures except those located within fifty (50) feet of an Interstate Highway, which structures shall be setback so that their side yard or front yard, whichever is closest to the Interstate Highway shall be at least ten (10) feet in accordance with the setback lines of the Interstate Office Park Zone, Rear yard requirements will be in accordance with the Interstate Office Park Zone; 3.) Within the lot, structures or parts thereof containing primary uses shall be erected no closer than 100

feet from each other. Structures or parts thereof containing accessory uses shall be erected no closer than twenty-five (25) feet form any other structure. Nothing herein shall be construed to prevent the phased construction of a single and contiguous structures.

39A.02.02.03 RESIDENTIAL DENSITY

The density per acre of residential units shall not exceed eighteen (18) units per acre, but in no event shall the number of residential units in any IM Zone exceed two hundred fifty (250) dwelling units. Prior to the issuance of a building permit for any residential uses in this zone, at least 700,000 square feet of office space shall be under construction.

39A.02.02.04 LOT COVERAGE

Only sixty (60) percent of the total lot area will be allowed to be rendered impervious.

39A.02.02.05 OFF-STREET PARKING AND OFF-STREET LOADING REQUIREMENTS

Off-street parking and loading shall be provided in accordance with the provisions of Section 40.

39A.02.03 ACCESSORY USES

In addition to the permitted uses set forth in Section 39.02.01-.02, uses customarily incidental to the main or principal building or land use and as set forth elsewhere in this code shall be permitted, including employees within such buildings, such as garages, but not limited to cafeterias and like facilities designed to serve only the occupants of the buildings in the zone. Conference and meeting facilities, data processing and storage shall be included within the definition of accessory uses.

39A.03 SPECIAL CRITERIA

Due to the potential impacts of such high intensity development permitted and as allowed by special exception, in the areas where this zone could be applied, the Planning and Zoning Commission will require that, in addition to the Special Exception criteria for multi family and the Site Plan approval criteria for business and professional offices in Sections 44 and 55 of this code respectively, the following requirements will be satisfied.

39A.03.01 TRAFFIC MANAGEMENT AND REDUCTION PLAN

Upon application for site plan approval to construct business and professional offices the applicant shall submit a preliminary schedule of employee working shifts for each proposed building in each proposed phase. This schedule will display to the Commission that every attempt will be made to stagger the shifts in order to reduce the concentration of automobile traffic and air pollutants at peak hours. Understanding tenants may not be identified prior to or during the site plan approval process the applicant is provided much flexibility in attempting to adhere to this schedule. But, compliance with this sections general intent will be strictly enforced with Section 55.09 of this Code.

The applicant will also be required to recommend to tenants that they implement employer incentive program, which encourage car pooling, van pooling and other forms of mass transit among employees.

39A.03.02 PHASING

With application for site plan approval and/or special exception the applicant shall submit to the Planning and Zoning Commission a Development Schedule, which displays the phases of anticipated development. The Commission may grant approval limited to each phase of development. Each phase shall be capable of independent existence without the completion of succeeding phases. Buffer and setback requirements shall not apply to the common line between phases of development.

The scheduling of development shall attempt to avoid any potential detrimental effect of rapid development on surrounding roads and city services.

Moratorium on Construction – As such a large development as is contemplated by this zone could result in a large increase in multi-family housing, the Commission should consider discussing with the applicant at the time such zone is to be established on a designated parcel of land within the City whether or not the developers will consent to a self-imposed moratorium or phasing of the residential multi-family housing to be contained within the zone.

Prior to or at the same time as a site plan and/or Special Exception for a use within such a zone is approved, a Master Plan shall be presented providing for a minimum of 700,000 square feet of non-residential space contained within the area designated on the City of Middletown Zoning Map as Interstate Mixed Use Zone.

39A.03.03 ILLUMINATION

Interior or exterior lighting, including signs, shall not be of such intensity or located or directed in such a way as to produce glare or discomfort on public streets or neighboring properties.

39A.03.04 GROUPING

Each development plan shall group the buildings in such a manner as to reflect the existing topography, preserve as much of the natural features as possible and minimize the concentration of air pollutants. The minimum distance between any two structures containing a primary use shall be 100 feet. Structures or parts thereof containing accessory uses shall be erected no closer than 25 feet form any other structure. Courts shall be completely open on one side. The Commission may require division of, or further separation of, groups of buildings and/or facilities depending upon layout and topography in order to maintain the open character of the area.

39A.03.05 LANDSCAPING

In addition to the requirements in Section 40 of the Zoning Code a minimum of five (5) percent of the total above ground parking area shall be landscaped consisting of areas at least eight feet in width and provided with a six inch bituminous concrete, concrete or granite curb as determined by the Planning and Zoning Commission. A minimum of thirty-five (35) percent of the five (5) percent requirement shall contain evergreen plantings at least three (3) feet high, planted three (3) feet on centers. Planting areas shall be provided between all parking areas and roadways or driveways. A minimum of one properly selected, as determined by the Urban Forestry Board, shade tree at least twelve (12) feet high and having a caliber of not less than three (3) inches measured at four (4) feet above the ground shall be provided within the parking area for every ten (10) parking spaces. At critical visual intersections, as determined by the Planning and Zoning Commission, landscaping may be required that provides unobstructed vision.

Adopted March 14, 1990

The required landscaping may be modified to fit site conditions as recommended by the applicant and approved by the Commission.

A landscape plan, prepared by a landscape architect registered in the State of Connecticut, displaying this information shall be submitted to the Planning and Zoning Commission as part of the site plan and/or Special Exception application.

39A.03.06 BUFFER AREA REQUIREMENTS

There shall be provided landscaped or naturally wooded buffer areas, of at least twenty-five (25) feet in width, within the setback areas adjacent to existing or proposed residential properties. Where adjacent properties are non-residential the buffer areas may be reduced to fifteen (15) feet. Where the property abuts an existing State or Interstate Highway the Commission may be modified to fit site conditions as recommended by the applicant and approved by the Commission.

All buffer areas shall be planted or preserved in a natural state with a mixture of properly selected, as determined by the Urban Forestry Board, evergreen and deciduous trees and shrubs which shall afford an attractive year round visual screen within twelve (12) months after initial planting. Such screening may include ornamental fences, berms and or walls, but only in combination with trees and shrubs which shall provide at least twenty-five (25) percent of the effective screening. It shall be the responsibility of the owner of the building or a home owners association to maintain all plantings, walls and fences in good condition, which responsibility shall be enforced pursuant to Section 44.07 and 55.09 of the Zoning Code.

All plant materials shall meet the following minimum size standards at the time of planting. Caliper measurement shall be measured at four (4) feet above ground.

| PLANT MATERIAL | MINIMUM SIZE |
|---|---|
| Canopy Tree | 2 inch caliper |
| Single Stem | 8 feet (height) |
| Multi-Stem | 4 feet (height) |

Adopted March 14, 1990

Evergreen Tree.....4 feet (height)
Shrubs
Deciduous.....18 inches (height)
Evergreen.....15 inches (height)

A landscape plan, prepared by a landscape architect registered in the State of Connecticut, displaying this information shall be submitted to the Planning and Zoning Commission as part of the site plan and/or Special Exception application.

39A.03.07 ENVIRONMENTAL IMPACT EVALUATION

A detailed written document with supporting graphic material concerning the environmental impacts of a proposed development, prepared by an adequately qualified and competent professional person or firm, shall accompany the site plan and/or Special Exception application and shall include the following:

a: Determination of Environmental significance:
Significant effect means substantial adverse impact on the environment. The significance of a likely consequence should be assessed in connection with its setting, its probability of occurring, its duration, its irreversibility, its controllability, its geographic scope and its magnitude. The following factors shall be considered in determining whether a proposed action may be expected to have a significant environmental effect.

1. Direct and Indirect effect. Direct effects are the primary environmental consequence, which would result from the implementation of a proposed action. Indirect effects are the secondary consequences on local or regional social, economic or natural conditions or resources which could result from additional activities (associated investments and changed patterns of social and economic activities) induced or stimulated by the proposed action, both in the short term and in the long term. For the purposes of determining environmental significance, direct and indirect effects on the environment shall be considered, including but not limited to the following potential or actual consequences:

a.) Impact on air and water quality or on ambient noise levels;

b.) Impact on a public water supply system or serious effects on groundwater, flooding, erosion or sedimentation;

c.) Effect on natural land resources and formations, including inland wetlands and the maintenance of in stream flows;

d.) Disruption or alteration of an historic, archeological, cultural or recreational building, object, district, site or its surroundings;

e.) Effect on natural communities and upon critical species of animal or plant and their habitat; interference with the movement of any resident or migratory fish or wildlife species;

f.) Use of pesticides, toxic or hazardous materials or any other substance in such quantities as to create extensive detrimental environmental impact;

g.) Substantial aesthetic or visual effects;

h.) Disruption or division of an established community or inconsistency with adopted municipal and regional plans;

i.) Displacement or addition of substantial numbers of people;

j.) Substantial increase in congestion (traffic, recreational, other);

k.) Substantial increase in the type or rate of energy use as a direct or indirect result of the action;

l.) The creation of a hazard to human health or safety;

m.) Any other substantial impact on natural, cultural, recreational or scenic resources.

n.) The commission may require a statement as to the consistency or inconsistency of the application with the Statewide Plan of Conservation and Development.

2. Cumulative Impacts. Cumulative Impacts and the impacts on the environment, which result from the incremental impact of the action when added to other past, present or reasonable foreseeable future actions to be undertaken by the applicant. For the purposes of these regulations, cumulative impacts include the incremental effects of a sequence of actions undertaken pursuant to an ongoing program, which may have a significant environmental impact, whereas the individual component actions would not.

3. The Environmental Impact Evaluation shall include:

a.) A brief summary, which adequately and accurately summarized the focus and conclusion of the evaluation. The summary shall include the appropriate E.I.E. contact person, who shall be the person the Planning and Zoning Commission or its representative may contact with respect to the contents of the E.I.E.

b.) A description of the proposed action, a statement of its purposes and need and a justification for the action. Major assumptions concerning growth and population used to justify the action shall be clearly identified.

c.) A description of the environment of the area, which would be affected by the proposed action, as it currently exists prior to commencement of the action. This description shall include the cultural, economic, recreational and ecological characteristics and activities, both in the immediate location of the proposed action and areas that would be affected by the action.

d.) A description and analysis of the reasonable alternatives to the proposed action, particularly those, which might enhance environmental quality or avoid some or all of the adverse environmental effects. This discussion shall include, but not be limited to, alternatives such as staking no action or substituting an action of a significantly different nature, which would provide similar benefits with different environmental impacts.

e.) A list of the necessary licenses, permits, certifications or other approvals required to implement the action from government agencies, boards or commission having relevant regulatory jurisdiction.

f.) A discussion of the potential environmental impact of the proposed action. This discussion shall include:

1. Direct environmental effects. The primary consequences of the environment during and subsequent to the activity as set forth in this section with emphasis on the most significant effects.

2. Indirect Environmental Effects. The secondary consequences for the environment as set forth in this section, which result from changes in the pattern of land use, population density and related effects on air and water or other natural resources.

Adopted March 14, 1990

3. The relationship of the proposed action to approved land use plans, policies and controls for the effected areas.

4. Any probable adverse environmental effects which could not be avoided if the proposed action were implemented

5. Any irreversible and irretrievable commitments of resources, which would occur should the proposed action be implemented. Resources mean materials devoted to the proposed action and the natural and cultural resources that would be committed to loss or destruction by the action.

6. Mitigation measures to the proposed action including: limiting the degree or magnitude of the action; rectifying by repairing, rehabilitation or restoring the impacted environment' reducing or eliminating the impact over time by preservation and maintenance operations; compensating for the impact by replacing or providing substitute resources or environments.

7. The effects of the proposed activity on energy consumption and energy conservation.

8. The effects of the proposed activity on any and all City Services.

9. An analysis of the short term and long term economic, social and environmental costs and benefits of the proposed action. A comparison of benefits and costs shall be made for reasonable alternatives. The comparative analysis shall explicitly state and evaluate non-quantifiable benefits and costs as well as quantitative benefits and costs.

## Section 39B PUBLIC SERVICE UTILITY ZONE (PSUZ)

39b.01 PURPOSE

To provide for a zone which allows for a variety of public uses on public property while at the same time insuring adequate screening and orderly maintenance at the facility.

39B.02 PERMITTED USES

The following uses shall be permitted uses. All applications for a permitted use shall be treated as a Category 4 site plan approval requiring Planning and Zoning Commission approval. The Commission may hold a public hearing on any application.

Parking of equipment which is an integral part of maintaining public and quasi public infrastructure; school bus parking and related office facility; commuter parking lots; sand/salt storage provided proper environmental controls are in place; public utility buildings, structures and yards; public offices; public schools; public recreational facilities; and other public uses as deeded appropriate by the Planning and Zoning Commission.

39B.03 YARD BULK REQUIREMENTS:

Lot Area; 2 acres
Front Yard; 50 feet
Side Yard; 20 feet
Rear Yard; 25 feet
Lot Coverage; 50% building coverage
Height; 3 stories
Off-street Parking and Loading as required in Section 40

39B.04 REQUIRED TRANSITIONAL YARDS AND SCREENING

In approving any site plan for a new use, which abuts a residential land use screening of one of the following types shall be required. All screening shall take maximum advantage of existing natural topographical features and existing plantings.

a. an earthen berm accompanied with a six (6) foot high evergreen planting on top of the berm.

b. a six (6) foot high stockade fence on metal fence posts fixed in concrete footings, accompanied with a six (6) foot high evergreen planting between such fence and the abutting residential use.

c. An eight (8) foot high, six (6) foot wide protective planting strip in accordance with specifications established by the Planning and Zoning Department.

39B.05 OUTSIDE STORAGE

All outside storage areas shall be screened from view to the maximum extent possible. Additionally, outside storage shall be kept in a neat and safe arrangement as determined by the Zoning Enforcement Officer. This section shall be enforced using Section 55.09.

39B.06 TRAFFIC AND OTHER OFF-SITE IMPROVEMENTS

The Commission reserves the right to require traffic and other off site improvements within a reasonable distance to the proposed development. These improvements may include, but are not limited to, intersection and sidewalk improvements, traffic signalization and signage.

39B.07 ILLUMINATION

Interior or exterior lighting, including signs, shall not be of such intensity or located or directed in such a way as to produce glare or discomfort on public streets or neighboring properties.

(Added effective 1/31/93)

## Section 39C SUBSTANCE ABUSE/MENTAL HEALTH FLOATING ZONE (SMH Zone)

39C.01 PURPOSE

A floating zone which provides for conditions and safeguards to protect the public health, safety and welfare of the citizens of Middletown in light of the consolidation of the three state mental health and substance abuse treatment facilities at Connecticut Valley Hospital and the existence of the Long Lane detention facility. This zone will guide the development of new substance abuse and mental health diagnosis and treatment facilities in Middletown. The intent is to minimize the impact of such development on neighbors within the floating zone and abutters in adjacent, more restrictive zones while at the same time recognizing the important service, which these facilities provide to the residents of Middletown.

39C.02 APPLICABILITY

This floating zone may be applied to any of the lots fronting on the streets named in the areas as described below:

Saybrook Road - from the intersection of Randolph Road to its northern terminus;

Main Street Extension;

Route 17, South Main Street - from the intersection of Highland Avenue, north to the South Green;

Route 66, Washington Street - from the intersection with Camp Street, easterly to the intersection with Broad Street; and

Silver Street - from Main Street Extension easterly to intersection with Eastern Drive.

The floating zone may be applied to any site within these areas after following the procedures outlined in Section 71 of this Code.

39C.03 PERMITTED USES

The following uses shall be permitted within the floating zone:

Substance Abuse/Mental Health diagnosis and treatment facilities
Substance Abuse/Mental Health walk-in emergency clinics
Substance Abuse/Mental Health counseling services, groups or clinics
Group homes, community residential treatment facilities

39C.04 CHANGES IN USE/ENLARGEMENT/EXPANSION

Any change in the approved use, enlargement or expansion shall constitute a new use. No change in the approved use, enlargement or expansion of the structures nor construction of an additional structure shall be permitted on the premises unless: a) approved by the Planning and Zoning Commission at the initial approval under this section or; b) subsequently as a Special Exception approval.

Any application submitted for initial approval, and any change in the approved use, enlargement or expansion for which approval is sought, shall include a statement of the square footage of space to be utilized, the proposed uses of the property in specific terms, and the number of clients to be served and the type of service provided. Any approval shall be conditioned upon the information provided in this statement.

(Amended effective 10/28/98)

39C.05 YARD AND HEIGHT REQUIREMENTS

Yard and height requirements are those listed in the existing underlying zone prior to the application of the floating zone.

39C.06 BUILDING AND SITE REQUIREMENTS

1) All site plans shall be approved by the Planning and Zoning Commission and shall be submitted simultaneously with the application to apply the floating zone;

2) Any improvements to the exterior of existing buildings and all proposed new buildings or additions shall be reviewed for architectural continuity by the Preservation/Design Review Board;

3) A report of said review from Design Review Board must be submitted with the application to the Planning and Zoning Commission before an approval can be issued;

4) In addition, the total area of new building(s) or combined existing building with addition(s) shall not exceed the square footage (total) of the average of the five nearest (defined as measured from center of proposed building along straight line to the nearest point of existing building on the City's topography maps or a more up-to-date mapping) principal buildings in the abutting zone of the greatest restriction by no more than 50% (i.e. If the proposal abuts a residential zone, then the proposed building can exceed the average size of the five nearest houses by no more than 50%);

5) The architectural character must conform to the dominant character of the most restrictive abutting zone;

6) The location of the facility shall be compatible with the neighborhood in terms of traffic, noise, illumination and number of patients/clients cared for. The facility shall also be compatible with its setting in scale, material and design;

7) The Commission shall require sufficient buffering from adjoining uses including but not limited to evergreen plantings, fences and earthern berms; and

8) The Planning and Zoning Commission may, based on reasonable and minimum standards, impose such additional conditions and modifications as it finds necessary to protect the public health, safety and welfare.

39C.07 ILLUMINATION

1. Interior or exterior lighting, including signs, shall not be of such intensity or located or directed in such a way as to produce glare or discomfort on public streets or neighboring properties;

2. Signs may not have internal illumination and shall not exceed 12 sq. ft.

(Section adopted effective 5/1/97)

## SECTION 39D DOWNTOWN VILLAGE DISTRICT (DVD)

39D.01 AUTHORITY

This regulation is adopted pursuant to Public Act 98-116, as amended, an Act Concerning Village Districts, and is authorized by Section 8-2 of the Connecticut General Statutes.

39D.02 PURPOSE

The purpose of this regulation is to protect the distinctive character, landscape, and historic structures within said district.

It is the intent of this regulation to encourage the conversion, conservation and preservation of existing buildings and sites in a manner that maintains the historic and/or unique character of the district and to promote traditional neighborhood design for new construction to ensure compatibility.

39D.03 APPLICABILITY

These regulations shall pertain to:

New construction and substantial, as determined by staff, reconstruction and rehabilitation of properties within the district and in view from public roadways including but not limited to:

a. the design and placement of buildings;
b. the design, paving materials and placement of public roadways; and
c. other elements that the Approving Authority staff deems appropriate to maintain and protect the character of the DVD.

39D.04 REVIEW

Applications for permitted uses shall be treated as a Section 55 Category 3 Site Plan Review. Applications for Special Exception uses shall be treated in accordance with Section 44 of the Zoning Code and Section 8-2 of the Connecticut General Statutes. Only construction expanding the existing footprint by more than twenty percent (20%) shall require the submission of an A-2 survey.

39D.05 ADVISORY OPINION

All applications for construction and substantial reconstruction within the district and in view from the public roadway shall be subject to an advisory review and recommendation by the Middletown Design Review Preservation Board. The report and recommendation shall be entered into

the public record and considered in the decision. The Approving Authority may seek other reports and recommendations in accordance with Section 55 of this Code.

39D.06 APPROVAL

The Approving Authority shall state on the record the reasons for any decision and if the Approving Authority denies an application, it shall cite the specific regulations under which the application was denied.

39D.07 EFFECTIVE DATE

No decision shall be effective until a copy thereof, certified by the Chairman, containing the name of the owner of record, a description of the premises to which it relates and specifying the reasons for its decision is recorded on the land records.

39D.08 CRITERIA FOR DETERMINATION

The Approving Authority shall consider the design, relationship and compatibility of structures, plantings, signs, roadways, street hardware and other objects in public view.

The Approving Authority shall follow the "Connecticut Historical Commission – The Secretary of the Interims Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings" and the following:

Criteria

Applications shall demonstrate the following: (a) that proposed buildings or modifications to existing buildings are harmoniously related to their surroundings, to the terrain and to the use, scale and architecture of existing buildings in the vicinity that have a functional or visual relationship to a proposed building or modification, (b) that all spaces and structures visible to the public from public roadways are designed to add to the visual amenities of the area consistent with those of the village district in and around the proposed building or modification, (c) that the color, size, height, proportion of openings, roof treatments, building materials and landscaping of commercial or residential property and any proposed signs and lighting be evaluated for compatibility with the local architectural motif and the maintenance of views, historic buildings, monuments and landscaping, and (d) that the removal or disruption of historic traditional or significant structures or architectural elements are minimized.

All development in the village district shall be designed to achieve the following compatibility objectives: (1) the building and layout of buildings and included site improvements shall reinforce existing buildings and streetscape patterns and the placement of buildings and included site improvements shall assure there is no adverse impact on the district; (2) proposed streets shall be connected to the existing district road network, wherever possible; (3) open spaces within the proposed development shall reinforce open space patterns of the district in form and siting; (4) locally significant features of the site such as distinctive buildings or vistas shall be integrated into the site design; (5) the landscape design shall complement the district's landscape patterns; (6) the exterior signs, site lighting and accessory structures shall support a uniform architectural theme if a theme exists and be compatible with their surroundings; and (7) the scale, proportions, massing and detailing of any proposed building shall be in proportion to the scale, proportion, massing and detailing in the district.

Use

Uses within the DVD shall be limited to one and two family homes. Churches, daycare centers and public libraries are permitted by Special Exception.

Non-residential or business uses in excess of 7,500 square feet that currently exist (12/10/03) in the DVD District shall be deemed as permitted uses and allowed to expand up to 100% of their current size while maintaining their current use. Furthermore, these structures shall comply with Section 30-Institutional Development zone. (Added effective 12/31/03)

Lot Size, Setbacks, Lot Coverage

No minimum lot area or frontage required. Yard requirement is that any building shall have yards sufficient to insure proper design and placement of buildings as determined in the site plan review process and shall generally adhere to the setbacks of surrounding properties which are in keeping with the historic layout of the neighborhood.

Height

The maximum height in the DVD zone shall not exceed three (3) stories or thirty-six (36) feet.

(Section adopted effective 10/15/99)

## ARTICLE IV SUPPLEMENTARY REGULATIONS

## SECTION 40 OFF-STREET PARKING AND OFF-STREET LOADING REGULATIONS

40.01 PURPOSE

The development and execution of a comprehensive Zoning Code are based upon the division of the City into zones, within which the use of land and structure and the bulk and location of structures in relation to the land are substantially uniform. It is recognized, however, that off-street parking and off-street loading requirements are necessary in order: to relieve congestion so that the street can be utilized more fully for movement of vehicular traffic; and to promote the safety and convenience of pedestrians; and to protect adjoining residential area; and to promote the objectives of the Plan of Development of the City.

40.02 GENERAL PROVISIONS FOR OFF-STREET PARKING AND OFF-STREET LOADING SPACE

No land shall be used, occupied, no structure shall be erected, constructed, reconstructed, altered, or used and no use shall be operated unless the off-street parking and/or loading space herein required is provided in at least the amount and maintained in the manner herein set forth; provided, however, that off-street parking and/or loading space need be neither provided nor maintained for land, structures or uses actually used, occupied and operated on the effective date, such land, structures or uses are enlarged, expanded, or altered so as to require a greater amount of off-street parking and/or loading space not required to be furnished by reason of the foregoing exclusion, in which event, the new land structures and new uses shall not be used, occupied or operated unless there is provided the required sum of off-street parking and/or loading space required therein. Parking spaces reserved for handicapped persons shall be as near as possible to the building entrance or walkway.

40.03 DEVELOPMENT AND MAINTENANCE STANDARDS

Plans and design standards for areas to be used for off-street parking and/or loading space shall be in conformity with the following:

40.03.01 PARKING SPACE AREA

Automobile parking spaces shall not be less than nine (9) feet in width and eighteen (18) feet in depth except in Industrial Zones where the width may be eight (8) feet. Special size and arranged parking spaces may be proposed for employees of land-users. In addition, there shall be provided adequate interior driveways and entrance and exit driveways to connect

each public parking space with a public right-of-way. Parking spaces reserved for handicapped persons shall not be less than twelve (12) feet wide.

40.03.02 SURFACE

All such off-street parking and/or loading facilities shall be so drained as to prevent damage to abutting properties or public street and shall be constructed of asphalt or other such materials acceptable to the Public Works Department and the Commission which will have a surface reasonably resistant to erosion. Driveway ramps between the curb and sidewalk shall be constructed of reinforced concrete. All workmanship shall be in accordance with details and specifications of the Public Works Department. (Amended effective 8/15/95)

40.03.03 CURBING

All parking and/or loading spaces shall be separated from walkways, sidewalks, streets or alleys by curbing. Any parking area providing parking spaces for more than one hundred (100) automobiles shall be separated by curbing and/or landscaped areas at last fifteen (15) feet in width and each area thus created shall not contain more than one hundred (100) automobiles.

40.03.04 INTERIOR DRIVEWAYS

Interior driveways shall be at least:

A. Twenty-our (24) feet wide when used with seventy (70) to ninety (90 degree angle parking. Two (2) way traffic circulation shall be permitted in twenty-four (24) foot lanes.
B. Eighteen (18) feet wide when used with forty-six (46) to sixty-nine (69) degree angle parking. One (1) way traffic circulation shall be permitted in eighteen (18) foot lanes.
C. Fourteen (14) feet side when used with parallel to forty-five (45) degree angle parking. Only one (1) way traffic circulation shall be permitted in fourteen (14) foot lanes.

40.03.05 ENTRANCE AND EXIT

Entrance and exit driveways shall not be less than fifteen (15) feet wide nor more than twenty-five (25) feet wide and shall be separately provided whenever possible, except where such driveways are provided for one (1) or two (2) family dwellings, such minimum width shall be nine (9) feet.

40.03.06 MARKING

Each parking space shall be clearly marked and pavement directional arrows or signs provided wherever necessary. These markers shall be

properly maintained to insure their maximum efficiency. Parking spaces reserved for handicapped persons shall be clearly identified.

40.03.07 BUFFER BETWEEN DIFFERENT LAND USES

When a new land-use (including different housing types) is proposed to be located adjacent to an existing use there shall be a ten (10) foot landscaped buffer strip at the edge of the new site in addition to any required yards. The new use shall be screened from the abutting existing use by: (a) hedges or coniferous planting having a height of at least four (4) feet at the time of planning, not more than two (2) feet on center or (b) solid fencing at least six (6) feet in height or a combination of these as shown and approved on the site plan.

40.03.08 LIGHTING

Adequate lighting shall be provided if the parking facilities are used at night. If the parking facilities abut residential land, the lighting shall be installed and arranged so as not to reflect or cause glare onto the abutting residential land.

40.03.09 TWO OR MORE USES

Requirements for the provisions of parking facilities with respect to two (2) or more property uses of the same or different types; may be satisfied by the permanent allocation of the requisite facility, cooperatively established and operated, provided that the number of spaces designated is not less than the sum of individual requirements and provided further that the specifications in regard to location, plan, etc. are complied with.

40.03.10 JOINT USES

Land or buildings used for two (2) or more purposes, the number of parking spaces required shall be the sum of the requirements for the various individual uses, computed in accordance with this paragraph; parking facilities for one (1) use shall not be considered as providing the required parking facilities for any use, except as provided in Section 40.04.26. (Effective 8/1/84)

40.03.11 BACKING OUT

All parking or loading areas that make it necessary for vehicles to back out directly into a public road are prohibited, provided that this prohibition shall not apply to off-street parking areas of one-family and two-family dwellings.

40.03.13 OBSTRUCTION

All parking or loading areas shall be constructed so that no part of parked vehicles will extend beyond the parking space so as to obstruct walkways, sidewalks, streets or alleys.

40.03.14 RIGHT-OF-WAYS

No land within any public right-of-way shall be used in computing the parking or loading areas for a specific use.

40.03.15 COVERED AREAS

All garages or other spaces allocated for parking of vehicles within buildings or in basements or open spaces on the roofs of buildings shall be considered part of the required parking or loading area and may be included as such in computing the quantity of space outlined in this section.

40.03.16 COMPUTATION OF EMPLOYEES

For the purpose of this section, the number of employees for a use, shall be computed on the basis of the employees on the larger shift.

40.03.17 OTHER USES

No parking area shall be used for the sale, repair, dismantling or servicing of any vehicles, equipment, materials or supplies.

40.03.18 SLOPE

Whenever possible, parking areas and lots shall be level except for necessary drainage purposes. The maximum permissible slope for any parking area shall be seven (7) percent. If parking spaces are provided in areas, which exceed five (5) percent slope, all such spaces shall be parallel to the contour lines of the parking area.

40.04 QUANTITY OF PARKING SPACES

The quantity of parking spaces shall be in accordance with this Section. The number of parking spaces reserved for the handicapped shall be the number of accessible spaces required in the State Building Code. Special size and arranged parking spaces may be proposed for employees of land-users.

| USE | REQUIREMENTS |
|---|---|
| 40.04.01 AUTOMOBILE FILLING STATION | One (1) parking space for each gasoline pump, waste room grease rack, or similar service area and one(1) parking space for each two (2) employees. |
| 40.04.02 AUTOMOBILE REPAIR AND SERVICE STATION | One (1) parking space for each one hundred (100) sq. ft of floor area of the shop or garage and one (1) parking space for each two (2) employees. |
| 40.04.03 CLINIC, MEDICAL OR DENTAL | One (1) parking space for each two hundred (200) sq. ft. of floor area plus one (1) space for each doctor plus one (1) space for each three (3) employees. |
| 40.04.04 COMMERCIAL Establishments Devoted to Retail Sales, Trade, Merchandising or Similar Use. This requirement shall not apply to the Central Business District Commercial Zone. (See footnote #1) | REQUIREMENTS<br>One (1) parking space for each three hundred (300) sq. ft. of gross building area per floor. |
| 40.04.05 CIVIC CLUBS, PRIVATE CLUBS LODGES AND SIMILAR USES | One (1) parking space for each fifty (50) sq. ft. of gross building area per floor. |
| 40.04.06 DORMITORIES | One (1) parking space for each two (2) students. |
| 40.04.07 EDUCATIONAL INSTITUTIONS | One (1) parking space for each two (2) employees, including teachers and administrators, plus sufficient off-street space for safe and convenient loading and unloading students, plus additional facilities for student parking, taking into consideration the total number of students driving automobiles, and the requirements for stadium, gymnasium and auditorium use. |

#1. "This requirement shall not apply to land-uses in the B-1 Central Business Zone if outside the Redevelopment Project. (No. Conn. R 105) area except as part of a municipal off-street parking program."

| | | |
|---|---|---|
| 40.04.08 | ELEEMOSYNARY (Charitable) and PHILANTHROPIC INSTITUTIONS | One (1) parking space for each two (2) employees, plus such additional. |
| 40.04.09 | HOSPITAL | One (1) parking space for each one thousand (1000) square feet of floor area, plus one (1) space for each participating staff doctor, plus one (1) space for each five (5) employees |
| 40.04.10 | HOUSING FOR ELDERLY | One (1) space per bedroom and one (1) visitor space every five (5) units. (Amended effective 2/10/95) |
| 40.04.11 | INDUSTRIAL USES | |
| | a. Industrial or Manufacturing Establishment | One (1) parking space for each two (2) employees plus additional parking for customers. However, no use in this category shall have less than three (3) spaces or less than one (1) space every 500 sq. ft. of gross building area. |
| | b. Warehouse | One (1) parking space for each two (2) employees plus additional parking for customers. However, no use in this category shall have less than three (3) spaces or less than one (1) space for each 1,500 sq. ft. of gross building area. (Amended eff. 7/31/01) |
| 40.04.12 | MORTUARY OR FUNERAL PARLORS | One (1) parking space for every 50 sq. ft. of assembly space and one (1) space for each two (2) employees |

| | | |
|---|---|---|
| 40.04.13 | MOTEL, TOURIST HOME CABIN, HOTEL, APARTMENT | One (1) parking space for each room, cabin, or suite, and one (1) parking space for each two (2) employees. |
| 40.04.14 | MULTIPLE-FAMILY DWELLINGS (Including former category of Housing for Elderly) | Two or less bedrooms 2<br>Three or more bedrooms 2-1/2<br><br>Building or buildings, parking spaces, driveway and other vehicular ways shall not in their total area exceed more than forty (40) percent of the lot area. |

Commission specifically retains the right to require additional visitor and overflow parking as deemed necessary based on site characteristics.
(Section amended eff. 11/2/02)

| | | |
|---|---|---|
| 40.04.15 | OFFICE BUILDINGS, PROFESSIONAL BUILDING OR SIMILAR USES (See Footnote #1) | One (1) parking space for each three hundred (300) sq. ft. of gross floor area. |

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#1. "This requirement shall not apply to land-uses in the B-1 Central Business Zone if outside the Redevelopment Project (No. Conn. R. 105) area except as a part of a municipal off-street parking program."

| | | |
|---|---|---|
| 40.04.16 | ONE FAMILY AND TWO FAMILY DWELLINGS | 3 spaces per dwelling<br>Effective 7/1/87 |
| 40.04.17 | ADDITIONAL LIVING UNIT IN A BLDG. DESIGNED AS A ONE FAMILY DWELLING | 2 spaces (Eff. 5/15/88) |
| 40.04.18 | URBAN CORE LIVING UNIT<br>(Including former category of Rooming House) (Eff. 5/15/88) | Two or no bedrooms 1 space<br>Two or more bedroom 2 spaces<br>(Effective 5/15/88) |
| 40.04.19 | RESTAURANT OR SIMILAR PLACES DISPENSING FOOD, DRINKS OR REFRESHMENTS<br>(See Footnote #1) | One (1) parking space for each fifty (50) square feet of floor area devoted to patron use, excluding restrooms, within the establishment, and one (1) parking space for each eighty (80) square feet of ground area devoted to patron use on the property outside the establishment and one (1) space for each two (2) employees. |
| 40.04.20 | ROOMING HOUSES<br>Included in Urban Core Living Unit<br>(Effective date 5/15/88) | DELETED<br>(Effective 5/15/88) |
| 40.04.21 | GOLF DRIVING RANGE<br>(Amended effective 10/30/93) | Off street parking of at least one and a half spaces for each tee box plus one space for each employee on the longest work-shift. (Amended effective 10/30/93) |
| 40.04.22 | NONE | |
| 40.04.23 | PUBLIC ASSEMBLY FOR CULTURAL ENTERTAINMENT AND/OR RECREATIONAL USES | One (1) parking space for each three hundred (300) sq. ft. of gross building area per foot.<br><br>Add plus one space for each four seating capacity.<br>(Effective 4/30/87) |

| | | |
|---|---|---|
| 40.04.24 | CHILD CARE FACILITIES | One (1) space for each two (2) staff (including teachers, administrators, and voluntary aides) plus one (1) space for each eight (8) enrollees of licensed capacity. |
| 40.04.25 | CARE/NURSING HOME, COMMUNITY RESIDENTIAL TREATMENT FACILITY | One (1) space for each 300 sq. ft. of gross building area per floor up to six (6) spaces. Thereafter, one (1) space for each 1,000 sq. ft. or part thereof of gross floor area per floor. This requirement shall not apply in the B-1 Zone. |

#1: "This requirement shall not apply to land-uses in the B-I Central Business Zone if outside the Redevelopment Project (No. Conn. R. 105) area except as part of a municipal off-street parking program."

40.04.26 CONFERENCE CENTER COMPLEX

One (1) space for each guest room in the hotel, plus (1) space for each two (2) employees located on the site, plus one (1) space for each fifty (50) square feet of restaurant dispensing food, drinks or refreshments calculated on the floor area devoted to patron use within the establishment, excluding restrooms. Parking spaces for uses such as ballroom functions, within the Conference Center Complex, whose peak attendance will be at night or on weekends, may be provided by the use of off-street parking facilities on the same or an adjacent lot, which also serve to satisfy parking requirements for daytime and non-weekend uses such as office building. Effective 8/1/84.)

40.04.27 ALL OTHER USES NOT MENTIONED OR VARIATIONS OF LISTED USES.

The minimum number of parking spaces required shall be determined by the Planning and Zoning Commission to be needed to prevent frequent parking on the street. Where the Planning and Zoning Commission determines the number of parking spaces, the decision of said Commission shall be based upon 1.) standards set forth herein for uses with similar characteristics; 2.) previous experience with similar uses; and 3.) the staff's recommendations based on research about similar uses in Middletown and surrounding communities. (Added effective 4/15/91)

| | | |
|---|---|---|
| 40.04.28 | INDOOR RECREATIONAL FACILITY | 200 (Two hundred) parking spaces. The Commission reserves the right to adjust the parking requirements up or down dependent on the size of the facility and the anticipated intensity of the uses. (Added effective 10/13/06) |

40.05 DEVELOPMENT STANDARDS FOR OFF-STREET LOADING SPACES

Plans and design standards for areas to be used of off-loading spaces shall conform to the following:

40.05.01 LOADING AREA

Each off-street loading space shall be at least fourteen (14) feet wide; have a vertical clearance of, at least, fifteen (15) feet; and shall be at least thirty-three (33) feet in length; or as determined by the Commission.

40.05.02 LOCATION

Off-street loading spaces shall not be located between the building line and the street line (front yard).

40.06 QUANTITY OF LOADING SPACES

The quantity of loading spaces shall be in accordance with the following:

40.06.01 USES WHICH ARE PRIMARILY CONCERNED WITH THE HANDLING OF GOODS

| GROSS FLOOR AREAS (square feet) | QUANTITY OF LOADING SPACE |
|---|---|
| 2,400 TO 20,000 | 1 |
| 20,001 TO 50,000 | 2 |
| 50,001 TO 80,000 | 3 |
| Each additional 45,000 | 1 Additional |

40.06.02 USES WHICH ARE NOT PRIMARILY CONCERNED WITH THE HANDLING OF GOODS

| GROSS FLOOR AREAS (square feet) | QUANTITY OF LOADING SPACE |
|---|---|
| 2,400 TO 75,000 | 1 |
| 75,000 TO 200,000 | 2 |
| 200,000 TO 333,000 | 3 |
| Each additional 150,000 | 1 Additional |

40.06.03 When one establishment has two or more distinct uses, such uses shall be measured separately for the purpose of determining the quantity of spaces required.

40.06.04 CONFERENCE CENTER COMPLEX

A Conference Center Complex shall require one (1) loading space (Effective 8/1/84)

40.06.05 REFUSE AND RECYCLING AREAS

All multi-family buildings containing 4 or more dwelling units and all non-residential buildings shall be required to have loading and/or storage areas for refuse and for recyclable materials as required by the Middletown Code of Ordinance Section 11.17 and 11.18, as amended. (Added effective 5/9/90)

40.07 DISCONTINUANCE

Once any required parking or loading space has been established within the provisions of this section, whether on the same lot as the structure or use to which it is assigned or on a separate lot, such parking or loading space shall not be discontinued if the result would be a reduction below the amount of parking or loading required by this section. Any such discontinuance of a parking or loading space shall constitute a violation of this ordinance.

40.08 APPEALS

In any case where off-street parking or loading space has been provided in compliance with the standards of this section and subsequently there is a change in the use of the property, or any other circumstance requiring that additional parking or loading space shall be provided, wherever the Commission shall find that the provisions of such additional parking or loading space would result in peculiar and exceptional practical difficulties to or undue hardship upon the owner of said property, the Commission may modify the requirement for such additional parking or loading, provided such relief can be granted without substantial impairment of the intent or purpose of this section.

## Section 41 ADULT USES REGULATIONS

41.01 Purpose – The intent of this section is to regulate uses, which, because of their very nature, are recognized as having serious objectionable characteristics, particularly when several of them are concentrated under certain circumstances thereby having a deleterious effect upon the adjacent areas. Special regulation of these uses is necessary to ensure that these adverse effects will not contribute to the blighting or downgrading of the surrounding neighborhood. The primary control of regulation is for the purpose of preventing a concentration of these uses in any one area.

41.02 Definitions – For the purpose of this section, the following definitions shall apply:

1. Adult Book Store – An establishment having as a substantial or significant portion of this stock in trade, books, magazines, films, sexual devices for sale or viewing on premises by uses of motion picture devices or any coin-operated means, and other periodicals which are distinguished or characterized by their emphasis on matter depicting, describing or relating to "Specified Sexual Activities" or Specified Anatomical Areas", or an establishment with a segment or section devoted to the sale or display of such material.

2. Adult Motion Picture Theater – An enclosed building with a capacity of 50 or more persons used regularly and routinely for material having as a dominant theme material distinguished or characterized by an emphasis on matter depicting, describing or relating to "Specified Sexual Activities" or "Specified Anatomical Areas", for observation by patrons therein.

3. Adult Mini-Motion Picture Theater – An enclosed building with a capacity for less than 50 persons used for material having as a dominant theme material distinguished or characterized by an emphasis on matter depicting, describing or relating to "Specified Sexual Activities" or " Specified Anatomical Areas", for observation by patrons therein.

4. Adult Entertainment Establishment – A public or private establishment which may or may not be licensed to serve food and/or alcoholic beverages, which feature topless dancers, strippers, male or female impersonators, or similar entertainers, or acts relating to "Specified Sexual Activities" or "Specified Anatomical Areas", for observation by patrons therein.

5. Massage Parlor – An establishment or place primarily in the business of providing non-therapeutic massage services and/or steam baths.

6. "Specified Sexual Activities: is defined as:

   a. Human genitals in a state of sexual stimulations arousal;
   b. Acts of human masturbation, sexual intercourse or sodomy;
   c. Fondling or other erotic toughing of human genitals, pubic region, buttock or female breast.

7. "Specified Anatomical Areas" is defined as;

   a. Less than completely and opaquely covered: (I) human genitals, public region. (II) buttock and (III) female breast below a point immediately above the top of the areola.
   b. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

41.03 Regulated Uses – Regulated uses include all Adult Uses which include, but are not limited to, the following.

Adult Book Store
Adult Entertainment Establishment
Adult Mini-Motion Picture Theater
Adult Motion Picture Theater
Massage Parlor

1. Adult Uses shall be permitted subject to the following restrictions:

   a. No such Adult Use shall be allowed within 1000 feet of another existing Adult Use. There shall be no more than one Adult Use per building.

b. No such Adult Use shall be located within 1000 feet of any Zoning District, which is zoned for Residential Use.

c. No such Adult Use shall be located within 1000 feet of a pre-existing school or place of worship.

d. No such Adult Use shall be located in any Zoning District except B-2 or I-3 zoned areas. Adult Uses, as herein defined, shall require the granting of a special exception from the Planning and Zoning Commission. The Commission shall judge each application based on the requirements of this section and the Special Exception criteria found in Section 44.04.

41.04 Exterior Display – No Adult Use shall be conducted in any manner that permits the observation of any material depicting, describing of relating to "Specified Sexual Activities" or "Specified Anatomical Areas", from any public way or from any property not registered as an Adult Use. This provision shall apply to any display, decoration, sign, show window or other opening.

41.05 Registration

1. The owner of a building or premises, his/her agent for the purposes of managing, controlling, or collecting rents, of any other person managing of controlling a building or premises, any part of which contains an Adult Use, shall register annually with the Director of Health the following information:

   a. The address of the premises.

   b. The name of the owner of the premises and names of the beneficial owners if the property is in a land trust.

   c. The address(es) of the owner and the beneficial owners

   d. The name of the business or the establishment subject to the provision of paragraph C.

   e. The name(s) of the owner, beneficial owner of the major stock-holders of the business or the establishment subject to the provisions of paragraph C.

   f. The address(es) of those persons names in subparagraph (e).

   g. The date of initiation of the Adult Use.

h. If the building or premises is leased, a copy of the said lease shall be attached.

It shall be unlawful for the owner or person in control of any property to establish or operate thereon or to permit any person to establish or operate an Adult Use without first having properly registered and received certification of approved registration; pre-existing Adult Uses prior to the effective date of this Regulation shall register within thirty (30) days of the effective date of this Regulation.

The owner, manager or agent of a registered Adult Use shall display a copy of the Registration Form approved by the Director of Health in a conspicuous place of the premises.

(Adopted effective 10/15/94)

## SECTION 42 PROTECTION OF WATER SOURCES

### 42.00 PURPOSE OF REGULATIONS

To provide for the protection of water sources which are or may be used for public water supply. This includes unique geologic units called aquifers, capable of yielding usable amounts of groundwater and areas called watersheds in which surface water drains into reservoirs. The boundaries of the City's aquifer and watershed areas are shown on the Zoning Map and are hereby designated the geographical boundaries of the water protection boundaries (Revised effective 11/10/88)

### 42.01 WATERSHED PROTECTION AREAS (WPA)

The Watershed Protection Area is an overlay district, which provides for additional conditions, standards and safeguards to the permitted uses of the underlying district in order to protect and maintain the surface waters, and ground waters of the Middletown Public Water Supply Watershed to a quality consistent with their use as a primary source of drinking water for the City.

### 42.02 NON-PERMITTED USES

Within this district the requirements for the underlying districts continues to apply, except that the following uses are prohibited, even where the underlying district requirements are more permissive.

A. Any industrial, commercial or other use in which the manufacture, use, storage, transport, process or disposal of hazardous materials or waste is a primary use.

B. Sanitary landfill, septage lagoons, waste water treatment facilities for municipal or industrial waste, or other waster processing or transfer facilities.

C. Road salt storage and salt storage loading sites.

D. Junkyard, salvage yard, truck terminal

E. Vehicle service operations. To include but not be limited to fuel stations, auto service stations, body shops, rustproofing and auto sales dealerships.

F. New or enlarged fertilizer storage facilities.

G. Engine repair or machine shops

H. Dry cleaners, printers, furniture strippers, photo processors and labs.

I. Medical, dental or veterinarian offices, beauty salons, kennels, car washes, science, research or medical laboratories.

J. Cemeteries, in compliance with State Statute prohibitions.

42.03 COVERAGES, BUFFERS AND SETBACKS

Within the Watershed Protection areas, the following additional lot requirements shall apply except for 1 and 2 family residential lots, which are excluded. In the instances where the underlying zone requirements are different, the more stringent shall apply.

A. Total lot coverage shall not exceed 60% of the lot area. To be included in the 60% maximum include, but are not limited to the following: all buildings, walkways, travelways (paved and unpaved), paved islands, paved boulevards, impervious storm water management structures and other structures deemed applicable by the Planning and Zoning Commission.

B. A minimum of 20% of the total lot area parcel within a proposed subdivision shall be retained in its natural state. The 20% shall be incorporated in the site plan to buffer sensitive wetlands, watercourses and public water supplies. In those areas where previous land disturbance has occurred, this 20% shall be restored and re-vegetated in keeping with the intent of the regulation.

C. Minimum buffers, from buildings, structures, septic systems, impervious surfaces and other sources of pollution, shall be maintained as follows:

1) One Hundred feet (100') shall be maintained between watercourses and wetlands contributing to the public water supply and the developed land area.

2) One Hundred feet (100') shall be maintained between watercourses and wetlands contributing to the public water supply and outlet drainage structures to include but not be limited to level spreaders, splash pools, detention and retention basins and flared end outlets. There shall also be a demonstration by the developer that within this distance there is no more than a minimal impact on the public water supply from point source hydraulic loading.

42.04 OTHER REQUIREMENTS AND RESTRICTIONS

The following requirements shall apply:

A. No discharge of wastewaters to surface and groundwater are permitted unless allowed by State Statute and/or Planning and Zoning Regulations.

B. Underground storage of hazardous materials as defined by DEP and EPA is not allowed. Underground fuel storage tanks are also expressly prohibited; except underground storage for propane will be allowed provided the installation meets all other applicable codes.

C. Above ground storage of hazardous materials as defined by DEP and EPA in quantities greater than associated with normal operation of the approved use, normal on-site clerical and on-site janitorial use, other than fuel storage for space heating is not allowed. Fuel storage for space heating shall be in an environmentally protected area and shall be set within an impoundment area that is 110% of the volumeric capacity of the fuel storage tank. Areas where hazardous materials are used, handled or stored shall be designed as follows:

1) Floor surfaces shall be impermeable to stored material and have containment dikes, sumps or berms surrounding them. Unless other acceptable methods are used, a containment area shall be constructed to contain 110% of the maximum storage volume.

2) There shall be no floor drains in storage areas. Floor drains may be allowed in processing areas if connected to a public sanitary sewer and preceded by an approved treatment system, or approved holding tank.

3) Areas shall be enclosed and roofed to protect it from the weather.

4) Dumpsters used for wastes shall be covered or located within a roofed area, have drain plugs intact, and be on impermeable surface away from storm drains.

5) Loading docks shall be designed to protect spillage or discharges and located away from storm drains.

6) A maintenance and inspection schedule of the areas or structures may be required.

7) A spill response plan shall be provided to the City's Water Pollution Control Authority and updated annually. The spill response plan shall include the availability of spill containment materials onsite, as a part of the plan.

D. Stormwater management facilities shall be provided to the City's Water Pollution Control Authority and updated annually. The spill response plan shall include the availability of spill containment materials onsite, as a part of the plan.

The following measures and restrictions shall apply:

1) All raw materials and waste materials shall be sorted and handled so as to prevent contact with stormwater.

2) The use of underground drywells is not allowed for any stormwater from developed areas, except for roof drainage in groundwater supply areas. Such structures may be used in reservoir watersheds, where structures would treat runoff and not affect groundwater supplies.

3) Detention ponds, basins, swales, grease, oil and grit separators, or other measures designed to treat runoff, contain pollution and control peak flows, and infiltrate clean water may be required. It is the applicant's obligation to demonstrate that development has less than a minimal impact to the otherwise undisturbed natural runoff from the site.

4) Restriction of road salt (NaC1) application.

5) Where it is determined that development may result in significant water quality effects from development runoff, the proposal may be referred to the State's Department of Environmental Protection and/or the City of Middletown Environmental Planner for an advisory comment. A maintenance and inspection plan and schedule, shall be provided.

E. Where the use poses a significant threat to water quality due to total structure loss of fire, fire protection, response and containment measures may be required (e.g., public water, sprinklers, chemical extinguishers and similar measures).

F. Where potential exists for public sewers to be used for wastes other than domestic sewerage or where the sewer line passes through or adjacent to a sensitive resource area including a watercourse, wetland or stratified drift aquifer, the sewer line shall be constructed in accordance with good Engineering Standards, as approved by the City's Water & Sewer Department.

G. Unless otherwise acceptable, all treatment and protection structures, facilities, and measures shall meet State Department of Environmental Protection standards, or in compliance with the Best Management Practices (BMP) and Best Available Technology (BAT) guidelines, including, but not limited to, oil/water separators, detention basins, retention basins, airation structures, gross particles separators and biofilters).

H. If any proposed treatment, measure or practice is in question, it may be referred to the State Department of Environmental Protection, State Department of Public Health, City of Middletown Environmental Planner, or other agency for review and comment. Evidence of required permits or approvals may be required and the Commission may require additional modeling, analysis and evaluation to assure that there be no negative impacts on the watershed. The applicant shall be responsible for any additional fees as a result of these requirements.

I. Uses are subject to the site plan requirements of Section 55 of the Zoning Code. (Section amended effective 5/26/98)

## SECTION 44 SPECIAL EXCEPTIONS

44.01 PURPOSE

The development and execution of a comprehensive Zoning Code are based upon the division of the City into zones, with which the use of land and structures and the bulk and location of structures in relation to the land are substantially uniform. It is recognized, however, that there are certain uses and features which, because of the unique characteristics, cannot be distinctly classified or regulated in a particular zone or zones, without consideration in each case of the impact of such uses and features upon neighboring uses and the surrounding area compared with the public need for them in particular locations. Such uses and features are, therefore, treated as Special Exceptions.

44.02 REQUEST FOR SPECIAL EXCEPTIONS

Applications for the grant of Special Exceptions shall be filed with the Commission on forms provided therefore. The applicant shall submit plans and other data required in Section 44.03, and shall be consonant of the Commission's findings criteria in Section 44.04.

44.03 SUBMISSION REQUIREMENTS

Each application for a Special Exception shall be submitted to the Commission at least ten (10) days prior to a regularly scheduled meeting and shall be accompanied by such fee required to cover the cost of advertising and sending notices in connection with the application. The Applicant shall furnish as part of such application the following:

44.03.01 SITE PLAN

Site Plan as specified in Section 55.
Site Plan Approval Requirement.

44.04 FINDINGS

A Special Exception may be granted when the Commission makes findings on:

44.04.01 COMPLIANCE WITH CITY PLAN

The proposed use is consonant of the Plan of Development for physical development of the City, as embodied in the Zoning Code and in any Master Plan or portion thereof adopted by the Commission; and

44.04.02 ADVERSE EFFECTS

The proposed use will not affect adversely the health and safety of residents or workers in the area and will not be detrimental to the use or development of adjacent properties or the general neighborhood; and

44.04.03 VISIBILITY AND ACCESSIBILITY

The proposed use will not preempt frontage on a major highway in such a manner so as to substantially reduce the visibility and accessibility of an interior commercial area zoned or proposed for commercial use which is oriented to the same highway; and

44.04.04 TRAFFIC MOVEMENT

The proposed use will not impair the movement of through traffic along the adjoining thoroughfare through congestion and reduction of street capacities or through storage or back up of vehicles in the public right-of-way while awaiting service on the subject site; and

44.04.05 ORDERLY DEVELOPMENT

The proposed use will not result in a fragmentation of the development pattern, thereby creating unnecessary additional points of vehicular conflict with the adjoining highway and adversely affecting the orderly development of surrounding neighborhoods; and

44.04.06 PROPERTY VALUES AND CHARACTER

The proposed use will not tend to depreciate property values and the character and extent of development of adjoining properties; and

44.04.07 PARKING AND LOADING

The proposed use will provide off-street parking and loading facilities in accordance with Section 40 of the Zoning Code; and

44.04.08 COMPLIANCE WITH STANDARDS

The proposed use will meet all the standards set forth herein and set forth in Section 44.08 of the Zoning Code for the type of Special Exception being requested.

44.05 PUBLIC HEARING

The Commission shall hold a Public Hearing in accordance with the requirements of the General Statutes and those of Section 48.03.05, Zoning Application Signs.

44.06 COMMISSION ACTION

The Commission shall act of applications in accordance with the General Statutes.

44.06.01 TIME LIMITATIONS

A Special Exception shall be valid for a period of one (1) year, unless a longer time period is specifically established herein. The authorized activity must start during the time period as indicated by the granting of a building permit if building(s) are involved. Such exception shall continue in force and in effect if a building permit for such erection or alteration is started within said period. A renewal of said exception may be granted for one (1) additional time period, equal to the original, without a complete new application or public hearing provided the Commission finds that all requirements continue to be met. However, the Commission shall show in its record that it has reviewed an application for renewal of the specified Special Exception and that all appropriate provisions and findings are reaffirmed. (Amended eff. 5/1/86)

44.07 VIOLATION OF SPECIAL EXCEPTIONS

Whenever the Commission shall find, in the case of any Special Exception heretofore or hereafter granted pursuant to the provisions of this section, that any of the terms, conditions or restriction upon which such permit was granted are not being complied with, the Commission may rescind and revoke such permit after giving due notice to all parties concerned. Violation of Special Exception shall constitute a violation of the Zoning Code.

44.07.01 TERMINATION OF GRANTED SPECIAL EXCEPTION USE

In the event a Special Exception land-use is terminated and a proposed new use is not "use by right" as currently zoned, application may be made to the Commission for approval of a substitute use for the facility. In its evaluation, the Commission may hold a public hearing and shall consider the similarity of the proposed new use to the terminated Special Exception use.

44.08 STANDARDS FOR SPECIAL EXCEPTION

A petition for use of property subject to standards set forth herein shall be filed in accordance with the provisions of Section 44.02 and shall be subject to approval by the Commission unless specifically specified otherwise.

44.08.01 AMBULANCE SERVICE

Ambulance service uses are permitted subject to the regulations of the zone in which they are located in addition to the conditions hereunder:

A. No advertising or signs containing more than two (2) square feet in size shall be maintained on the premises where such ambulance service is being conducted or be attached to, or painted on the building in which such service is conducted.

B. The outward appearance of such building shall be substantially in conformity to the general characteristics of the surrounding neighborhood.

C. The nature and development of surrounding property; the proximity of churches, schools, hospitals, public buildings, or other places of public gatherings, the sufficiency in number of other such services in the City of Middletown; the health, safety and general welfare of the people should be considered.

44.08.02 CHILDCARE FACILITIES

Childcare facilities are permitted subject to the regulations of the zone in which they are located and in addition to the conditions hereunder.

A. Provide at least thirty-five (35) square feet of interior play space per child;

B. Provide at least one hundred (100) square feet of exterior play space per child;

C. Noise and all other possible disturbing aspects connected with the operation of such use shall be enclosed, screened or otherwise controlled to the extent that the operation of any such use shall not unduly interfere with the use of properties or streets in the surrounding area;

D. School buses shall be garaged or stored in an enclosed area, properly screened and to the rear of the main building only;

E. There shall be buffering between outdoor play areas and parking adjacent to industrial or commercial uses;

F. A childcare facility may include a residential unit for the owners/operators own use. (addition effective 2/1/85)

44.08.03 EDUCATIONAL PUBLISHING ORGANIZATION USES

Educational Publishing Organization Uses are permitted subject to the regulations of the zone in which they are located, in addition to the conditions hereunder:

A. Operations are primarily editorial and administrative in its character;

B. Operations shall not be used for final production or manufacturing of finished products, printed or otherwise, or as a retail outlet for any products.

C. Operations shall not produce any activities which would create any noise or nuisance at any time;

D. That the location for educational publishing organization uses are located to conform to the following minimum requirements:

LOT AREA: Five (5) acres;
YARDS: One hundred (100) feet in the front yard; side yards shall each be seventy-five (75) feet; rear yard one hundred (100) feet.

44.08.04 FRATERNITY AND SORORITY USES

Fraternity and Sorority uses are permitted subject to the regulations of the zone in which they are located:

A. That the maximum density shall not exceed thirty-five (35) persons per acre.

B. That the location for fraternity and sorority uses are located to conform to the following minimum requirements:

LOT AREA: Twenty thousand (20,000) square feet;
YARDS: Forty (40) feet from the front property lines; the side yard twenty-five (25) feet; rear yard, twenty-five (25) feet.

44.08.05 GOLF COURSE, COUNTRY CLUB, PRIVATE CLUB, SERVICE ORGANIZATION, INCLUDING COMMUNITY BUILDING AND SIMILAR RECREATIONAL USES

Privately owned and/or operated, are permitted subject to the regulations of the zone in which they are located in addition to the conditions hereunder;

A. That the proposed use will not constitute a nuisance because of noise, traffic, number of people or type of physical activity.

B. That the only provision for food, refreshment and/or entertainment is for club members and their guests.

44.08.06 HOSPITAL AND MEDICAL AND DENTAL CLINIC USES

A. The location of the facility shall be compatible with the neighborhood in terms of traffic, noise, and number of patients/clients cared for. The facility shall also be compatible with its setting in scale, material and design.

B. That the site location for hospital, medical and dental clinic uses are located to conform to the following requirements:

HOSPITAL

| | |
|---|---|
| LOT AREA: | Five (5) acres; |
| FRONTAGE: | Two hundred (200) feet; |
| YARDS: | Fifty (50) feet from the front property line; each side yard shall be three (3) times the height of the tallest building located on the lot which is proximate to the side yard, but no less than seventy-five (75) feet; rear yard – one hundred (100) feet. |

MEDICAL AND DENTAL CLINIC

| | |
|---|---|
| LOT AREA: | Forty thousand (40,000) square feet; |
| FRONTAGE: | Two hundred (200) feet; |
| YARDS: | Forty (40) feet from the front property line; the side yard shall be two (2) times the height of the main buildings but not less than fifty (50) feet; rear yard fifty (50) feet. |

44.08.07 HOUSING FOR ELDERLY OR PHYSICALLY HANDICAPPED PERSONS USES

are permitted subject to the regulations of the zone in which they are located in addition to the conditions hereunder:

A. That the maximum density shall not exceed thirty-five (35) persons per acre:

B. That the location for housing for elderly or physically handicapped person uses are located to conform to the following minimum requirements:
YARDS: The side yard twenty (20) feet; rear yard twenty (20) feet;

C. Storage of a stock in trade or sale of commodities on the premises shall not be permitted;

D. That no name plate or sign shall exceed one hundred (100) square inches in area.

44.08.08 PROFESSIONAL AND BUSINESS OFFICE USES

A. Professional and business office uses shall be limited to accountants, architects, engineers, dentists, physicians, podiatrists, chiropractors, lawyers, real estate and insurance agents, psychologists, osteopaths, surveyors and office business machine sales/service facilities. (Amended effective 2/28/95)

44.08.09 NEIGHBORHOOD STORE USES

are permitted subject to the regulations of the zone in which they are located in addition to the conditions hereunder:

A. A neighborhood store shall provide only limited convenience goods and services, such as groceries and related goods; baked goods, drugs or cosmetics; barber or beautician services; self-service laundry (which is closed between the hours of 10 PM to 7 AM); tailoring, shoe repair; tobacco or news; and accessory uses, customarily incidental thereto shall occupy no more than twenty-five (25) percent of the gross floor area of the establishment;

B. The Commission shall find that space for such use is not available in nearby areas which are zoned for business, and that such new use or expansion of an existing use is necessary to serve the immediate neighborhood adequately with convenience goods or services; hereinabove described, giving due consideration, among other things, to the character of the neighborhood, the density of development, the shopping habits of neighborhood residents, and the availability of public and private transportation. The clustering of two or more uses of diverse types, rather than scattering of such uses, shall generally be regarded as an advantage, but the existence of a use of the same type as one which is proposed shall require a more extensive

showing of necessity for the proposed use. As a general rule, clustering of uses shall not exceed ten thousand (10,000) square feet of net floor area for all uses in a cluster;

C. The net floor area used for sales or other business purposes in any establishment (excluding space used for storage and similar purposes) shall not exceed one thousand five hundred (1,500) square feet;

D. Business shall be conducted, including storage of goods, materials or equipment in a fully enclosed building;

E. That no name plate or sign shall exceed one hundred (100) square inches in area;

F. Establishment of the "drive-in" type, offering goods or services directly to customers waiting in parked vehicles shall not be permitted.

44.08.10 NATURAL RESOURCE EXTRACTION

A. PURPOSE OF REGULATIONS

To provide for (1) safe and orderly surface extraction of natural resources including; topsoil; peat; sand; gravel; clay; stone; ores; metals and minerals and (2) to provide a mechanism to assure the application of Code requirements related to the "Soil Erosion and Sediment Control Act" for land uses that have no actual construction involved and (3) for the reclamation, or restoring, of the land after extraction has taken place. (Note: See Sec. 10.09 Environmental Responsibility in the Zoning Code for P.A. 83-388 "Soil Erosion and Sediment Control Act.)

B. APPROVAL REQUIRED

No extraction shall be undertaken, unless herein specifically exempted, until approval of the Commission has been given.

C. EXCEPTIONS TO THESE REGULATIONS

Activities involving the removal or extraction of surplus topsoil, peat, sand or gravel for legitimate agriculture, construction or landscaping operations need not comply with the provisions of this section.

D. EXTRACTION LEGALLY UNDERWAY AT TIME OF THESE REGULATIONS

Operations involving natural resource removal legally in existence at the time of passage of these regulations may continue for a maximum period of one year. During that time, application for Commission approval shall be made following these regulations. Operations for which approval application is not made and received shall be in violation of this Code.

E. PROCEDURE

The extraction proponent shall file an application to the Commission including required fee and compliance assurance. The Commission shall hold a public hearing on the application following procedures set forth in the General Statutes.

F. APPLICATION

Twenty (20) identical copies of an application shall be submitted consisting of text and graphic material setting forth the proposal for extraction and reclamation, in terms of criteria set forth herein, for a proposed operating site. Each non-contiguous proposed operating site requires a separate application.

Graphic material shall include maps, which meet the specifications of Section 55 Site Plan Approval Requirements of this Code and other information required in these regulations. The site shall be shown on the City's map titled, "Topography Map of the City of Middletown, CT Showing Drainage Systems and Inland Wetlands Superimposed" at the scale of 1" = 100', date of photography April 17, 1980, or a later revision.

If necessary, the contours shown in the City Map shall be corrected to reflect the current status from a field survey made by a CT registered land surveyor. The property boundary shall be drawn to the accuracy of Class A-2 as recommended by the Connecticut Association of Land Surveyors, Inc. as stated in that organization's most recent publication.

Photographs may be included, both vertical and oblique, annotated to show significant information.

The graphic presentation shall clearly show the conditions which exist at the time of an application including water course and impoundments, roads, buildings, wells, and

construction, utility lines and right-of-ways and areas intended to be disturbed outlined in acre units. The proposal for reclamation, or restoring of, and land after extraction has taken place shall be clearly shown. Information may be shown on separate maps for clarity, if necessary.

The ownership of all parcels proposed to be involved in extraction and the ownership of all contiguous parcels shall be shown.

G. CRITERIA DURING EXTRACTION

(a) At no time shall resource removal take place nearer than fifty (50) feet to a street line or a perimeter property line except where the existing grade is above the grade of the abutting street or property.

(b) No physical damage shall be inflicted to adjacent public or private property.

(c) Proper drainage shall be maintained throughout the project area during the entire operation.

(d) Excavations of more than six feet in depth within a 1,000 foot distance of a residence shall be fenced with woven wire or similar material not less than four (4) feet high.

(e) Roads, storage areas and yards within 500 feet of a residence or public street shall be paved, treated or watered so as to minimize dust. Access routes over public streets to excavation areas shall be selected to minimize intrusion into residential neighborhoods.

(f) Equipment used in an extraction area shall be maintained and operated in such a manner as to minimize noise, vibration, smoke and dust.

(g) No waste products or process residues from an extraction area shall be disposed of in any stream or other natural drainage system without proper approved treatment.

(h) Overburden shall be stockpiled in rows or concentrated piles and stabilized in an acceptable manner so that it does not become a source of dust beyond the applicant's property.

(i) No overhanging banks shall be created during the extraction process.

(j) No stone crusher or other machinery not required for actual extraction shall be used except in an Industrial Zone.

H. CRITERTIA FOR RECLAMATION

Disturbed areas shall be reworked and graded to a rolling topography with no slope greater than two feet horizontally to one foot vertically and conditioned to make suitable for productive use including forestry, grazing, cropping, wildlife, recreation and building sites according to an approved reclamation plan which shall include placement of vegetation species as practical as determined with the aid of the Soil Conservation Service.

The process of reclamation shall proceed concurrently where feasible or immediately following the completion of the extraction activity in an orderly manner.

I. COMPLIANCE ASSURANCE

Approval shall not become effective until the applicant has provided a surety bond of $5,000 for each acre, or portion of an acre, of land to be disturbed by extraction or storage of soil or rock material. This bond shall be issued by a company located in Connecticut. The bond shall guarantee to the City of Middletown, as determined by the Commission that upon termination of the extraction operation the surface of land shall be restored in conformity with the approved reclamation plan. Upon such satisfactory reclamation, as approved by the Commission, the bond shall be released to the applicant.

Any required report or the extension of a project approval period shall include assurance that any required bond is still in effect. The insurance company shall notify the City of Middletown in the event a surety bond is terminated for any reason other than Commission approval.

J. BASIS FOR APPROVAL OR DENIAL OF APPLICATION

The Commission may approve an application upon finding that: (a) the requirements of the regulations set forth herein will not be violated by the proposed operation; (b) the applicant shall correct any and all violations and incomplete work remaining from any prior authorized activities.

In its evaluation of an application, the Commission may consult with persons and/or agencies with specialized knowledge or authority in the field of natural resource removal and the restoration, reclaiming the reuse of area disturbed by such removal.

K. APPROVAL TIME PERIOD

(a) Approval for extraction of natural resources may be granted for a length of time not to exceed two years.

(b) Upon application of the petitioner extension of an approval period may be granted for one additional time period, equal to the original, without a complete new application by the petitioner.

L. APPLICATION FEE

Application fee shall be $100.00 multiplied by the number of acres, to the nearest whole acre, proposed to be disturbed by extraction or storage of soil or rock material as established for Compliance Assurance for up to ten (10) acres. The fee for areas beyond ten acres shall be $50.00 per acre up to twenty acres. The fee for more than twenty (20) acres shall be $25.00 per acre.

The application fee shall be for the time approval period established and each application or extension shall require a separate fee.

44.08.11 PUBLIC UTILITY BUILDINGS AND STRUCTURES

A. The proposed facility is needed to provide service to the public.

B. The facility and its accessory elements shall be sited in accordance with the regulations of the zone in which it is located or as modified to minimize any adverse impact on the existing community in which the facility is proposed to be located.

C. Facilities included in the Public Utility Buildings and Structures category include: buildings for housing of switching equipment; parking and enclosures for service vehicles; indoor and outdoor storage areas for equipment and material; buildings for personnel offices

related to the utility services being provided by the installation and related off-street parking.

The above use is permitted in all zones as a Special Exception Use in Item 60.02.11. (Effective 1/25/89)

44.08.12 DRIVE-UP FACILITIES

Drive up banks and car wash facilities require off-street approach lane of 200 feet for each teller window or wash stand not to conflict with parking spaces.

44.08.12A DRIVE-THROUGH BUSINESSES

Drive-through businesses shall be permitted by special permit in every zone only if each of the following conditions are satisfied:

(1) There shall be an off-street approach lane of 200 feet for drive-through facilities which shall not conflict with parking spaces;

(2) There shall be adequate internal and external traffic circulation in order to promote traffic safety. In determining the adequacy of the circulation, the Commission may consider the number of curb cuts and the orderly flow of traffic entering and exiting the site. With respect to corner lots, the exit of the site shall be located on the less busy or secondary street and at least 100 feet from the intersection. If the lot has frontage only on one street then the applicant shall make road improvements, as deemed necessary by the Commission, to promote the safe exiting of vehicles; and

(3) Minimum lot area: one acre;

(4) Minimum lot width: 150 feet

(5) The site plan shall contain suitable landscaping which shall include maintenance of a suitably landscaped area between the drive-through business and any contiguous lot in a residential zone.

(Section added effective 3/15/2003)

44.08.13 GASOLINE FILLING STATIONS

1. The location of a gasoline filling station shall be subject to the approval of the Planning and Zoning Commission and the use of said gas filling station is limited to the retail sale of motor fuels, lubricants and other motor vehicle supplies and parts. The permitted use is further limited to minor repairs and service activities, excluding body and fender work and repairs or limited repairs as specified in Section 14-51, Chapter 246 of the General Statutes. Accessory parking and storage of motor vehicles is hereinafter limited.

2. No more than one motor vehicle for every 1,000 square feet of lot area shall be stored outside at any time, and there shall be no outdoor storage of partially dismantled or wrecked motor vehicles. The Planning and Zoning Commission may also limit the amount of overnight parking and require suitable fencing to protect surrounding properties.

3. The site of a gasoline filling station shall have frontage of at least 150 feet on a public street and shall have a depth of at least 100 feet, except where larger dimensions are set forth for the particular zone the proposed site is located in. Gasoline filling stations designed to serve trucks larger than five ton capacity shall have a lot width of at least 300 feet.

4. Fuel pumps shall be set back from the street line at least 25 feet. All other buildings and structures, except underground storage tanks, shall be set back at least 45 feet from the street line, ten feet from each side line, and 20 feet from the rear lot line, unless larger front or side yards are required in the particular zone the proposed site is located in. All buildings and structures shall be set back at least 50 feet from the side lot line of a contiguous lot in a residential zone. A suitably landscaped area at

least 10 feet wide or 6 feet high, stockade type wooden fence, with finished side facing any residential zone shall be maintained between a gasoline filling station and a contiguous lot in a residential zone. Such landscaping or fencing shall not be located closer than 10 feet to the street line. Maximum building coverage shall be limited to 50% of the site area.

5. There shall be not more than one driveway for each 50 feet of street frontage. Such driveways shall not be more than 35 feet wide, and not less than 20 feet wide at the curb line; shall be no closer together than 15 feet at the curb line and shall be at least 20 feet from any intersection of public streets. All driveways, parking or standing areas shall be permanently improved with a paved surface.

6. Storage tanks for gasoline or other motor vehicle fuels shall be located underground in compliance with pertinent local and State codes and regulations.

7. A gasoline filling station shall be no closer than 500 feet from any building or place of public assembly such as a church, hospital, library, school, community house, playground or theater, provided, however, that this standard shall not apply if the gasoline station shall have been established prior to any such place of assembly. No gasoline filling station shall be erected near any building or premises used for such purposes on any part of any lot used or proposed to be used for the within stated purposes. There shall be no outdoor display of motor vehicle accessories, tires, or any other merchandise, except that motor oil for servicing motor vehicles on the premises may be displayed on racks, designed therefore, immediately adjacent to the service station building or the filling pumps. There shall be no dumping of waste materials, such as

grease or oil, except in a closed underground receptacle at a place and of a designed approved by the Planning and Zoning Commission. Debris and trash shall be deposited in receptacles maintained therefore.

8. There shall be no residence or sleeping quarters maintained in any gasoline filling station.

9. The use of pennants, streamers or other moving eye-catching devices shall be prohibited except in the cases of the opening of a new station, the reopening of a station that has been closed for a period of thirty days or more, or a change in a station's major dealer or supplier, and then only for a period not to exceed 30 days and after issuance of a permit by the Zoning Enforcement Officer. The sign provisions of Section 48 shall apply except that small credit card, direction, telephone or similar public convenience signs shall not count towards the permitted sign area.

10. As an accessory use the limited sale of retail, convenience items shall be permitted at a gasoline filling station, subject to the following conditions:

    a. All foods sold shall be pre-packaged and there shall be no food preparation on-site, with the exception of beverages, which may be prepared subject to the approval of the Health Department.

    b. As an accessory use, a maximum of 500 square feet of space may be utilized for the display of retail merchandise within the station and retail, convenience merchandise shall not be displayed or advertised outside the filling station building.

c. A minimum of three accessory parking spaces shall also be provided. Said spaces shall be in addition to the pump areas and shall be for the convenience of patrons.

11. As an accessory use to a gasoline filling station, an unattended car wash shall be permitted, subject to approval of a Special Exception by the Planning and Zoning Commission and to the following conditions and standards:

a. The car wash shall be limited to one bay with a maximum of four coin-operated vacuums.
b. The car wash shall be equipped to recycle water to minimize the use of water and equipped with water treatment facilities.
c. All wastewater, after treatment, shall be discharged into a sanitary sewer system.
d. The property shall have a water supply sufficient to support the car wash.
e. There shall be sufficient unmarked stacking or queuing spaces in front of the entrance of the carwash facility, which do not interfere with on-site traffic flow. There shall be a sufficient length of driveway space between the car wash exit and any point of internal traffic circulation on the premises.
f. The car wash shall be equipped with a drain system in the car wash exit driveway to maximize capture of water drip off from washed vehicles.
g. The applicant shall demonstrate to the satisfaction of the Commission that lighting, buffer areas, noise levels, environmental controls including waste water recycling, sludge and sediment handling, and internal vehicular circulation shall be adequately provided for and/or controlled, and that there are no adverse traffic impacts on public roads, to ensure conformance with the standards applicable to special exception uses. (Section amended effective 3/1/98)

44.08.14 PERMANENT YEAR ROUND FARM MARKETS may be approved by the Commission provided they meet all of the following conditions:

1) The market shall be on the premises of, and accessory to, an active farm of at least 20 acres, which abuts a state highway.

2) At least 50% of the products sold each year, based on gross dollar sales, shall be grown or produced on the premises where the market is located or elsewhere in Middletown or immediately surrounding areas except in case of weather conditions due to an act of god.

3) Products and services which may be sold shall include dairy and food products primarily from products grown or produced on the premises or elsewhere in Middletown or immediately surrounding areas; farm bakery products; coffee service station, cider, juices and soda; vegetables, fruits; flowers; seasonal farm products (such as honey, maple syrup, jams, dried fruits and candy); seasonal crafts (such as wreaths, baskets, ornaments, flower pots); pick your own vegetables and fruits; pre-cut Christmas trees, and horticultural supplies.

4) Accessory uses shall include greenhouses, hay rides, farm animal petting zoo, and farm and craft related seminars.

5) Buildings shall meet yard requirements of the zone.

6) Adequate off street parking shall be provided but in no event less than one (1) space for each 300 square feet of gross building area of the market.

7) The market shall be located either within an existing farm structure or a separate rural, farm-like structure compatible with the neighborhood.

(Section adopted effective 6/1/01)

44.08.15 ELEEMOSYNARY AND PHILANTHROPIC INSTITUTIONS, subject to the following minimum area, frontage and setback requirements:

A. Total Area: 25,000 square feet
B. Frontage: 150 feet
C. Yards: 35 feet from the front property line;

Each side yard shall be two (2) times the height of the tallest institutional building located on the lot, which is proximate to the side yard and the rear yard shall be forty (40) feet.

44.08.16 JUNKYARDS AND BUILDING MATERIALS SALVAGE YARDS, subject to the following regulations:

A. Shall be located on a site not less than one (1) acre;
B. Be enclosed by wall of brick, stone or other suitable material as determined by the Board, not less than eight (8) feet in height.
C. The front wall shall be located on the building line but not less than twenty-five (25) feet from the front lot line;
D. The front yard shall be open and unobstructed except for the off-street parking of private automobiles only.

44.08.17 MOTEL, TOURIST COURT AND AUTO LODGE, subject to the following regulations:

A. Not more than twenty-five (25) percent of the net area of the lot may be covered by buildings.
B. All parking areas and driveways shall be paved with concrete or asphaltic surfacing;
C. Shall not have dwelling units closer to the highway right-of-way than fifty (50) feet;
D. Shall not permit more than ten (10) percent permanent occupancy;
E. Shall comply with all area and yard requirements prescribed for such uses in the zone in which located;
F. No vehicular entrance to, or exit from any motel, or motor hotel, wherever such may be located, shall be within two hundred (200) feet along streets from any school, public playground, church, hospital, library or institution for dependents or for children, except where such property is in another block or another street which the premises in question do not abut;

G. All areas not used for access, parking, circulation, buildings and services shall be completely and permanently landscaped and the entire site maintained in good condition;

H. Any enlargement or extension to any existing motel or motor hotel shall require application for a Zoning Certificate, as if it were a new establishment.

44.08.18 READY-MIXED CONCRETE PLANT, subject to the following regulations:

A. Shall be located on a site not less than one (1) acre;

B. The plant shall not be located less than two hundred (200) feet from a residential use nor less than one hundred (100) feet from any other uses;

C. All materials shall be so enclosed as to eliminate air pollution beyond the limits of the lot on which the operation is located;

D. The front wall or fence shall be located on the building line but not less than twenty-five (25) feet from the front yard shall be open and unobstructed, except for the off-street parking of private automobiles only.

44.08.19 RESTAURANT OR LUNCHROOM, subject to the following conditions:

A. It shall be clearly demonstrated by the Applicant, that such use is necessary for the service and convenience of the employees of the industrial zone in which it is located; is designed primarily for the service of employees in the zone, and will not constitute a nuisance to uses in the zone or any adjacent zone because of the generation of traffic, noise, odor or other factors;

B. Business shall be limited to the dispensing of food, normally associated with lunchrooms;

C. Each lunchroom, together with the principal use of the lot, shall be located in a lot having a minimum of two hundred (200) foot frontage on a primary industrial road, arterial road, or major highway and shall be conveniently and centrally located in relation to the industrial area intended to be served.

D. No lunchroom in the zone shall be located within two hundred (200) feet of any residential zone;

E. No curb service or service through outside windows shall be permitted.

44.08.20 TAXI CAB STAND, subject to the following regulations:

A. All parking areas and driveways shall be paved with concrete or asphaltic surfacing;

B. Shall have ingress and egress driveways and shall not permit backing onto adjacent roadways;

C. Shall park vehicles and operate entirely within said lot;

D. No servicing of taxicabs shall be permitted on the premises such as dispensing gasoline, oil, etc.

44.08.21 MULTI-FAMILY DWELLINGS CONTAINING THREE (3) OR MORE DWELLING UNITS, subject to the following regulations:

A. Streets shall be so designed as to discourage through traffic on the site.

B. Parking spaces shall be within one hundred fifty (150) feet of any commonly used entrance way for such dwelling units.

C. Buildings shall be so designed as to avoid monotonous patterns of construction or repetitive spaces or modules between buildings.

D. Access and circulation ways shall be designed to permit fire fighting equipment, furniture moving vans, fuel trucks, refuse collection, deliveries and snow removal to operate in a safe and efficient manner.

E. The Commission may require the street system to connect two (2) or more existing abutting streets in order to provide for a safe and efficient area circulation system except where topography or other physical considerations do not permit such streets or where such street connections would adversely affect the area.

F. Usable open space (as defined in Item 16.21.01) shall be provided at the ratio of 400 square feet for each bedroom in the project or each unit without separate bedrooms. The open space shall be in a square configuration. The open space shall be equipped with

recreational equipment specifically related to the proposal occupancy of the units, i.e. benches, game tables, sand boxes, swings, climbing apparatus, etc.

G. Structures existing prior to 1976 may be converted to multi-family dwellings without providing the open space required for new structures.

H. For any proposed development over fifty (50) dwelling units feasibility information shall be submitted citing the need for the proposed development in terms of the housing supply and estimated demand. Information submitted shall include:
   (a) The proposed rental schedule
   (b) The income levels of proposed occupants.

I. Parking arrangement as required in Section 40.

44.08.22 CONVERSION OF EXISTING RESIDENTIAL BUILDING TO A DIFFERENT NUMBER OF DWELLING UNITS

A. In addition to site plan requirements specified elsewhere in this Code the applicant shall submit preliminary drawings, prepared by a registered architect, showing the building plans and elevations as currently existing and as proposed after conversion.

B. Off-street parking shall be provided in accordance with Section 40 of this Code as per specific spaces required for Urban Living Units.

C. Requirements of the zone in which the building is located may be waived by the Commission if not specifically included herein above.

D. Any proposed new addition to be constructed as part of the conversion proposal shall be limited to twenty-five (25%) percent of the gross floor area of the old existing building.

44.08.23 ALCOHOLIC LIQUOR ESTABLISHMENTS

Are special permit uses in the B-1, B-2, and NPC zones subject to all regulations of those zones and:

A. Building and site shall meet criteria of the Connecticut Liquor Control Commission.

B. The entrance to the building shall be not less than fifteen hundred feet, measured in a direct line, from the entrance of any other seller alcoholic liquors as defined in Section 16.01.04.

(Amended effective 8/25/05)

44.08.24 AUTOMOBILE, TRUCK, TRAILER, FARM IMPLEMENTS AND SIMILAR AUTOMOTIVE EQUIPMENT SALES, NEW AND USED, and closely associated service facilities as part of the sales operation may be a permitted use in an I-2 Zone under the following conditions:

A. Site shall front on and have direct access to, a State Highway

B. Lot area shall be one acre or more.

C. Lot frontage shall be two hundred (200) feet or more.

44.08.25 BUSTOP PASSENGER SHELTERS

(1) Shall be proposed by the Middletown Transit District

(2) Shall not include any signs not directly related to the bus system unless located in a zone, which permits outdoor advertising signs.

44.08.26 HISTORIC AND\OR ARCHITECTURAL PRESERVATION SITE AND STRUCTURES

A. The site, building or structure proposed shall be included in the Middletown Survey of Historical and Architectural Resources conducted by the Greater Middletown Trust, date 1979, as either inventoried or notable buildings. (Effective 8/1/84). Other buildings and structures may apply under this section provided that it is determined by the Greater Middletown Preservation Trust, or another qualified professional selected by the Commission, that the building meets the survey criteria and that the proposed reuse is compatible with the historic character and fabric of the building. (Amended effective 10/15/90)

B. Permitted use of a site and structure shall be with the physical characteristics and originally designed use of the structure: i.e. a structure designed for a residence may be used as an office.

C. A written agreement shall be filled with the Commission stipulating that the exterior of the structure and the site will be restored and maintained in accordance with the historic time period the structure is identified.

D. In the event the proposed historic preservation structure is located in a fire district with which its materials of construction are incompatible application, via the Commission, shall be made to the legislative body to change the boundaries of the fire district so that the Historic Preservation Zone is designated as outside fire limits in terms of the State Building Code. The proposed Historic Preservation structure shall not be less than thirty (30) feet from any structure in a contiguous fire district.

E. Off-street parking requirements for architecturally and historically significant buildings with adaptive uses may be modified when a proponent can show (a) needed off-street parking is or could be available in the vicinity and; (b) the economic feasibility of the project depends on the waiving of some or all of the off-street parking requirements.

F. All proposals under this category shall submit a narrative, and for major projects architectural renderings, explaining how the applicant intends to renovate and preserve the historic façade and overall historic character of the building. All proposals may be referred to the Middletown Preservation Board for review and comment. The Preservation Boards comments shall be purely advisory. (Added effective 10\23\91)

44.08.27 REAR LOTS

are a Special Exception use provided that the applicant shall prove to the satisfaction of the Commission that the land characteristics and physical site conditions make such rear lot development practical, reasonable and desirable; and that such rear lot development will be in harmony with the purpose and intent of the Plan of Development and will comply with all applicable codes, regulations, and ordinances and shall meet the following specific requirements:

A. Be located in a R-45 or R-60 residential zone.
(Amended effective 6/13/03)

B. Be used only for a single family residence.

C. Not less in area than twice the required size of a lot for the zone the proposed rear lot is located in except that no rear lot must be greater than 80,000 square feet.

D. An access strip, in the same ownership as the rear lot, shall have a width not less than twenty-five feet on a City street.

E. Not be separated from a City street by more than the depth of one front lot which is not less than the size of a lot required by the Code.

F. The shape shall be that a rectangle the required size of a front lot shall generally fit within the proposed rear lot configuration.

G. For building yard requirements the property line closest to the City street from which access is obtained, not including the access strip, shall be designated as the front line.

H. Set-back requirements shall be twice those required in the zone for standard lots.

I. There shall not be more than two access strips adjacent to each other.

J. No non-conforming lot shall be created as a result of a proposed rear lot particularly in terms of remaining city street frontage and area.

K. Dwellings shall be connected to city water and sewer facilities, when constructed, if those facilities are not available the Department of Health must approve the proposed lot for an on-site well and septic system prior to the lots approval by the Commission.

L. The grade of the access strip shall not be more than four percent for a distance of fifty feet from the City street.

M. Electric and other utility service lines shall be placed underground if they are underground along the street.

44.08.28 TWO (2) FAMILY OR SINGLE FAMILY DWELLINGS ON LOTS OF RECORD IN AN RPZ ZONE

(a) A two (2) family dwelling may be constructed on any lot of record in an RPZ zone provided that:

A) The lot has a frontage of at least fifty (50) feet. (Revised 11/1/88)

B) The lot has an area of at least 7500 square feet.

C) The lot is served by City water and sewer.

(b) Where the applicant shall prove to the satisfaction of the Commission that the land characteristics and physical site conditions make such development practical, reasonable and desirable and such development will be in harmony with the purpose and intent of the Plan of Development and shall comply with all other applicable codes, regulations and ordinances, the Commission may approve two (2) family or single family dwellings on any lot of record in an RPZ zone having no frontage or less than fifty (50) feet of frontage, provided that:

A) The lot has an area of at least 7500 square feet.

B) The lot is served by City water and sewer.

C) If the lot has no frontage on a public street, it shall have a permanent recorded easement at least 25 feet in width which provides unrestricted access by foot and by vehicle to a public street.

D) In no event shall any such lot have less than 25 feet of frontage on a public street or, in lieu thereof, a 25 foot permanent recorded easement providing unrestricted access by foot and by vehicle to a public street. (Amended effective 6\30\92)

44.08.29 CARE\NURSING HOME USES

A. The location of the facility shall be compatible with the neighborhood in terms of traffic, noise, and number of patients\clients cared for. The facility shall also be compatible with its setting in scale, material and design.

B. Each applicant must submit a description of its purpose and patient\client group.

C. All care\nursing homes must connect to public water\sewer.

D. The site of the care\nursing home must conform to the following requirements:

LOT AREA: 500 square feet per person.
FRONTAGE AND YARDS: Same as in Residence zone which determines the lot area.
(Section amended effective 5/1/97)

44.08.30 BED AND BREAKFAST USES

A. The facility must connect to public water and sewer.

B. The size of the bed and breakfast must conform to the following requirements:

| | |
|---|---|
| BED AND BREAKFAST LOT AREA: | 2,000 square feet per rented room. |
| FRONTAGE AND YARDS: | Same in Residence zone which determines the lot area. |

In order to limit the intensity of the use in an RPZ zone this use is restricted to legal lots of record with less than 10,000 square feet and further the home must be owner occupied and of a bed and breakfast character, as defined below.

Bed and Breakfast Character is defined as: An owner occupied private residence containing no more than five (5) guest rooms with a maximum of two persons per room for lodging by pre-arrangement for periods not to exceed two (2) consecutive weeks and providing for only breakfast.

In order to maintain this character the following must be complied with:

a.) The bed and breakfast must maintain the appearance of a residential dwelling.

b.) The signage shall be kept to a minimum and in no case shall exceed 8 square feet.

c.) All applicable state and local codes and ordinances must be complied with or the special exception use shall be revoked in accordance with Section 44.07 of this code, and

d.) In order to insure compliance, the owners of such facility must annually, on or before February 1, obtain a permit from the Zoning Enforcement Officer. Prior to issuing said permit the enforcement officer shall request reports from officials charged with the enforcement of Health, Fire and Building Codes. Also the owner shall provide the ZEO with a written statement that he\she is in compliance with all Special Exception criteria.

(Section amended effective 6/5/09)

44.08.31 DELETED (Amended effective 5/1/97)

44.08.32 SOLID WASTE DISPOSAL FACILITY AND AREA

(1) A solid Waste Disposal Facility or Area shall meet all requirements of the Connecticut Department of Environmental Protection:

(2) The proponent shall submit the following information about the proposal:
   (a) The waste types and quantity to be handled at the facility and/or placed in the area;
   (b) Ground and surface water conditions;
   (c) Geology, soils, and topographic features;
   (d) Transportation methods and routes to the areas;
   (e) Procedures for leachate, gas and runoff control and for operation and monitoring of the facility;
   (f) The social, geographic and economic impact of the facility or disposal on the contiguous neighborhoods;
   (g) Potential nuisance conditions.

(3) Solid Waste Facilities shall not be allowed over an aquifer or at any location where they might adversely affect an aquifer.

(4) The Commission may require evaluation reports from relevant professionals, including but not limited to geologists, hydrologists, and soil scientists.

44.08.33 RETAIL SALES AND/OR RENTALS OF USED AUTOMOBILES

1. The site shall have a minimum frontage of 100 feet along a directly accessible state highway.

2. The site shall have a minimum area of 18,000 square feet.

3. In the even that abutting land(s) shall have building(s) thereon used for residential purposes, the facility shall be screened by appropriate plantings or fencing so as not to be visible from said building(s).

4. Automobiles shall be parked or stored on the site no closer than ten feet to any property line.

5. The facility shall be lighted in such a fashion that illumination is not directed onto abutting properties.

6. There shall be no use of an exterior sound system or paging system on the site.

7. It is the specific intention of this special exception that the use of the property as a used automobile retail sale and/or rental facility not be the first use of property for such purpose(s) within the general neighborhood. Accordingly, before any special exception may be granted, there must exist within a one-half mile radius of the property lines of the property a facility which sells used automobiles and/or rents automobiles to the general public.

8. In order to limit the intensity of this use, there shall be no more than eight (8) cars displayed for sale on the site at any given time. (Revised effective 2/1/92)

44.08.34 VETERINARY HOSPITALS / PRACTICE

1.) The site shall have a minimum of five (5) acres.

2.) The facility shall be lighted in such a fashion that illumination is not directed onto abutting properties.

3.) The location of the facility shall be compatible with the neighborhood in terms of traffic, noise and number of animals cared for. The facility shall also be compatible with its setting in scale, material and design.

4.) Noise and other possible disturbing aspects Connected with the operation of such use shall be enclosed, screened or otherwise controlled to the extent that the operation of any such use shall not unduly interfere with the use of properties or streets in the surrounding area. (Added effective 7/11/90)

44.08.35 CLUSTER DESIGN TO PRODUCE OPEN SPACE SUBDIVISIONS

A. PURPOSE

The purpose of the open space subdivision provision in the Zoning Code is to encourage and allow for creative and more flexible site planning and building placement and more efficient and economical land development. Furthermore, the provision is designed to provide for greater open space preservation and the preservation and/or conservation and enhancement of the sites existing natural features and resources.

As a means of achieving the above stated purpose, variations in the existing regulations may be allowed. The following regulations and requirements may be varied or reduced:

1.) lot frontage (max 50% reduction);
2.) lot area (max 50% reduction)
3.) lot shape requirements;
4.) yard and setback requirements (max 50% reduction);
5.) maximum length – dead end streets (no greater than 2000 feet);
6.) sidewalk requirements.

B. PROCEDURE

Applicants proposing open space subdivision are strongly encouraged to meet with the Director of Planning and/or the Environmental Planner to discuss which type of subdivision (open space or conventional) would be the most suitable for the area and consistent with the purposes of the City's regulations.

However, if the applicant proceeds with the open space subdivision option the Commission expressly retains the right to make the determination as to which type of subdivision would be the most suitable for the area and consistent with the purposes of these regulations.

Upon formal application to the Planning and Zoning Commission and a public hearing thereon, the Commission may grant special exception approval and subdivision approval of an open space subdivision.

In addition to the general special exception criteria in Section 44.04 of the Zoning Code, the Commission shall find, when applicable, the following:

1.) the specific purposes of the cluster design are being achieved;

2.) any and all impacts on natural environmental systems such as wetlands, aquifers, watercourses and vegetative and wildlife communities have been minimized;

3.) there exists the presence of land characteristics which the commission considers favorable for development of an open space subdivision;

4.) the proposal will provide for future park and recreational areas including hiking trails;

5.) the proposal will not provide for buildings whose silhouettes interrupt the natural, unbroken flow and character of Middletown's ridgelines;

6.) to the maximum extent possible the proposal shall minimize excessive and poorly planned grading for streets and building sites; and;

7.) the proposal will preserve and protect the city's natural environment by encouraging the permanent preservation of specific features and lands which, in turn, contribute to the stabilization and enhancement of residential amenities and values and the maintenance of the City's and the particular areas existing character.

C. REQUIREMENTS:

Plans and supporting materials shall be presented for the entire tract containing the information as specified in Section 4 of the Subdivision Regulations. The design of the open space subdivision shall be effectuated by a registered professional group of the following, but not limited to, Landscape Architects, Engineers, Land Surveyors, and environmental professionals. In addition to the requirements in the Subdivision Regulations, formal submission of the proposal shall include the following:

1.) a city topography map for the area with the properties boundaries superimposed and highlighting areas exceeding 15 % slope, inland wetlands, flood zones, heavily wooded areas and other significant natural or man made features of the land;

2.) a concept plan on the "Topographic Maps of Middletown, Connecticut, Showing Drainage Systems and Inland Wetlands Superimposed" showing how the property could be realistically developed using the conventional method of subdivision design;

3.) A landscape plan for the entire development showing all features such as streets, sidewalks, trails, entrance structures, recreational facilities, etc. and sealed by a registered Landscape Architect as defined in Section 20-367 of the Connecticut General Statutes, Paragraph (3);

4.) A statement outlining the reasons why the developer believes that the intent of this regulation would be, or not be, satisfied by development as an open space subdivision.

D. STANDARDS:

1. The tract to be developed shall be not less than ten (10) contiguous acres and must be in a zone having a R prefix.

2. The tract shall be in a single ownership or consolidated into a single tract by a number of different owners by means of a binding agreement which will ensure the uniform treatment and implementation of an overall open space subdivision for the entire tract from the time of application and continuing thereafter.

3.) The frontage of the entire tract on an existing street must be at least one hundred (100) feet. (Amended effective 6/13/03)

4.) To provide a buffer between a open space subdivision and surrounding properties, no structure shall be located within 30 feet of the overall perimeter boundary. The buffer area shall adhere to the standards in the Subdivision Regulations.

5.) Proposed buildings shall be related harmoniously to each other, the terrain and to the use, scale and proportions of existing buildings in the vicinity that have a functional or visual relationship to the proposed buildings. The Planning and Zoning Commission may require that buildings be located at the edges of existing fields and open areas and within wooded areas so as to preserve the open character of a site.

6.) The total number of building lots in a open space subdivision shall be no greater than the number displayed on the concept plan (as required in Standards #2) displaying how the property could be developed with a conventional subdivision. The Commission retains the right to exclude lots from the concept plan, which they feel are un-developable. However, the commission <u>may permit</u> a reasonable density bonus equal to a percentage (5 % minimum) of the amount of

lots derived in the lot credit calculation provided the required open space is increased by the same percentage.

EXAMPLE: A twenty (20) lot open space subdivision with the required 33% open space can derive one (1) additional building lot (5% of 20 lots) provided the required open space is increased to 38%.

7.) Where possible and in conformance with the Plan of Development, public water and sanitary sewers are preferred. The applicant may use private well and septic systems or community septic systems if approved by the Health Director if it can be shown that the soils shall be suitable for long term disposal of sanitary waste effluent.

8.) Areas to be preserved and established as open space are to be in accordance with Section 5.17 of the Subdivision Regulations. In addition, land designated as "Open Space" in an open space subdivision shall: a.) equal not less than thirty three (33%) percent of the total tract; b.) not include any storm water detention or retention structures; and c.) be linked with all building lots within the tract by pedestrian walks.

E. SIGN CONSIDERATIONS:

The purpose of this section is to provide some guidelines for designing an open space subdivision over and above the regulations of the Zoning Code and the Subdivision Regulations.

The developer shall develop a design that portrays an interrelationship of the type of activity (residential and open space), the circulation (street and pedestrian paths), and the physical forms (residences and natural features) constituting the development.

The developer in order to produce an aesthetically pleasing design shall consider the following:

A. Eliminating constant front yard setbacks (staggering front yards instead) to avoid monotony; provide for a variegated character of the neighborhood.

B. Providing for scenic vista protection;

C. The provision of common driveways to reduce the amount of required site clearance and regarding.

D. Utilizing open area such as fields and meadows by integration of the same in the spatial design of the development;

E. Providing for artistically designed open space furniture and fixtures;

F. Providing for pedestrian paths, walking and exercising, with safety and handicapped accessibility in mind;

G. Providing for protection of watercourses but designed as an integral part of the development;

H. Providing for effective buffering, but not obstructing scenic views;

I. Providing for maximum use of natural light and solar capabilities;

J. Providing for the maintenance of the visual integrity of hilltops and ridgelines by siting development so that building silhouettes will be below the ridgeline or hilltop or if the area is heavily wooded, the building silhouette will be at least 10 feet lower than the average canopy height of trees on the ridge or hilltop;

K. Create and maintain the concept of a New England green or "commons" area within the site.

This is an informative list only. The effective designer can produce much more. (Added effective 6\1\92)

44.08.36 LARGE LOT ENVIRONMENTALLY SENSITIVE SUB-DIVISIONS WHICH ALLOW PRIVATE ROADS

A. DEFINITION:

A Large Lot Environmentally Sensitive Subdivision (LLES) is a Subdivision with private roads in the R-45 and R-60 zones, and in the R-30 zones only where R-45 zoning is required due to water and sewer requirements (see section 21.05). A LLES shall consist of no more than 20 lots all of which meet all zoning and subdivision regulations with the exception of the specific provisions as articulated in this section.

(Section amended effective 11/15/2000)

B. PURPOSE:

The purpose of the LLES provision in the Zoning Code is to encourage and allow for creative and more flexible site planning and building placement and more efficient and economical land development. Furthermore, the provision is designed to provide for greater open space preservation and the preservation and\or conservation and enhancement of the sites existing natural features and resources.

As a means of achieving the above stated purpose, variations in the existing regulations may be allowed. The following regulations and requirements may be varied or reduced:

1.) lot frontage (max 50 % reduction);
2.) lot shape requirements;
3.) rear yard setback requirements (max 50 % reduction);
4.) max. length –dead end streets (no greater than 2000 ft);

The primary objective of the LLESS is to allow a more environmentally sensitive approach to conventional land subdivision by allowing for the provision of private roads in the outlying rural sections of the city.

C. PROCEDURE:
The applicant shall follow the procedure as outlined in Section 44.08.35 of this Code. In addition to the general special exception criteria in Section 44.04 the Commission shall find that the proposal satisfies the criteria as listed in Section 44.08.35 Procedure with the exception of #1. In addition the Commission shall find that the specific purpose and design objectives of the LLESS are being achieved.

D. REQUIREMENTS:
The requirements for this proposal shall be those as articulated in Section 44.08.35 Requirements of the Zoning Code.

E. STANDARDS:
In addition to standards 2, 3, 4, 5, 6 in Section 44.08.35 Standards of the Zoning Code, the applicant shall adhere to the following:

1.) The tract to be developed shall not be less that ten (10) contiguous acres and must be in the R-45 or R-60 zone, or in the R-30 zones only where R-45 zoning is required due to water and sewer requirements (see section 21.05) (Section amended effective 11/15/2000)

2.) Areas to be preserved and established as open space are to be in accordance with Section 5.17 of the Subdivision Regulations. In addition, land designated as "Open Space" in an LLESS shall a.) equal not less than fifteen (15%) percent of the total tract, and; b.) be linked with all building lots within the tract by pedestrian walks.

3.) In order to insure fire safety residential sprinklers, as reviewed and approved by the Fire Chief for the particular district in which the subdivision is located, are required in all homes located within an LLESS.

4.) Private roads

(a) The City of Middletown roads and walkway specifications shall not apply to this subdivision provided that the notices set forth in Exhibits A & B are within the Declaration of Covenants and Restrictions and affixed to the subdivision map. Further, the composition of such roadways shall be set forth in a narrative form by a registered engineer at the time of submission and such engineer shall certify to the Commission that such composition is a satisfactory composition for the subdivision as submitted.

EXHIBIT A

"The roadways are to be maintained by the Association. Middletown Fire and Police Departments strongly direct that the Association maintains these roadways for in the event that such Departments could not reach the site of an emergency because of improper maintenance, the responsibility of such failure would not be that of the Police or Fire Departments but rather the Homeowners Association."

EXHIBIT B

The roads shown hereon and designate as (street name) will be private roads to be owned and maintained by the adjacent property owners or an Association of such owners. The City of

Middletown will not take ownership nor maintain these roads unless and until they are improved to meet the requirements of the City at no cost to the City.

(b) Private street construction shall be sufficient to safely and adequately carry potential future traffic, which shall be determined on the basis of land areas to be served. The subbase shall consist of gravel, at least 12" in depth after compaction, constructed on the prepared subbase. The gravel shall consist of sound, durable particles of bank or crushed gravel, free from soft, thin, elongated or laminated pieces and vegetable or other deleterious substances. The gravel shall meet grading "A" requirements (Conndot Form 813). The gravel shall be spread on the prepared subgrade and shall be bladed, dragged and scraped to conform to the required cross-section. All areas of segregated coarse or fine material shall be corrected or removed and replaced with well-graded material. On all road sections with grades less than 5% a base shall be placed upon the subbase of at least 3" after compaction of processed aggregrate. It shall be added to the 12" bank run gravel subbase. Said processed aggregrate to meet Connecticut DOT material standard for processed aggregrate. All road sections in excess of 5% shall receive a bituminous surface treatment to prevent erosion of the surface. Bituminous materials shall be selected from the following grades: Asphaltic Cutback MC-70 or MC-800; Tar RT-2, RT-4, or RT-6. The type of bituminous material to be used will

depend upon the character and condition of the surface to be treated, and the season of the year in which the work is done. The bituminous material shall be applied at the rate of 3\4 gallon per square yard. Sand cover shall be spread to provide uniform application in an amount sufficient to prevent the bitumen from seeping off the surface. When the surface is in satisfactory condition, it shall be swept clean of all sand and foreign material and the second application of bituminous material shall be made at the rate of 1\4 gallon per square yard. Gravel shall be spread on the bitumen and rolled with a power roller weighing not less than 10 tons. The gravel for this surface treatment shall meet the following Grading Pass 1\2" 100%. Pass 3\8" 85-100%, Pass No. 4 5-30%, Pass No. 8 0-10%, Pass No. 100 0-1.5%.

Installation of the private road surface can be subject to inspection by the Department of Public Works and certification by a professional engineer licensed to practice in the State of Connecticut.

The minimum width of such roadways shall not be less than 18 feet.

F. DESIGN CONSIDERATIONS:
The design considerations that shall be considered for a LLESS are those articulated in Section 44.08.35 Design Considerations of the Zoning Code. (Added effective 6\1\92)

44.08.37 LEAF COMPOSTING AREA

(1) A leaf composting area shall meet all the requirements of the Connecticut Department of Environmental Protection.

(2) The proponent shall submit the following information about the proposal:

(a) Estimate of the volume of leaves to be handled at site, including the approximate number of trucks exiting and entering the site daily;
(b) Facility site criteria, including acreage, drainage & slope;
(c) Site constraints, including name of adjoining properties, wells, septic systems, wetlands, flood plains, ground and surface water, and depth to bedrock;
(d) Explanation of the compost pad design and construction;
(e) Transportation routes, access and egress to site;
(f) Methods for drainage, erosion and sedimentation controls;
(g) Methods for wetting of the leaves;
(h) Procedures for operation and management of the facility;
(i) Hours of operation for the area;
(j) Potential nuisance conditions and procedures to mitigate such nuisances;
(k) Plan for use of the compost.

(3) The Compost area will not be allowed within 200' of surface water, 100' from the property line, 250' from neighboring buildings and shall have a minimum lot area of three acres. (Added effective 6/30/92)

44.08.38 <u>ADAPTIVE REUSE OF A STRUCTURE FORMERLY USED AS A PLACE OF CONGREGATION FOR MEMBERS OF A RELIGIOUS FAITH</u>

Existing buildings used primarily as a place of congregation for members of a religious faith and having a minimum square footage of 2,000 square feet upon termination of their use as a place of congregation for members of a religious faith may by special exception be used for professional offices. Said structures are more commonly referred to as: churches, temples, synagogues and meeting halls.

(Added effective 5/20/94)

44.08.39 MODIFICATION OF FRONTAGE AND AREA REQUIREMENTS ON LOTS ESTABLISHED SUBSEQUENT TO 1982

In order to allow for more flexibility and compatibility with existing lots in the development of land in an R-1 Zone located within 1,000 feet of other developed lots or subdivisions, the Commission may grant a Special Exception to allow new lots and subdivisions to be developed with new lots having substantially similar frontage area and yard requirements as existing lots, subject to the following conditions:

1. Proposed new lots or new subdivision shall be within 1,000 feet from the boundary of the existing lots or subdivision, the frontage, yard or area of which are being used to determine the frontage, yard and area of the proposed new lots or subdivision.

2. Proposed new lots must have both City water and sewer.

3. No new lot shall have a frontage of less than fifty (50) feet nor an area of less than five thousand (5,000) square feet.

4. In the case of any subdivision or resubdivision of land, open space, either to be deeded to the City or to be owned and maintained by a homeowners' association, shall be no less than 40% of the land being subdivided or resubdivided.

5. The layout and design of lots, roads and open space within any new subdivision shall be compatible with the design of lots, roads and open space in the existing subdivision within 1,000 feet thereof which is being used as the basis for the requested modifications.

6. In the case of any new subdivision or resubdivision of land, application may be simultaneously for the Special Exception set forth herein and for Subdivision Approval under the Subdivision Regulations of the City of Middletown. (Added effective 4/30/95)

44.08.40 GOLF DRIVING RANGES AND MINIATURE GOLF COURSES

a. The site shall have a minimum of three (3) acres for each recreational use;

b. Each use shall be lighted in such a fashion that the illumination is not directed onto abutting properties;

c. The location of each use shall be compatible with the neighborhood in terms of traffic, noise and number of people permitted to participate in the sport at one time. Each use shall also be compatible with its setting in scale, material and design;

d. All the other possible disturbing aspects connected with the operation of each such use shall be enclosed, screened or otherwise controlled to the extent that the operation of any such use shall not unduly interfere with the use of properties or streets in the surrounding area;

e. Parking for the miniature golf course shall be minimum one space for each hole;

f. Parking for the driving range shall conform with Section 40.04.21 of this code;

g. The driving range shall be compatible with its setting in scale, material and design;

h. The dimensions of the raised tees will be such so as to create maximum safety for users; and

i. Signs for each use shall be no greater than 100 square feet. Sign space may be combined for both uses on a single sign. Each sign may be free-standing or on a building. Each sign may be externally or internally illuminated. (Added effective 2/10/95)

44.08.41 LANDSCAPE & GARDEN CENTER

1. The site shall have a minimum of two (2) acres.

2. The location of the facility should be compatible with other surrounding businesses that may also include some retail sale of goods on site.

3. The facility and grounds should strictly adhere to the site plan approved by the commission.

4. Vehicles, equipment and materials should be properly screened or enclosed.

5. Parking should adhere to regulations as set forth in Section 40.04.04.

6. Herbicides, pesticides, fertilizers, or other chemicals must be stored as not to create a public health nuisance or a source of pollution to either air, water, or soil in accordance with the Health Department regulations and Connecticut Public Health Code.

(Added effective 1/31/97)

44.08.42 CORPORATE OFFICE/HIGH TECHNOLOGY PROCESSING OF PREVIOUSLY MANUFACTURED PARTS

1. The location of the facility shall be on a site of no less than eighteen (18) acres.

2. Traditional manufacturing shall not be permitted, e.g., conversion of raw materials to finished product.

3. The facility shall be the corporate headquarters (i.e., executive) and administrative offices shall be an integral part of the facility) for the operator and owner of the facility.

4. The facility shall be compatible with its setting in scale, material and design and shall not include any outdoor storage of materials or supplies.

5. The facility shall be connected to municipal sewer and waterlines.

6. The facility shall not produce noise from the processing conducted therein which is detectable by objective measurement in excess of decibel levels permitted by State law beyond the perimeters of the site. The facility shall not emit any smoke or fumes or discharge effluent other than those, which may be associated with a corporate office building (i.e., heating and air conditioning, automotive exhaust and storm water);

7. The use, storage or disposition of solid, or medical waste, materials shall be prohibited.

8. In order to maintain a parklike setting, forty (40%) per cent of the site shall remain in a pervious and vegetated state.

(Section added effective 7/3/98)

44.08.43 ACTIVE ADULT HOUSING

A. PURPOSE:

Active adult housing is intended to provide housing of a type and density suitable to the needs of those 55 and over. This provision recognized housing for those age 55 and over as having less impact than other higher density housing options, and therefore meriting separate consideration.

The burden of complying with the Fair Housing Act, as amended and regulations promulgated there from shall be on the association of homeowners of such development.

B. PROCEDURE:

Upon formal application to the Planning and Zoning Commission and a public hearing thereon, the Commission may grant special exception approval for an Active Adult Housing development. In addition to considering compliance with the applicable special exception criteria in Section 44.04 of the Zoning Code and the standards contained herein, the Commission shall also consider the potential impacts of the proposed development on municipal services and the fiscal resources of the City. (Amended effective 4/30/04)

C. REQUIREMENTS:

Applications for approval of Active Adult developments shall include a master concept plan at scale no less than 1"-100' displaying the overall site, landscape, buffers, lighting, open space, sidewalks, building placement, pedestrian paths and trails, detailed site plans as required by Section 55 of these regulations and architectural renderings of the building and the overall community. In addition, applicants shall provide a professional market analysis demonstrating the need and feasibility of the project. Additionally, a narrative report shall be submitted which documents the probable impact of the proposed development on municipal services and the fiscal resources of the City. (Amended effective 4/30/04)

If the special exception is approved, a detailed Category 4 site plan as required by Section 55 of these regulations and architectural renderings of building and the overall community shall be submitted.

D. STANDARDS:

1. The tract to be developed shall be zoned RPZ, R-15, or R-30, shall be not less than 10 acres, and shall have a minimum of 100 feet of frontage on a public street.

   a. Waiver Provision for lots between 8-10 acres. Upon a separate and affirmative vote of the Planning and Zoning Commission the Commission may waive the above 10 acre requirement and allow the tract to be developed to be a minimum of 8 acres providing the following conditions are met:

      1. There is sufficient area to provide additional buffers where needed.

      2. The configuration of the tract allows for an orderly and functional layout for buildings, parking, and access.

3. The Commission in its sole and legislative discretion determines the parcel is more suited to Active Adult than traditional single family home development.

(Amended effective 11/1/05)

2. Residences are limited to single family detached structures and shall include a basement and/or attic for storage.

3. The proposed active adult housing development shall be a Common Interest Ownership Community as defined in Chapter 828 of the Connecticut General Statutes.

4. The site shall be served by public sewer and public water supply, both of which shall be capable of handling the demand, including hydrants sufficient for fire fighting as determined by the Fire Marshall, required by the development. All utilities, (electric, cable, phone) shall be underground.

5. The maximum number of units per acre is four. In computing the number of acres for the purpose of this section, 75% of the area designed as inland wetlands and 75% of the area of slopes in excess of 25% shall be excluded.

6. The minimum living area of each dwelling unit, inclusive of bathrooms and exclusive of hallways, shall be 900 square feet. The maximum number of bedrooms per residence is two.

7. Height, yard, and lot coverage requirements shall be as required in the underlying zone, except accessory buildings shall not exceed a height of 20 feet and total impervious coverage shall not exceed 40%.

8. The minimum distance between sidewalls of residences shall be 20 feet. Where the distance between units is less than 24 feet, adjacent walls shall be angled to prevent parallel sidewalls. The minimum distance between rear walls of units shall be 40 feet.

9. To provide a buffer between active adult developments and surrounding properties, no structure shall be located within 50 feet of the overall perimeter boundary. The buffer area shall adhere to the standards in the Subdivision Regulations and the first 30 feet shall be planted with a mixture of trees and shrubs. (Amended effective 3/31/06)

10. Thirty-three percent (33%) of the tract proposed for development shall be preserved as open space of which 50% of said open space shall be outside of areas designated as buffer area, inland wetlands or slopes in excess of 25%. The Commission may require the provision of a walking trail system within the proposed development. Unpaved walking trails may be counted as open space.
(Amended effective 3/31/06)

11. One hundred percent (100%) of the total dwelling units to be constructed in an Active Adult Community shall be designated as Active Adult Housing units. Occupancy of Active Adult Housing unit shall be limited to three (3) individuals and as follows:

    a. At least one individual must be aged fifty five years or older;
    b. Any and all spouses, companions or relatives of an occupant must be 21 years or order;
    c. Any occupant pursuant to (b). above who has ownership interest in the dwelling who survives the individual in (a) above;

d. Any occupant pursuant to (b) above who has an ownership interest in the dwelling and the individual in (a) above has entered into a long term continuing care facility;

e. Remaining parties pursuant to (c) (d) above who remarry or cohabitate must meet all occupancy requirements,

f. A personal care attendant who is in service to a resident 55 years of age or older to attend to that resident's medical and/or health care needs,

g. The management entity shall verify annually to the Zoning Enforcement Officer that the facility is in compliance with the occupancy requirements of this section.

12. Dwelling units designated, as Active Adult Housing shall have deed restrictions limiting occupancy as required above.

13. There shall be at least three (3) parking spaces per dwelling unit. At least one of these spaces shall be provided within an attached garage. A minimum of 25% of the units shall have a two-car garage. The Commission reserves the right to require guest parking. All driveways shall have a minimum of 25 feet in length.

14. A cash performance bond shall be filed prior to securing building permits. The developer may propose a phasing plan and post bond in accordance with said phasing plan.

E. DESIGN CONSIDERATIONS:

The design considerations of Section 44.08.35, as appropriate to Active Adult developments, shall be considered by the applicant's design team.

(Section added effective 9/1/03)

44.08.44 INDOOR RECREATIONAL FACILITY

A facility where a fee is paid in exchange for activities, events, or programs related to athletics, physical conditioning and accessory activities conducted indoors. A facility may be approved by the commission if it meets the following conditions:

A. That not more 40% of the parcel is used for the main building and accessory structures.

B. Parking spaces will be provided in accordance with Section 40.04.28.

C. Design Considerations: The Commission will evaluate the site plan and approve a facility that is designed to blend in with the existing buildings in the zone, if any.

(Added effective 10/13/06)

SECTION 45 DELETED (Amended effective 2\28\95)

## SECTION 45A WIRELESS COMMUNICATION FACILITIES SPECIAL EXCEPTION

### 45a.01 PURPOSE

The purpose of this section is to make provisions to permit the location of wireless communication towers in the City of Middletown with the exception of FCC exempt facilities while protecting the public, neighborhoods and minimizing the adverse visual and operational effects of wireless communications towers. More specifically, the purposes are:

1) To accommodate the need for wireless communications towers while not unreasonably regulating their location and number;
2) To encourage the joint use of any existing or new towers;
3) To encourage creative design measures to minimize adverse visual effects of wireless communications towers through proper design, siting and vegetative screening;
4) To avoid potential damage to adjacent properties from tower failure or from falling ice through careful siting of towers.
5) To site facilities below visually prominent ridge lines; and/or
6) To reduce the number of towers needed in the future.

### 45a.02 PREFERENCE

The general order of preference for alternative facility locations will range from 1. as most preferred to 5. as least preferred:

1) On existing structures such as buildings, smokestacks, water towers, etc;
2) On existing or approved towers;
3) In industrial and commercial districts where the existing topography, vegetation, buildings or other structures provide appropriate screening;
4) On new towers with appropriate visual mitigation in commercial and industrial districts; and
5) If tower site area in excess of one acre, on new towers in any zone where the existing topography, vegetation, buildings or other structures provide appropriate screening.

### 45a.03 SPECIAL EXCEPTION REQUIREMENTS

45a.03.01 For sites of one acre or more, the Planning and Zoning Commission may grant a special exception authorizing the establishment of a wireless telecommunication tower in any zone. The establishment of a wireless telecommunication tower will be in conformance with these regulations and comply with the following:

1) Each wireless telecommunication carrier will co-locate on existing communication towers, whenever possible;
2) Carrier will present a map showing the network planned for the City of Middletown;
3) All structures, excluding the communication tower, associated with wireless telecommunication facilities will not exceed the height requirements of the zone in which the structure is located;
4) In residential zones no facility will be located within two hundred (200) feet of an existing building;
5) All equipment building/boxes or equipment areas will comply with the minimum property line setbacks for a principal building in the zone in which it is located;
6) Towers will be structurally designed to provide for co-location of up to three users;
7) The Planning and Zoning Commission, at its sole discretion, may utilize independent technical expertise when reviewing either a special exception and/or site plan application pertaining to wireless communication facilities; and
8) The location of all structures associated with wireless telecommunication facilities will be subject to site plan approval in accordance with these regulations.

45a.03.02 Factors Upon Which Approval/Denial Shall be Based. Federal requirements pertaining to a zoning decision either to approve or deny, a wireless communication facility application will include all of the following:

1) Detailed analysis of alternative sites, structures, access, and antennas;
2) Worse-case combined modeling of radio frequency power densities;
3) Detailed propagation and antenna separation analysis relative to facility height;
4) Tower sharing or co-location to facilitate the telecommunication needs of municipalities and other entities in order to reduce the need to construct additional towers;
5) Assessment of the tower structure type; and
6) Consideration of future use or re-use of the site with provisions for facility removal and site restoration including and not limited cash bonding.

The applicant's comprehensive development and management plan for erosion and sedimentation control as well as, architectural treatment, environmental and cultural considerations.

## 45a.04 WIRELESS COMMUNICATION TOWER SITE PLAN REQUIREMENTS

45A.04.01 All applications will meet all site plan requirements and the standards as described in these regulations. Each applicant will include a map showing:

1) The service area of the proposed wireless telecommunication site;
2) The search radius for the proposed wireless telecommunication site and provide support materials that show the location of tall structures within one quarter mile radius of the site proposed and that the owners of those locations have been contacted and asked for permission to install the antenna on those structures;
3) Existing and approved locations of the applicant's other telecommunication sites in Middletown; and
4) Existing towers owned/used by the applicant within two miles of Middletown's borders.

45a.04.02 Other General Requirements:

1) A plan showing where and how the proposed antenna will be affixed to a particular building or structure;
2) Details of all proposed antenna and mounting equipment including size and color;
3) Elevations of all proposed shielding and details of materials including color;
4) Elevations of all proposed equipment buildings/structures with details of proposed fencing including color;
5) All proposed landscaping, if appropriate, with a list of plant materials;
6) Tower base elevation and height of the tower;
7) Proximity of tower to residential structures and residential zone boundaries including forested areas;
8) Natures of uses on adjacent and nearby properties within 1,000 feet;
9) Surrounding topography within 1,000 feet at contour intervals not exceeding five feet and based on city datum;
10) Design of the tower with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness if proposed;
11) A topographic profile showing the proposed tower and its associated equipment from adjoining properties with any fencing, landscaping, etc.;
12) Proposed ingress and egress from a public street to the site and the drive surface type, if necessary;

13) A soil report will be submitted to verify the design specifications of the foundation of the tower and anchors for the guy wires, if used; and

14) The Commission may request one or two perspective drawings from locations of concern.

45a.05 TOWER SITE PLAN STANDARDS

The following are wireless communications facility standards which will be followed:

1) The proposed tower will be designed and constructed to all applicable standards of the American National Standards Institutes, ANSI/AEI-222 manual, as amended.
2) The proposed support structure will be required to accommodate a minimum of three users, including other wireless communication companies and local police, fire, and ambulance companies unless it is determined to be technical unfeasible based on information submitted by the applicant;
3) Towers not requiring special Federal Aviation Administration painting or markings will be a non-contrasting blue, gray or other neutral color;
4) No tower will be located on municipally owned land designated for open space or for recreational use unless approved by the responsible agency;
5) Towers in residential zones, if any, will be a monopole design unless otherwise approved by the Commission;
6) No signs will be permitted on any tower;
7) No lights or illumination will be permitted unless required by the Federal Aviation Administration or Federal Communications Commission.
8) The tower will be surrounded by an approved chain link fence or wall;
9) The proposed tower and its antenna will be the minimum height necessary to satisfy the technical requirements of the proposed telecommunications facility and its future uses;
10) Tower height will not exceed three times the allowable building height in the tower's underlying zone;
11) All towers must comply with setback requirements of the zones in which they are proposed; and
12) All tower locations will not be closer to their property line than the height of the tower plus 25% of that height.

45a.06 <u>The following types of Wireless Communication Facilities are permitted uses and will be subject to the following standards:</u>

45a.06.01 ROOFTOP MOUNTED ANTENNA

1) Will be attached to a non-residential structure or building, which building or structure is the principal building or structure on the lot;
2) Will be of a material or color, which matches the exterior of the building or structure;
3) Will not exceed a height of ten feet above the highest part of the structure or building;
4) Will be set back from the roof edge a minimum of ten feet of 10% of the roof width, whichever is greater;
5) Satellite and microwave dish antennas will not exceed six feet in diameter and will be located or screened so as to minimize visibility; and
6) Will not occupy more than 25 percent of the roof area.

45a.06.02 FAÇADE MOUNTED ANTENNA

1) will be attached to a non-residential structure or building, which structure or building is the principal structure or building on the lot;
2) Will project not more than three feet beyond the wall or façade of he structure; and
3) Will not project more than six feet above the cornice line.

45a.06.03 EQUIPMENT BUILDING STANDARDS

All roof mounted accessory buildings and facilities associated with wireless communication facilities will comply with the following:

1) Each such building/structure will not contain more than 150 square feet of gross floor area or be more than eight feet in height; and
2) Will be designed to blend with the color and design of the building to the extent possible. (Section adopted effective 3/1/98)

## SECTION 46- FLOOD AREA MANAGEMENTS REGULATIONS

### 46.01 STATUTORY AUTHORIZATION AND PURPOSE

#### 46.01.01 STATUTORY AUTHORIZATION

The Legislature of the State of Connecticut has in Title 7, Chapter 98, Section 7-148(c)(7)(A) and in Title 8, Chapter 124, Section 8-2 of the General Statutes delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the Planning and Zoning Commission of the City of Middletown, Connecticut, does ordain as follows:

#### 46.01.02 FINDING OF FACT

The flood hazard areas of the City of Middletown are subject to periodic flood inundation which results in the loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.

These flood losses are caused by the cumulative effect of obstructions in the floodplains causing increases in flood heights and velocities, and by the occupancy in flood hazard areas by uses vulnerable to floods or hazards to other lands which are inadequately elevated, floodproofed, or otherwise unprotected from flood damage. Uncontrolled development and use of the floodplains can adversely affect the community.

The City of Middletown has voluntarily participated in the National Flood Insurance Program (NFIP) since December 16, 1980. The NFIP is founded on a mutual agreement between the federal government and each participating community. Local, state and federal governments must share roles and responsibilities to meet the goals and objectives of the NFIP. The community's role is of paramount importance. Property owners are able to receive federally-subsidized flood insurance only if the community enacts and enforces the minimum floodplain regulations required for participation in the NFIP.

#### 46.01.03 STATEMENT OF PURPOSE

It is the purpose of this regulation to regulate floodplain development, promote public health, safety, and general welfare, and minimize public and private losses due to flood conditions in specific areas by provisions designed to:

A. To protect human life and health, and prevent damage to property;

B. To minimize expenditure of public funds for costly flood control projects;

C. To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

D. To minimize prolonged business interruptions and other economic disruptions;

E. To minimize damage to public facilities, infrastructure and utilities, such as water and gas mains, electric, telephone and sewer lines, and streets and bridges, located in the floodplain;

F. To help maintain a stable tax base by providing for the sound use and development of flood hazard areas in such a manner as to minimize flood damage and flood blight areas;

G. To insure that potential buyers are notified that property is in a flood hazard area;

H. To prevent increase in flood heights that could increase flood damage and result in conflicts between property owners;

I. To ensure that those who occupy the flood hazard areas assume responsibility for their actions; and

J. To discourage development in a floodplain if there is any practicable alternative to locate the activity, use or structure outside of the floodplain.

46.01.04 OBJECTIVES

In order to accomplish its purposes, this regulation includes objectives, methods and provisions that:

A. Restrict or prohibit uses which are dangerous to health, safety and property due to flood or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;

B. Require that uses vulnerable to floods, including facilities that serve such uses, be protected against flood damage at the time of initial construction;

C. Control the alteration of natural floodplains, stream channels, and natural protective barriers that are involved in the accommodation of flood waters;

D. Control filling, grading, dredging and other development which may increase erosion or flood damage; and

E. Prevent or regulate the construction of barriers or obstructions which will unnaturally divert flood waters or which may increase flood hazards to other lands.

46.02 DEFINITIONS

Unless specifically defined below, words and phrases used in this regulation shall have the same meaning as they have in common usage and to give this regulation its most reasonable application.

46.02.01 Area of Shallow Flooding (for a community with AO or AH Zones only)

A designated AO, AH, AR/AO, AR/AH, or VO zone on a community's Flood Insurance Rate Map (FIRM) with a one percent or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

46.02.02 Base Flood

The flood having a one (1) percent chance of being equaled or exceeded in any given year, also referred to as the one hundred (100) year flood, as published by the Federal Emergency Management Agency (FEMA) as part of a Flood Insurance Study (FIS) and depicted on a Flood Insurance Rate Map (FIRM).

46.02.03 Base Flood Elevation (BFE)

The elevation of the crest of the base flood or 100-year flood. The height in relation to mean sea level expected to be reached by the waters of the base flood at pertinent points in the floodplains of coastal and riverine areas.

46.02.04 Basement

Any area of the building having its floor subgrade (below ground level) on all sides.

46.02.05 Building

See definition for "Structure".

46.02.06 Cost

As related to substantial improvements, the cost of any reconstruction, rehabilitation, addition, alteration, repair or other improvement of a structure shall be established by a detailed written contractor's estimate. The estimate shall include, but not be limited to: the cost of materials (interior finishing elements, structural elements, utility and service equipment); sales tax on materials, building equipment and fixtures, including heating and air conditioning and utility meters; labor; built-in

appliances; demolition and site preparation; repairs made to damaged parts of the building worked on at the same time; contractor's overhead; contractor's profit; and grand total. Items to be excluded include: cost of plans and specifications, survey costs, permit fees, outside improvements such as septic systems, water supply wells, landscaping, sidewalks, fences, yard lights, irrigation systems, and detached structures such as garages, sheds, and gazebos.

46.02.07 Critical Facility

A development which is critical to the community's public health and safety, are essential to the orderly functioning of a community, store or produce highly volatile, toxic or water-reactive materials, or housing occupants that may be insufficiently mobile to avoid loss of life or injury. Examples of critical facilities include: jails, hospitals, fire stations, police stations, nursing homes, schools, wastewater treatment facilities, drinking water plants, and gas/oil/propane storage facilities.

46.02.08 Dangerous Material

Any material or substance which may pose an unreasonable risk to the health and safety of individuals, property, water supplies and/or the environment if discharged or released. These materials or substances may be defined as explosive, blasting agent, flammable gas, non-flammable gas, combustible liquid, flammable solid, organic peroxide, oxidizer, poison, irritating material, etiologic agent, radioactive material, corrosive material, other regulated material.

46.02.09 Development

Any man-made change to improved or unimproved real estate, including but not limited to the construction of buildings or structures; the construction of additions, alterations or substantial improvements to buildings or structures; the placement of buildings or structures; mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment; the storage, deposition, or extraction of materials; and the installation, repair or removal of public or private sewage disposal systems or water supply facilities.

46.02.10 Existing Manufactured Home Park or Subdivision

A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured home are to be affixed (including, as a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.

46.02.11 Expansion to an Existing Manufactured Home Park or Subdivision
The preparation of additional sites by the construction of facilities for servicing the lots on which the manufacturing homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

46.02.10 Federal Emergency Management Agency (FEMA)
The federal agency that administers the National Flood Insurance Program (NFIP).

46.02.11 Finished Living Space
Finished living space can include, but is not limited to, a space that is heated and/or cooled, contains finished floors (tile, linoleum, hardwood, etc.), has sheetrock walls that may or may not be painted or wallpapered, and other amenities such as furniture, appliances, bathrooms, fireplaces and other items that are easily damaged by floodwaters and expensive to clean, repair or replace. A fully enclosed area below the base flood elevation (BFE) cannot have finished living space and needs to be designed for exposure to flood forces. These spaces can only to be used for parking, building access or limited storage.

46.02.12 Five Hundred (500) Year Area
Means the flood that has a .2% (1/5$^{th}$ of 1%) chance of occurring each year.

46.02.13 Flood or Flooding
A general and temporary condition of partial or complete inundation of normally dry land areas from either the overflow of inland or tidal waters, or the unusual and rapid accumulation or runoff of surface waters from any source.

46.02.16 Flood Boundary and Floodway Map (FBFM)
The official map of a community on which the Federal Emergency Management Agency (FEMA) has delineated the limits of the regulatory floodway and 100-year floodplain.

46.02.17 Flood Insurance Rate Map (FIRM)
The official map of a community on which the Federal Emergency Management Agency (FEMA) has delineated both the special flood hazard areas (100-year floodplain) and the insurance risk premium zones applicable to a community. FIRM published after January 1990 may also show the limits of the regulatory floodway.

46.02.18 Flood Insurance Study (FIS)

The official study of a community in which the Federal Emergency Management Agency (FEMA) has conducted a technical engineering evaluation and determination of local flood hazards, flood profiles and water surface elevations. The Flood Insurance Rate Maps (FIRM), which accompany the FIS, provide both flood insurance rate zones and base flood elevations, and may provide the regulatory floodway limits.

46.02.19 Floodproofing

Protective measures added to or incorporated in a building that is not elevated above the base flood elevation to prevent or minimize flood damage. "Dry floodproofing" measures are designed to keep water from entering a building. "Wet floodproofing" measures minimize damage to a structure and its contents from water that is allowed into a building.

46.02.20 Floodway

The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1.0) foot. For the purposes of these regulations, the term "Regulatory Floodway" is synonymous in meaning with the term "Floodway".

46.02.21 Functionally Dependent Use or Facility

A use or facility that cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities. The term does not include seafood processing facilities, long-term storage, manufacturing, sales or service facilities.

46.02.22 Highest Adjacent Grade (HAG)

The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

46.02.23 Historic Structure

Any structure that is: (a) Listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register; (b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historic significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic

district; (c) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or (d) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either: (1) By an approved state program as determined by the Secretary of the Interior or (2) Directly by the Secretary of the Interior in states without approved programs.

46.02.24 Lowest Floor

The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area is not considered a building's lowest floor, provided that such an area meets the design requirements specified in Section 46.05.03(A)(3) of this regulation.

46.02.25 Manufactured Home

A structure, transportable in one (1) or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term also includes park trailers, travel trailers, recreational vehicles and other similar vehicles or transportable structures placed on a site for one hundred and eighty (180) consecutive days or longer and intended to be improved property.

46.02.26 Manufactured Home Park or Subdivision

A parcel or contiguous parcels of land divided into two (2) or more manufactured home lots for rent or sale.

46.02.27 Market Value

Market value of the structure shall be determined by the property's tax assessment.

46.02.28 Mean Sea Level (MSL)

The North American Vertical Datum (NAVD) of 1988 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map (FIRM) are referenced.

46.02.29 New Construction

Structures for which the "start of construction" commenced on or after August 28, 2008, the effective date of the floodplain management regulations, and includes any subsequent improvements to such structures.

46.02.30 New Manufactured Home Park or Subdivision

A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date, August 28, 2008, of the floodplain management regulation adopted by the community.

46.02.31 Recreational Vehicle

A vehicle which is: (a) built on a single chassis; (b) four hundred (400) square feet or less when measured at the largest horizontal projection; (c) designed to be self-propelled or permanently towed by a light duty truck; and (d) designed primarily not for use as a permanent dwelling but as a temporary living quarters for recreational, camping, travel, or seasonal use.

46.02.32 Special Flood Hazard Area (SFHA)

The land in the floodplain within a community subject to a one (1) percent or greater chance of flooding in any given year. SFHAs are determined utilizing the base flood elevations (BFE) provided on the flood profiles in the Flood Insurance Study (FIS) for a community. BFEs provided on Flood Insurance Rate Map (FIRM) are only approximate (rounded up or down) and should be verified with the BFEs published in the FIS for a specific location. SFHAs include, but are not necessarily limited to, the land shown as Zones A, A1-30, AE, AO, AH, and the Coastal High Hazard Areas shown as Zones V, V1-30, and VE on a FIRM. The SFHA is also called the Area of Special Flood Hazard.

46.02.33 Start of Construction

For other than new construction or substantial improvements under the Coastal Barrier Resources Act (P.L. 97-348), includes substantial improvement and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, substantial improvement or other improvement was within one hundred and eighty (180) days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation, or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings,

piers, or foundations or the erections of temporary forms; not does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

46.02.34 Structure

A walled and roofed building which is principally above ground, including a manufactured home, a gas or liquid storage tank, or other man-made facilities or infrastructures.

46.02.35 Substantial Damage

Damage of any origin sustained by a structure, whereby the cost of restoring the structure to its pre-damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

46.02.36 Substantial Improvement

Any combination of repairs, reconstruction, rehabilitation, alterations, additions or other improvements to a structure, taking place during a ten (10) year period, in which the cumulative cost equals or exceeds fifty (50) percent of the market value of the structure as determined at the beginning of such ten (10) year period. This term includes structures that have incurred "substantial damage", regardless of the actual repair work performed. For purposes of this definition, "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 that alteration affects the external dimensions of the structure. The term does not, however, include either: (1) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or (2) Any alteration of a "historic" structure, provided that the alteration will not preclude the structure's continued designation as a "historic structure".

46.02.37 Variance

A grant of relief by a community from the terms of the floodplain management regulation that allows construction in a manner otherwise prohibited and where specific enforcement would result in unnecessary hardship.

46.02.38 Violation

Failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without required permits, lowest floor elevation documentation, flood-proofing certificates or required floodway encroachment calculations is resumed to be in violation until such time as that documentation is provided.

46.02.39 Water Surface Elevation

The height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929 (or other datum, where specified), of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

## 46.03 GENERAL PROVISIONS

### 46.03.01 AREAS TO WHICH THIS REGULATION APPLIES

This regulation shall apply to all Special Flood Hazard Areas (SFHA) within the City of Middletown.

### 46.03.02 BASIS FOR ESTABLISHING THE SPECIAL FLOOD HAZARD AREAS (SFHA)

The Special Flood Hazard Areas (SFHA) identified by the Federal Emergency Management Agency (FEMA) in its Flood Insurance Study (FIS) for the City of Middletown, dated August 28, 2008, and accompanying Flood Insurance Rate Maps (FIRM) and/or Flood Boundary and Floodway Maps (FBFM), dated August 28, 2008, and other supporting data, and any subsequent revisions thereto, are adopted by reference and declared to be a part of this regulation. Since mapping is legally adopted by reference into this regulation it must take precedence when more restrictive until such time as a map amendment or map revision is obtained from FEMA.

The SFHA includes any area shown on the FIRM as Zones A, A1-30, AE, AO, and AH, including areas designated as a floodway on a FIRM or FBFM. SFHAs are determined utilizing the base flood elevations (BFE) provided on the flood profiles in the Flood Insurance Study (FIS) for a community. BFEs provided on Flood Insurance Rate Map (FIRM) are only approximate (rounded up or down) and should be verified with the BFEs published in the FIS for a specific location. Also included are areas of potential, demonstrable or historical flooding, including any area contiguous with but outside the SFHA identified by FEMA, and where the

land surface elevation is lower than the base flood elevation (BFE) as shown in the FIS, and the area is not protected from flooding by a natural or man-made feature. The FIRM, FBFM and FIS are on file in the Department of Planning, Conservation and Development, 245 DeKoven Drive Middletown, Connecticut, 06457.

46.03.03 RESIDENTIAL DEVELOPMENT PROHIBITION

All new residential development is not allowed in any flood area or flood zone, that is reported in most recent FIS and FRIM maps.

46.03.04 NON-RESIDENTIAL DEVELOPMENT REQUIREMENT

All new non-residential development will require a special exception from the Planning and Zoning Commission. See Section 44 of the Zoning Code in addition to the requirement required in this Section (Section 46).

46.03.05 STRUCTURES ALREADY IN COMPLIANCE

A structure or development already in compliance with this regulation shall not be made non-compliant by any alteration, modification, repair, reconstruction or improvement and must also comply with other applicable local, state, and federal regulations. No structure or land shall hereafter be located, extended, converted, modified or structurally altered without full compliance with the terms of this regulation and other applicable regulations.

46.03.06 ABROGATION AND GREATER RESTRICTIONS

This regulation is not intended to repeal, abrogate or impair any existing easements, covenants, or deed restrictions. However, where this regulation and another ordinance, regulation easement, covenant or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

46.03.07 INTERPRETATION

In the interpretation and application of this regulation, all provisions shall be: considered as minimum requirements; 2) liberally construed in favor of the governing body, and; 3) deemed neither to limit nor repeal any other powers granted under State statutes.

46.03.08 WARNING AND DISCLAIMER OF LIABILITY

The degree of flood protection required by this regulation is considered the minimum reasonable for regulatory purposes and is based on scientific and engineering consideration and research. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This regulation does not imply or guarantee that land

outside the Special Flood Hazard Area or uses permitted in such areas will be free from flooding and flood damages. This regulation shall not create liability on the part of the City of Middletown or by any officer or employee thereof for any flood damages that result from reliance on this regulation or any administrative decision lawfully made thereunder. The City of Middletown, its officers and employees shall assume no liability for another person's reliance on any maps, data or information provided by the City of Middletown.

46.03.09 SEVERABILITY

If any section, subsection, paragraph, sentence, clause, or phrase of this regulation should be declared invalid for any reason whatsoever, such decision shall not affect the remaining portions of this regulation, which shall remain in full force and effect; and to this end the provisions of this regulation are hereby declared to be severable.

46.04 ADMINISTRATION

46.04.01 DESIGNATION OF THE LOCAL ADMINISTRATOR

The Director of Planning, Conservation and Development is hereby appointed to administer, implement and enforce the provisions of this regulation.

46.04.02 CERTIFICATION

Where required under this regulation, a Connecticut registered professional engineer or architect shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this regulation. Such certification must be provided to the Director of Planning, Conservation and Development.

46.04.03 ESTABLISHMENT OF THE FLOODPLAIN DEVELOPMENT PERMIT

A Floodplain Development Permit shall be required in conformance with the provisions of this regulation prior to the commencement of any development activities. Permits issued under this regulation shall expire if actual construction of a permitted structure does not commence within one hundred and eighty (180) days of the permit approval date.

46.04.04 PERMIT APPLICATION PROCEDURES

A floodplain development permit is hereby established for all construction and other development to be undertaken in Special Flood Hazard Areas in this community. Prior to any development activities, application for a floodplain development permit shall be made to the Director of Planning,

Conservation and Development on forms provided and may include, but not be limited to, plans in duplicate drawn to scale showing, at a minimum, the property lines and location of the parcel; the nature, location, dimensions, and elevations of the area in question; limit and extent of the 100-year floodplain and/or floodway boundary and base flood elevation(s); existing and proposed structures, fill, storage of materials, drainage facilities and the location of the foregoing. Specifically, the following information is required to be submitted to the Director of Planning, Conservation and Development:

A. Application Stage

The applicant shall provide at least the following information, where applicable. Additional information may be required on the permit application form.

1. Base flood elevation (BFE) for the site in question as determined in the FEMA Flood Insurance Study (FIS) or Flood Insurance Rate Map (FIRM). The FIS flood profiles provide more accurate BFE data than the FIRM. The extent of the 100-year floodplain and floodway must be depicted with a boundary line on any site plans and shown in relation to existing and proposed structures or development;
2. Elevation in relation to mean sea level of the proposed lowest floor, including basement, of all new construction, substantial improvements or repairs to structures that have sustained substantial damage;
3. Elevation in relation to mean sea level to which any non-residential new construction, substantial improvements or repair to structures that have sustained substantial damage will be dry flood-proofed;
4. Description of the extent to which any watercourse will be altered or relocated as a result of the proposed development. Computations by a licensed professional engineer must be submitted that demonstrate that the altered or relocated segment will provide equal or greater conveyance than the original stream segment. The applicant must submit any maps, computations or other materials required by the Federal Emergency Management Agency (FEMA) in order to officially amend or revise the Flood Insurance Rate Map. The applicant must pay any fees or other costs assessed by FEMA for this purpose. The applicant must also provide assurances that the conveyance capacity of the altered or relocated stream segment will be maintained;

5. A statement and supporting documentation (all costs of project, market value of structure, etc.) verifying that the proposed alterations to an existing structure meets or does not meet the criteria of the substantial improvement and/or substantial damage definition. If a development meets the definition of substantial improvement and/or substantial damage, the structure must be brought into compliance with all floodplain regulations as if it was new construction;

6. Where applicable the following certifications by a Connecticut registered engineer or architect are required, and must be provided to the Director of Planning, Conservation and Development. The design and methods of construction must be certified to be in accordance with accepted standards of practice and with the provisions of Section 46.05.03.
   (a) Non-residential flood-proofing must meet the provisions of Section 46.05.03(A)(2);
   (b) Fully enclosed areas below the base flood elevation (BFE) must meet the minimum design criteria in Section 46.05.03(A)(3);
   (c) No (0.00) increase in floodway water surface elevations are allowed. Any development in a floodway must meet the provisions of Section 46.05.03(D);
   (d) Support structures and other foundation members shall be certified by a registered professional engineer or architect as designed in accordance with ASCE24, Flood Resistant Design and Construction.

B. Construction Stage

Upon completion of the applicable portion of construction, the applicant shall provide verification to the Director of Planning, Conservation and Development of the following as is applicable:

1. Lowest floor elevation shall be verified for:
   (a) A structure in Zones A, AE, A1-30, AO or AH is the top of the lowest floor (including basement). An elevation certificate prepared by a Connecticut licensed land surveyor, engineer or architect must be provided;
   (b) A non-residential structure which has been dry flood-

proofed is the elevation to which the flood-proofing is effective (Note: For insurance purposes, a dry flood-proofed, non-residential structure is rated based on the elevation of its lowest floor unless it is floodproofed to one foot above the BFE.) A FEMA Floodproofing Certificate (FEMA Form 81-65) prepared by a Connecticut licensed engineer or architect must be provided;

2. Deficiencies detected by the review of the above listed shall be corrected by the permit holder immediately and prior to further progressive work being permitted to proceed. Failure to submit the survey or failure to make said corrections required hereby, shall be cause to issue a stop-work order for the project.

46.04.05 DUTIES AND RESPONSIBILITIES OF THE LOCAL ADMINISTRATOR

Duties of the Director of Planning, Conservation and Development shall include, but not be limited to:

A. Review all permit applications for completeness, particularly with the requirements of Section 46.04.04(A).

B. Review all permit applications to determine whether the proposed development and building sites will be reasonably safe from flooding.

C. Review all development permits to assure that the permit requirements of this regulation have been satisfied.

D. Notify the regional planning agency and affected municipality at least thirty-five (35) days prior to a public hearing if any change of regulation or use of a flood zone will affect an area within five hundred (500) feet of another municipality.

E. Notify the adjacent communities and the Department of Environmental Protection (DEP), Inland Water Resources Division, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency.

F. Where interpretation is needed as to the exact location of boundaries of the area of special flood hazard (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) the Director of Planning, Conservation and Development shall make necessary interpretation. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided Section 46.07(F) of the Zoning Code.

G. When base flood elevation data or floodway data have not been provided in accordance with Section 46.03.02 and Section 46.04.04, the Director of Planning, Conservation and Development shall determine the application to be incomplete and deny approval of the application without prejudice.

H. All records pertaining to the provisions of this regulation shall be obtained and maintained in the office of the Director of Planning, Conservation and Development.

46.04.05 RESPONSIBILITIES OF THE APPLICANT

The applicant shall be responsible for the following, in addition to requirement set forth in this Section (Section 46).

A. Seek all necessary permits that may be required by State and Federal Agencies, such permits include, but are not limited to, Stream Channel Encroachment Line (SCEL) Permit, Coastal Area Management (CAM) Permit, Water Diversion Permit, Dam Safety Permit, and Army Corps of Engineers 401 and 404 Permits.

B. Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.

C. Obtain and maintain the elevation (in relation to mean sea level) of the lowest floor (including basement) of all new construction, substantial improvements or repair to a structure that has sustained substantial damage. Obtain Elevation Certificates provided by the applicant and prepared by a Connecticut licensed land surveyor, engineer or architect containing this information and record it with the Director of Planning, Conservation and Development.

D. Obtain and maintain the elevation (in relation to mean sea level) to which the new construction, substantial improvement or repair to a structure that has sustain substantial damage has been flood-proofed. Obtain a FEMA Floodproofing Certificates for Non-Residential Structures (FEMA Form 81-65). Floodproofing Certificate provided by the applicant and prepared by a Connecticut licensed land surveyor, engineer or architect containing this information and record it with the Director of Planning, Conservation and Development.

E. When flood-proofing is utilized for a particular structure obtain certification from a registered professional engineer or architect, in accordance with Section 46.05.03(A)(2) and record it with the Director of Planning, Conservation and Development.

F. Require the applicant to provide base flood elevation data for all proposed development and subdivisions.

G. Upon completion of the permitted development and prior to issuance of a Certificate of Occupancy (CO), necessary as-built surveys (prepared by a Connecticut Licensed Professional as per Connecticut State Statutes) and engineering and architectural certifications shall be provided to the Director of Planning, Conservation and Development demonstrating compliance with the approved plans and standards set forth in Section 46.04.04.

## 46.05 PROVISIONS FOR FLOOD HAZARD REDUCTION

### 46.05.01 GENERAL STANDARDS

In all Special Flood Hazard Areas (SFHAs) the following provisions are required:

A. New construction, substantial improvements, and structures that have sustained substantial damage shall be constructed using methods and practices that minimize flood damage.

B. New construction, substantial improvements, and structures that have sustained substantial damage shall be constructed with materials and utility equipment resistant to flood damage.

C. New construction, substantial improvements, and repairs to structures that have sustained substantial damage shall be anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.

D. New construction, substantial improvements and repair to structures that have sustained substantial damage cannot be constructed or located entirely or partially over water.

E. Electrical, heating, ventilation, plumbing, air conditioning equipment, HVAC ductwork, and other service facilities, or any machinery or utility equipment or connections servicing a structure shall be elevated to or above the base flood elevation (BFE) to prevent water from entering or accumulating within the components during conditions of flooding. This includes, but is not limited to, furnaces, oil or propane tanks, air conditioners, heat pumps, hot water heaters, ventilation ductwork, washer and dryer hook-ups, electrical junction boxes, and circuit breaker boxes.

F. New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.

G. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system and discharges from the system into flood waters.

H. On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.

I. Above-ground storage tanks (oil, propane, etc.) which are located outside or inside of the structure must either be elevated above the base flood elevation (BFE) on a concrete pad, or be securely anchored with tie-down straps to prevent flotation or lateral movement, have the top of the fill pipe extended above the BFE, and have a screw fill cap that does not allow for the infiltration of flood water.

J. In any portion of a watercourse that is altered or relocated, the flood carrying capacity must be maintained. Notify adjacent communities and the Connecticut Department of Environmental Protection (DEP), Inland Water Resources Division prior to any alteration or relocation of a watercourse.

K. If any portion of a structure lies within the Special Flood Hazard Area (SFHA), the entire structure is considered to be in the SFHA. The entire structure must meet the construction requirements of the flood zone. The structure includes any attached additions, garages, decks, sunrooms, or any other structure attached to the main structure. Decks or porches that extend into a more restrictive flood zone will require the entire structure to meet the standards of the more restrictive zone.

L. If a structure lies within two or more flood zones, the construction standards of the most restrictive zone apply to the entire structure (i.e., V zone is more restrictive than A zone; structure must be built to the highest BFE). The structure includes any attached additions, garages, decks, sunrooms, or any other structure attached to the main structure. (Decks or porches that extend into a more restrictive zone will require the entire structure to meet the requirements of the more restrictive zone.)

M. Compensatory Storage. The water holding capacity of the floodplain, except those areas which are tidally influenced, shall not be reduced. Any reduction caused by filling, new construction or substantial improvements involving an increase in footprint to the structure, shall be compensated for by deepening and/or widening of the floodplain. Storage shall be provided on-site, unless easements have been gained from adjacent property owners; it shall be provided within the same hydraulic reach and a volume not previously used for flood storage; it shall be hydraulically comparable and incrementally equal to the theoretical volume of flood water at each elevation, up to and including the 100-year flood elevation, which would be displaced by the proposed project.

Such compensatory volume shall have an unrestricted hydraulic connection to the same waterway or water body. Compensatory storage can be provided off-site if approved by the municipality.

N. Equal Conveyance. Within the floodplain, except those areas which are tidally influenced, as designated on the Flood Insurance Rate Map (FIRM) for the community, encroachments resulting from filling, new construction or substantial improvements involving an increase in footprint of the structure, are prohibited unless the applicant provides certification by a registered professional engineer demonstrating, with supporting hydrologic and hydraulic analyses performed in accordance with standard engineering practice, that such encroachments shall not result in any (0.00 feet) increase in flood level (base flood elevation). Work within the floodplain and the land adjacent to the floodplain, including work to provide compensatory storage shall not be constructed in such a way so as to cause an increase in flood stage or flood velocity.

O. Dry Land Access. Each new non-residential development in the Special Flood Hazard Area (Zones A, A1-30, AE, AO, AH) shall have direct access to a walkway, driveway, or roadway whose surface elevation is not less than the base flood elevation (BFE) and such escape route shall lead directly out of the floodplain area.

46.05.02 STANDARDS FOR WATERCOURSES WITHOUT ESTABLISHED BASE FLOOD ELEVATIONS (UN-NUMBERED A ZONE), ADOPTED FLOODWAYS AND/OR FLOOD MAPPING

A. Any new development shall require base flood elevation (BFE) data be provide with any application for new construction, substantial improvement, repair to structures which have sustained substantial damage or other development in Zone A without a FEMA-published BFE (un-numbered A Zone). Any new development shall obtain, review and reasonably utilize any BFE and floodway data available from a federal, state or other source, including data developed for subdivision proposals, as criteria for requiring that new construction, substantial improvements, repair to structures which have sustained substantial damage or other development in un-numbered A Zones on the community's Flood Insurance Rate Map (FIRM) meet the standards in Section 46.04.04 and Section 46.05.03. If no BFE can be determined, the lowest floor, including basement, must be elevated to two (2) feet above the highest adjacent grade next to the structure.

B. When BFEs have been determined within Zones A1-30 and AE on FIRM but a regulatory floodway has not been designated, no new construction, substantial improvements, repair to structures which have sustained substantial damage or other development, including fill, shall be permitted which will increase the water surface elevation of the base flood more than one (1.0) foot at any point within the community when all existing and anticipated development is considered cumulatively with the proposed development.

C. When watercourses without FEMA-published floodways are local with a new development the community shall adopt a regulatory floodway based on the principle that the floodway must be able to convey the waters of the base flood without increasing the water surface elevation more than one (1.0) foot at any point within the community.

D. Any new construction, substantial improvements, repair to structures which have sustained substantial damage or other development in any area of potential, demonstrable or historical flooding within the community meet the standards in Section 46.04.04 and Section 46.05.03.

E. Under the provisions of 44 CFR Chapter 1, Section 65.12, of the National Flood Insurance Program regulations, a community may approve certain development in Zones A1-30, AE, AH, on the community's FIRM which increases the water surface elevation of the base flood by more than one (1.0) foot, provided that the community first completes all of the provisions required by Section 65.12.

46.05.03 SPECIFIC STANDARDS

A. Construction Standards in Special Flood Hazard Areas (SFHA), Zones A, A1-30, AE.

1. Residential Construction- All substantial improvements, and repair to structures that have sustained substantial damage which are residential structures shall have the bottom of the lowest floor, including basement, elevated one foot above the base flood elevation (BFE). Electrical, plumbing, machinery or other utility equipment that service the structure must be elevated to or above the BFE. All new construction residential shall not be allowed in the SFHA.

2. Non-Residential Construction- All new construction, substantial improvements, and repair to structures that have sustained substantial damage which are commercial, industrial or non-residential structures shall:

   (a) Have the bottom of the lowest floor, including basement, elevated one foot above the base flood elevation (BFE); or

   (b) In lieu of being elevated, non-residential structures may be dry flood-proofed to one (1) foot above the BFE provided that together with all attendant utilities and sanitary facilities the areas of the structure below the required elevation are watertight with walls substantially impermeable to the passage of water, and provided that such structures are composed of structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. A Connecticut registered professional engineer or architect shall review and/or develop structural design specifications and plans for the construction, and shall certify that the design and methods of construction are in accordance with acceptable standards of practice for meeting the provisions of this section. Such certification shall be provided to the Director of Planning, Conservation and Development on the FEMA Floodproofing Certificate, Form 81-65.

   (c) Electrical, plumbing, machinery or other utility equipment that service the structure must be elevated to or above the BFE.

3. Fully Enclosed Areas Below The Base Flood Elevation (BFE) are prohibited for all new construction, substantial improvements, or repairs of substantial damage to residential or non-residential structures. These areas are formed by solid foundation wall below the base flood elevation that are designed to allow for the automatic entry and exit of flood waters and do not contain finished living space.

B. Manufactured (Mobile) Homes and Recreational Vehicles (RVs).

1. Manufactured (Mobile) Homes and Recreational vehicles (RVs) are prohibited in all Special Flood Hazard Areas (SFHAs). This includes SFHAs outside a manufactured home park or subdivision, in a new manufactured home park or subdivision, in an expansion to an existing manufactured home park or subdivision, or on a site in an existing park which a manufactured home has incurred substantial damage as a result of a flood.

C. Floodways

Located within Special Flood Hazard Areas (SFHA) are areas designated as floodways on the community's Flood Insurance Rate Maps (FIRM) or Flood Boundary and Floodway Maps (FBFM). Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles and has erosion potential, no encroachments, including fill, new construction, substantial improvements, repairs to substantially damaged structures and other developments shall be permitted unless certification, with supporting technical data, by a Connecticut licensed professional engineer is provided demonstrating that encroachments shall not result in any (0.00 feet) increase in flood levels during occurrence of the base flood discharge. Fences in the floodway must be aligned with the flow and be of an open design. A permit may be given which allows encroachments resulting in increases in base flood elevations provided the community first obtains a conditional floodway revision by meeting the requirements of C.F.R. 44, Chapter 1, Subsection 65.12.

D. Standards for Development in Areas of Shallow Flooding (Zones AO and AH). Located within the Special Flood Hazard Areas (SFHA) are areas designated as shallow flooding areas (AO and AH Zones). These areas have flood hazards associated with base flood depths of one (1) to three (3) feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate. In AO and AH zones, the following provisions apply:

1. For residential structures, all new construction, substantial improvements and repair to structures that have sustained substantial damage shall have the lowest floor, including basement, elevated to one foot above the depth number specified on the Flood Insurance Rate Map (FIRM), in feet,

above the highest adjacent grade. If no depth number is specified, the lowest floor, including basement, shall be elevated, at least three (3) feet above the highest adjacent grade. All new construction residential shall not be allowed in the Zones AO and AH.

2. For non-residential structures, all new construction, substantial improvements and repair to structures that have sustained substantial damage shall:

   (a) Have the lowest floor, including basement, elevated to one foot above the depth number specified on the Flood Insurance Rate Map (FIRM), in feet, above the highest adjacent grade. If no depth number is specified, the lowest floor, including basement, shall be elevated at least three (3) feet above the highest adjacent grade; or

   (b) Together with attendant utility and sanitary facilities be completely flood-proofed to or above the depth number, in feet, specified on the FIRM above the highest adjacent grade, or if no depth number is specified at least three (3) feet above the highest adjacent grade, so that any space below that level is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. Designs for complying with this requirement must be certified by either a Connecticut licensed professional engineer or architect.

3. On-site drainage for all proposed structures in AO and AH Zones located on slopes shall provide adequate drainage paths to guide flood waters around and away from such structures.

E. Critical facilities are prohibited in all Special Flood Hazard Areas (SFHA).

F. Standards for the Placement of Fill in the Special Flood Hazard Area, Zones A, A1-30 and AE. The following standards apply to all fill activities in the Special Flood Hazard Area:

1. Fill material, upon which structures will be constructed or placed, must be compact to 95 percent of the Maximum Dry Density obtainable with the Standard Proctor Test method according to the ASTM Standard D-698 or an acceptable equivalent method. Fill soils must be fine-grained soils of low permeability, such as those classified as CH, CL, SC, or ML according to ASTM Standard D-2487, Classification of Soils for Engineering Purposes.
2. Fill slopes shall not be steeper than one foot vertical to two feet horizontal.
3. Adequate protection against erosion and scour is provided for fill slopes. When expected velocities during the occurrence of the base flood of five feet per second armoring with stone or rock protection shall be provided. When expected velocities during the base flood are five feet per second or less protection shall be provided by covering them with vegetative cover.
4. Fill shall be composed of clean granular or earthen material. Fill material must be homogeneous and isotropic. The soil must be all of one material and the engineering properties must be the same in all directions.

G. Prohibited Uses. The following uses are prohibited in the Special Flood Hazard Area (SFHA):

1. Storage or processing of dangerous materials.
2. Critical Facilities.
3. The storage of materials or equipment that, in time of flooding, could become buoyant and pose an obstruction to flow in identified floodway areas is prohibited. Construction materials and inventory at lumberyards, building supply centers, manufacturing facilities, and landscaping or garden supply stores are included. Storage of material or equipment not otherwise prohibited shall be firmly anchored to prevent flotation or lateral movement.

46.05 <u>DESIGN STANDARDS FOR SUBDIVISION PROPOSALS</u>

If a proposed subdivision, including the placement of a manufactured home park or subdivision, is located in or has portions located in a Special Flood Hazard Area (SFHA) the following requirements shall apply:

46.06.01 All subdivision proposals shall be consistent with the need to minimize flood damage;

46.06.02 All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage;

46.06.03 All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards; and

46.06.04 In all special flood hazard areas where base flood elevation (BFE) data is not available, the applicant shall provide a hydrologic and hydraulic engineering analysis performed by a Connecticut licensed professional engineer that generates BFEs for all subdivision proposals and other proposed development, including manufactured home parks and subdivisions. The applicant shall provide BFE data for all subdivision proposals, including manufactured home parks and subdivisions, as per Section 46.04.06(H).

46.06.05 All subdivision proposals shall provide the boundary of the SFHA, the floodway boundary, and base flood elevation.

46.06.06 Approval shall not be given for streets within a subdivision which would be subject to flooding. All street surfaces must be located at or above the base flood elevations.

46.06.07 In subdivisions, all proposed lots or parcels that will be future building sites shall have a minimum buildable area outside the natural (non-filled) 100-year floodplain. The buildable area shall be large enough to accommodate any primary structures and associated structures such as sheds, barns, swimming pools, detached garages, on-site sewerage disposal systems, and water supply wells, if applicable.

46.07 <u>ENFORCEMENT</u>

46.07.01 Each Floodplain Development Permit shall authorize, as a condition of approval, the Zoning and Wetlands Enforcement Officer to make regular inspections of the subject property. The Zoning and Wetlands Enforcement Officer is also authorized to inspect any property in a Special Flood Hazard Area (SFHA) where it appears that violations of these regulations may be taking place.

If the Zoning and Wetlands Enforcement Officer finds that any person is undertaking any construction, substantial improvement, filing, or any other

activity or maintaining a condition which in violation of these regulations, the Zoning and Wetlands Enforcement Officer shall:

A. Issue a written order by certified mail, return receipt requested, to the subject property owner, ordering that the activity cease and ordering the property owner to either seed to obtain a Floodplain Development Permit prior to continuing with the activity or, if appropriate, ordering that all violations and/or obstructions be removed from the Special Flood Hazard Area (SFHA) immediately.

B. Notify the Building Inspector and request that any floodplain development permit(s) in force be revoked or suspended and that a stop work order be issued.

C. The Zoning and Wetlands Enforcement Officer may suspend or revoke a Floodplain Development Permit if it is found that the applicant has not complied with the terms, conditions or limitations set forth in the permit or has exceeded the scope of work as set forth in the application including application plans. Prior to revoking any permit, the Zoning/Wetlands Enforcement Officer shall issue notice to the permittee, personally or by certified mail, return receipt requested, setting forth the facts or conduct which warrants the intended action.

D. Failure to comply with any written order issued under this section shall be considered a violation of these regulations and is subject to the penalties described in Section 46.08.

E. In the event violations or obstructions are not promptly removed from the Special Flood Hazard Area (SFHA), the Zoning and Wetlands Enforcement Officer may take necessary corrective action allowed by the City Ordinance, Connecticut Statues and/or Federal Regulations, or may notify the Connecticut Department Environmental Protection, or may direct the Director of Public Works to cause such work to be done and to place a lien against the property.

F. Any person subjected to enforcement action pursuant to this regulation, may appeal any requirement, decision, determination of the Zoning and Wetlands Enforcement Officer to the Zoning Board of Appeals. Such person shall provide such information as necessary including appropriate certifications from a registered professional engineer or architect in order to substantiate the claim that the requirement, decision, or determination of the Zoning and

Wetlands Enforcement Officer was in error or unwarranted.

G. Nothing contained herein shall prevent the owner of a residential dwelling, commercial or industrial building existing at the time off the adoption of regulation from repairing, replacing or restoring said building or the components thereof to substantially the same character and form as existed at the time of such adoption.

(Section amended effective 3/2/09)

46.08 PENALTIES FOR VIOLATION

Any violation of the provisions of this regulation or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grant of variances or special exceptions, shall constitute a misdemeanor. Any person who violates this regulation or fails to comply with any of its requirements shall, upon conviction thereof, be fined a penalty of $250.00 per day and in addition shall pay all costs and reasonable legal fees involved in the case. Nothing herein contained shall prevent the City of Middletown from taking such lawful action as is necessary to prevent or remedy any violation.

(Entire section amended effective 8/28/08)

46.09 VARIANCE PROCEDURES

Section 53.07 of the Zoning Code provides the requirements for applying for a variance to the Middletown Zoning Code. A request to receive a variance from Section 46 or any part of Section 46, will require the following additional listed in this section in order for a variance to be granted. The City of Middletown shall maintain all records of all appeal actions and report any variances to the Federal Emergency Management Agency (FEMA) upon request.

46.09.01 SPECIFIC SITUATION VARIANCES

A. Buildings on a Historic Register-Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places, the State Inventory of Historic Places, or any locally-adopted historic district with regard to the procedures set forth in the remainder of this section and provided the proposed reconstruction, rehabilitation or restoration will not result in the structure losing its historic designation.

B. Functionally Dependent Use or Facility-Variances may be issued for new construction and substantial improvements and other development necessary for the conduct of a functionally dependent use or facility provided the structure or other development is protected by methods that minimize flood damage, creates no additional threat to public safety and meet all the requirements of Section 46.05.

C. Floodway Prohibition-Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

46.09.02 CONSIDERATIONS FOR GRANTING OF VARIANCES

The Zoning Board of Appeals shall consider all technical evaluations, all relevant factors, all standards specified in other section 46 of the Zoning Code and the items listed below as 46.09.02(A)-46.09.02(K). Upon consideration of these factors and the purposes of this regulation, the Zoning Board of Appeals may attach such conditions to the granting of variances as it deems necessary to further the purposes of this regulation.

A. The danger that materials may be swept onto other lands to the injury of others;
B. The danger to life and property due to flooding or erosion damage;
C. The susceptibility of the proposed facility and its contents to flood damage and the effects of such damage on the individual owner;
D. The importance of the services provided by the proposed facility to the community;
E. The necessity of the facility to waterfront location, in the case of a functionally dependent facility;
F. The availability of alternative locations not subject to flooding or erosion damage for the proposed use;
G. The compatibility of the proposed use with existing and anticipated development;
H. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
I. The safety access to the property in times of flood for ordinary and emergency vehicles;
J. The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and
K. The cost of providing governmental services during and after flooding conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electric and water systems, and streets and bridges.

46.09.03 CONDITIONS FOR VARIANCES

A. Variances shall only be used upon a determination that the variance is the minimum necessary to afford relief considering the flood hazard; and in the instance of a historical building, a determination that the variance is the minimum necessary as not to destroy the historic character and design of the building and result in the loss of historic designation of the building. Variances pertain

to a piece of property and are not personal in nature. A properly issued variance is granted for a parcel of property with physical characteristics so usual that complying with the regulation would create an exceptional hardship to the applicant or the surrounding property owners. Those characteristics must be unique to that property and not be shared by adjacent parcels. For example, economic or financial hardship is not sufficient cause for a variance, nor are inconvenience, aesthetic considerations, physical handicaps, personal preferences or disapproval of one's neighbors.

B. Variances shall only be used upon (i) a showing of good and sufficient cause, (ii) a determination that failure to grant the variance would result in exceptional hardship, and; (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisance, damage the rights or property values of other persons in the area, cause fraud on or victimization of the public, or conflict with existing local laws, ordinances or regulations. Only hardships that are based on unusual or unique physical characteristics of the property in question, characteristics that are not shared by adjacent parcels, shall quality to meet subsection (ii) above. Claims of hardship based on the structure, on economic gain or loss, or on personal or self-created circumstances are not sufficient causes for the granting of a variance.

C. No variance may be issued within a regulatory floodway that will result in any increase in the 100-year flood levels. A variance may be issued for new construction, substantial improvements and other development necessary for the conduct of a "functionally dependent use" provided that there is good and sufficient cause for providing relief; and the variance does not cause a rise in the 100-year flood level within a regulatory floodway. The structure and other development must be protected by methods that minimize flood damages.

D. Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with the lowest floor elevation below the base flood elevation (BFE) and the elevation, and that the cost of flood insurance will be commensurate with the increased risk resulting from the lowest floor elevation.

(Section added effective 3/2/09)

## SECTION 47 SWIMMING POOLS

47.00 No swimming pool shall be constructed or operated in any zone, whether an accessory use or as a principal use, unless it complies with the following conditions and requirements

47.01 EXCLUSIVE PRIVATE USE IN ALL RESIDENTIAL ZONES

If a swimming pool is located in any Residential Zone, the pool shall be intended and used solely for the enjoyment of the occupants of the principal building of the property on which it is located and their quests

47.02 DISTANCE REQUIREMENTS

The swimming pool, if accessory to a residential use, may be located anywhere on the premises except in a required front yard, provided it shall not be located closer than ten (10 feet to any property line of the property on which located; provide further that pump and filter installations shall be located not closer than ten (10) feet to any property line.

47.03 FENCING

See latest version of the Connecticut State Building Code.

(Amended effective 10/15/94)

47.04 LIGHTING

Any lighting used to illuminate the swimming pool area shall be so arranged as to deflect the light from adjoining properties.

47.05 ZONING CERTIFICATE REQUIRED

No person, firm or corporation shall construct or install a swimming pool or make any alterations thereon or in the appurtenances thereof without having first submitted an application and plans thereof for approval.

## SECTION 48 SIGNS

### 48.00 GENERAL REQUIREMENTS

The following regulations and standards are established to assure compatibility of signs with surrounding land usage, to conserve property values in all zones and to strengthen the economy of the City. All signs hereafter erected or maintained, except official traffic and street signs, shall conform with the provisions of this section.

### 48.01 DEFINITION AND REGULATIONS

For the purposes of this section, certain terms or words used herein shall be interpreted in accordance therein in the regulation of signs.

#### 48.01.01 SIGNS

Any letters, figures, design, symbol, trademark or illuminating device intended to attract attention to any place, subject, person, firm, corporation, public performance, article, machine or merchandise whatsoever and painted, printed or constructed and displayed in any manner whatsoever out of doors for recognized advertising purposes. However, this shall not include any official court or public notices for the flag, emblem or insignia of a government, school or religious group when displayed for official purposes.

#### 48.01.02 SIGN, AREA OF

The entire area within a continuous perimeter, including the extreme limits of actual copy area. It does not include any structural or framing elements lying outside the limits of such sign and not forming an integral part of the display. Only one side of a double-faced sign shall be used in computing the total area of said double-faced sign.

The area of a sign composed of characters or words attached directly to a large, uniform building wall surface shall be the smallest rectangle, which encloses the whole group.

#### 48.01.03 SIGN, ANIMATED

A sign, which rotates, moves or in any way stimulates motion; except for clocks.

#### 48.01.04 SIGN, BUSINESS

A sign, which directs attention only to a business, commodity, service, activity or product sold, conducted or offered upon the premises where such sign is located.

48.01.05 SIGN, FLASHING

An illuminated sign on which the artificial light is not kept stationary or constant in intensity at all times when in use. Illuminated signs, which indicate the time, temperature, date or similar public service information shall not be considered "flashing signs".

48.01.06 DELETED (effective 4/15/94)

48.01.07 SIGN, PROJECTING

A sign, which is attached to the building wall and which extends more than fifteen (15) inches from the face of such wall.

48.01.08 SIGN, TEMPORARY

A banner, pennant, poster or advertising display constructed of cloth, canvas, plastic sheet, cardboard, wallboard or other like materials and intended to be displayed for a limited period of time.

48.01.09 SIGN WALL

A sign which is attached to the wall of a building, with the face in a plane parallel to such wall, and not extending more than fifteen (15) inches from the face of such wall.

48.01.10 SIGN, DIRECTORY

A sign, which is extended to direct attention to non-residential land uses conducted or offered on different premises than those on which such sign is located.

48.01.11 SIGN, OFF-SITE ADVERTISING

A sign identifying or directing attention to a commercial activity, product, service, business, establishment, commodity or entertainment that is conducted, sold, rented, offered, or provided elsewhere than upon the same property and is not accessory to a use located on the property. (Added effective 1/22/03)

48.01.12 SIGN, HALO STYLE

A method of illumination that does not illuminate the lettering or logo of which it is enclosed and projects a small halo of light around the lettering or logo onto the mounted surface of which it is attached. (Added effective 11/7/03)

48.01.13 SIGN, STENCIL-CUT

A method of illumination that illuminates only the lettering or logo and the remaining face of the sign is not illuminated or opaque in any manner. Also known as channel cut. (Added effective 11/7/03)

48.02 EXEMPTIONS

The following types of signs are exempted from all provisions of this section, except for construction and safety regulations and the following requirements:

48.02.01 PUBLIC SIGNS

Signs of a non-commercial nature and in the public interest erected by, or on the order of, a public officer in the performance of his public duty, such as safety signs, danger signs, trespassing signs, traffic signs, memorial plaques, signs of historical interest and the like.

48.02.02 INSTITUTIONAL SIGNS

Signs setting forth the name or any simple announcement for any public, charitable, educational or religious institution located entirely within the premises of that institution, up to an area of twenty-four (24) sq. ft. Such signs may be illuminated in accordance with the regulations contained hereinafter. If building mounted, these signs shall be flat wall signs and shall not project above the roofline. If ground mounted, the top shall be no more than six (6) feet above ground level.

48.02.03 INTEGRAL SIGNS

Names of building, dates or erection, monumental citations, commemorative tablets and the like when carved into stone, concrete or similar material or made of bronze, aluminum, or other permanent type construction and made an integral part of the structure.

48.02.04 PRIVATE TRAFFIC DIRECTION SIGNS

Signs directing traffic movement onto a premise or within a premise, not exceeding three (3) sq. ft. in area for each sign. Illumination of these signs shall be permitted in accordance with the regulations contained hereinafter. Horizontal directional signs on and flush with paved areas are exempt from these standards.

48.02.05 SMALL SIGNS

Signs not exceeding two (2) sq. ft. in area, attached flat against the building, stationary and not illuminated, announcing only the same name and occupation of building tenant.

48.02.06 RENTAL SIGNS

Signs on the premises announcing rooms for rent, table board, apartment or house for rent and not exceeding four (4) sq. ft. in area.

48.02.07 VEHICLE SIGNS

Signs on vehicles of any kind, provided the sign is painted or attached directly to the body of the original vehicle and does not project or extend beyond the original manufactured body proper of the vehicle.

48.02.08 DELETED (section deleted effective 11/30/04)

48.03 TEMPORARY SIGNS

The following signs shall be permitted anywhere within the City and shall not require a permit.

48.03.01 CONSTRUCTION SIGNS

Signs which identify the architects, engineers, contractors and other individuals, or firms involved with the construction, but not including any advertisement of any product, and signs announcing the character of the building enterprise for which the building is intended, during the construction period, to a maximum area of twelve (12) sq. ft. for each firm. The signs shall be confined to the site of the construction and shall be removed within thirty (30) days of the beginning of the intended use of the project.

48.03.02 REAL ESTATE SIGNS

Signs advertising the sale, rental or lease of the premises or part of the premises on which the signs are displayed, up to a total area of twelve (12) sq. ft. Such signs shall be removed within fourteen days of the sale, rental or lease.

48.03.03 STREET BANNERS

Banners advertising a public entertainment or event, if specifically approved by the Commission, and only for locations designated by the Commission during fourteen (14) days before and seven (7) days after the event.

48.03.04 SHOW WINDOW SIGNS

Signs in a window display of merchandise when incorporated with such a display. They need not be related in content with the display.

48.03.05 PUBLIC HEARING NOTICE

Notice of any public hearing for any reason authorized by this Code shall be given as required by the Connecticut General Statutes, as amended. Additionally, the applicant shall cause to be posted a sign or signs and written notice to be given notifying the public of a public hearing related to an application for all such hearings. The signs and the written notice shall be the responsibility of the applicant and posted subject to the following conditions:

1.) The sign shall be posted seven (7) calendar days prior to the date of the public hearing Eight (8) days if the seventh day is a holiday) and shall not be removed by the applicant until the hearing is closed;

2.) The sign shall be firmly secured to the ground or structure to prevent vandalism and shall be along the most visible portion of road frontage. The sign shall be erected in a manner so as to be visible to traffic moving in both directions and be perpendicular to the roadway, except in the case of signs at the end of cul-de-sacs. If there is more than one frontage of the parcel on an improved street or streets, one sign for each frontage shall be posted; (Section amended effective 7/15/2001)

3.) The composition of the sign shall be of a durable material (wood or metal) forty (40) inches by forty (40) inches in size painted white with black lettering having a minimum height of four (4) inches with a letter stroke of one (1) inch;

4.) The signs shall advertise the date, time, and place of the public hearing;

5.) The Zoning Enforcement Officer shall file a report with the Commission that the sign was observed in place in accordance with the above;

6.) An applicant who fails to display the sign shall be required to withdraw and file a new application and fee;

7.) The sign shall be taken down one (1) week after the public hearing is closed;

8.) Any sign not removed shall be ordered to be removed by the Zoning Enforcement Officer, who is authorized to rescind and revoke any approval for non compliance;

9.) Applications shall include a list, prepared by the applicant, of the names and mailing addresses of the owners of all parcels of land included within the application and abutting the subject property as shown on the most recent records on file in the City Tax Assessor's Office (or the actual owners of record if otherwise known by the applicant). If a condominium project abuts such property, the applicant shall list the owners of such units which abut such property directly and the condominium association (all owners not required). The applicant shall mail notification of said pending application to at least one (1) owner of each such property not more

than fifteen (15) days or less than ten (10) days before the public hearing, by transmitting the text of the public hearing notice is provided by the Commission.

10.) Evidence of such mailing, in the form of United States Post Office Certificates of Mailing, shall be submitted to the Planning Office along with the above said list of property owners, not less than five (5) calendar days prior to the hearing date. Failure to comply with any of the procedures required herein, shall be deemed valid basis for denial of the subject request; and

11.) These requirements shall apply to any amendment proposed by the Commission unless the proposal would require the mailing of greater than fifty (50) certified letters or the posting of more than two (2) signs. (Section amended effective 10/1/96)

| USE | NUMBER PERMITTED | MAXIMUM AREA | LOCATION | ILLUMINATION |
|---|---|---|---|---|
| SINGLE FAMILY DWELLING | 1 | 2 sq. ft. | ON A BUILDING OR FREE STANDING | EXTERNAL |
| RESIDENTIAL UNIT BUSINESS PURSUIT | 1 | 2 sq. ft. | ON A BUILDING OR FREE STANDING | EXTERNAL |
| ATTACHED DWELLING UP TO 10 UNITS | 1 | 6 sq. ft. | ON BUILDING OR FREE STANDING | EXTERNAL |
| ATTACHED DWELLING 11 OR MORE UNITS | 1 | 12 sq. ft. | ON BUILDING OR FREE STANDING | INTERNAL OR EXTERNAL |
| INSTITUTIONAL (CHURCH, SCHOOL, LIBRARY, MUSEUM, HOSPITAL, CLUB, SIMILAR USES) | 1 per street frontage | 24 sq. ft. per sign | ON BUILDING OR FREE STANDING | EXTERNAL |
| OFFICE (COMMERCIAL OR PRO-FESSIONAL) | 1 per street frontage | 1 sq. ft. per bldg length on street up to 200 sq. ft. maximum | ON BUILDING OR FREE STANDING | INTERNAL OR EXTERNAL |
| COMMERCIAL (INTERNAL USE) | 3 per street frontage | 2 sq. ft. per bldg length on street up to 300 sq. ft. max. | ON BUILDING OR FREE STANDING | INTERNAL OR EXTERNAL |
| COMMERCIAL (EXTERIOR USE i.e. AUTO SALES, GAS STATIONS) | 6 | 2 sq. ft. lot frontage up to 300 sq. ft. maximum | ON BUILDING OR FREE STANDING | INTERNAL OR EXTERNAL |
| INDUSTRIAL | 2 per street frontage | 2 sq. ft. per bldg length on street up to 300 sq. ft. max. | ON BUILDING OR FREE STANDING | INTERNAL OR EXTERNAL |

48.04.01 DELETED (effective 4/15/94)

48.05 STRUCTURAL REQUIREMENTS

All signs shall comply with the pertinent requirements of the Public Works Ordinance of the City of Middletown.

48.06 NON-CONFORMING SIGNS

Signs existing at the time of the enactment of this ordinance and not conforming to its provisions but which were constructed in compliance with previous regulations shall be regarded as non-conforming signs. No non-conforming sign shall be altered by increasing its overall dimensions. If damaged to the extent of one-half of its fair market value, no non-conforming sign shall be reconstructed; provided that nothing contained herein shall prevent customary maintenance, repainting or posting of such signs or structures.

48.07 SIGN PROHIBITIONS AND GENERAL REQUIREMENTS

The construction of any type of sign shall conform to the requirements of the State Building Code and to any other municipal regulation governing the construction of signs. In addition, the following prohibitions and general requirements shall apply in all zones:

A. No sign shall be attached to or obstruct any window, door, stairway or other opening intended for ingress or egress or for needed light and ventilation. Nor shall any sign be attached to any tree, fence or utility pole or be permitted to be painted directly upon the wall or roof of any building.

B. All signs and components thereof shall be kept in good repair and in a safe, neat, clean and attractive condition.

C. Any sign now or hereafter existing which no longer advertises a bonafide business conducted, product sold or activity or campaign being conducted shall be taken down and removed by the owner, agent or person having the beneficial use of the building, structure or lot upon which such signs may be found within thirty (30) days of such cessation.

Upon failure to comply within the time specified, the Building Inspector is hereby authorized to order removal of such sign, within thirty (30) days of a written notification, and expense incident thereto shall be paid by the owner of the building, structure or lot to which such sign is attached.

D. Illuminated signs, including outdoor advertising signs, shall be so designed and arranged that any external illumination is so effectively shielded that no direct light is cast into residential areas or public streets. External lighting fixtures shall be permitted on indirectly illuminated signs, provided such fixtures do not extend more than six (6) feet beyond the sign structure and are so attached that such illumination is directed upon the face of the sign and does not reflect directly into adjoining property of public streets.

E. The exposed back of every outdoor advertising sign shall be effectively shielded from view from a public street by: an adjacent building; other substantial facing on the same structure of comparable size; or by the painting of such exposed back by the sign owner in a neutral color. Unless topographically impractical, new or rebuilt outdoor advertising ground structures shall be of the cantilever type to lessen possibility of unsightly "A: frame construction.

F. Neon lighting and tubing may be used on permitted signs, but it is not permitted to outline buildings or structures or ornamental features by use of exposed neon tubing, strings of lights or otherwise.

G. No flashing lights, moving parts or animated signs are permitted.

H. Signs may be located in the vertical faces of marquees but shall not project below the lower edge of the marquee. The bottom of marquee signs shall be no less than ten (10) feet above the sidewalk or grade at any point. No part of the sign shall project above the vertical marquee face.

I. No wall or projecting sign shall be located in such a manner as to obstruct the light and vision of a window, nor extend higher than forty-eight (48) inches above the roof or parapet line of the building to which attached.

J. No signs shall be attached to the roof, or painted on the roof, of any building.

K. Free standing signs shall not exceed ten (10) feet in overall height above ground level. (Amended effective 1/22/03)

L. All signs related to premises on which the sign is located shall be within the parcels property lines.

M. One projecting sign shall be permitted for each street frontage, for a commercial use, but the sign shall not project more than twenty-four (24) inches from the face of the building to which it is attached.

N. Directory signs may display a horizontal panel area not to exceed 1' X 4" for each land-use and may be placed between two vertical columns. Maximum height shall be 12 feet, maximum width 8 feet.

O. Free standing signs are not permitted in the Central Business (B-1) zone, with the exception of any design that is deemed architecturally compatible by the Design Review and Preservation Board. (Amended effective 10/31/06)

P. Projecting signs and awnings are permitted in the Central Business (B-1) zone subject to the approval of the Sidewalk Conformance Inspector and the Preservation/Design Review Board.
(Added effective 9/1/95)

Q. All off site advertising signs are prohibited.
(Added effective 1/22/03)

R. Internally illuminated signs are prohibited, with the exception of internal illumination that is deemed architecturally compatible by the Design Review and Preservation Board, such as "halo style" or "stencil-cut" signs. (Added effective 10/31/06)

ARTICLE V ADMINISTRATION AND ENFORCEMENT

SECTION 53 COMMISSION

53.01 COMMISSION

53.01.01 DUTIES

The Commission shall exercise and discharge the duties provided for it by this Code and are necessary to carry out the provisions of this Code.

53.01.02 POWERS LIMITED

Nothing contained in this Code will be deemed to authorize the Commission to modify any requirements of this Code, except as provided in specific cases in this Code.

53.02 SPECIAL EXCEPTIONS

Where provided for elsewhere in this Code, the Commission may, in appropriate cases, grant a special exception.

53.02.01 AUTHORIZATION

The Commission will hear and decide only such special exception as the Commission is specifically authorized to pass on by the terms of this Code; to decide such questions as are involved in determining whether special exceptions should be granted; and to grant special exceptions with such conditions and safeguards as are appropriate under this Code, or to deny special exceptions when not in harmony with the purpose and intent of this Code.

53.02.02 FINDINGS

A special exception will not be granted by the Commission unless and until:

A. A written application for a special exception is submitted indicating the subsection under which the special exception is sought; and such application is accompanied by the appropriate fees and documents listed in subsection 44.03.01 of this Code.

B. The Commission will make a finding that granting of the special exception will not adversely affect the public interest; that such special exception is authorized under a special subsection of this Code; and that satisfactory provisions and arrangements have been made concerning each of the findings listed under subsection 44.04 of this Code.

53.02.03 PROCEDURES

The procedures required for granting a special exception are provided for in subsection 44.02, 44.03, 44.04, 44.05 and 44.06 of this Code.

53.03 CONTINUOUS REVIEW OF CODE

The Commission and its staff will carry on a continuous review of the effectiveness and appropriateness of the Zoning Code and recommend such changes as seem fit.

53.04 NEW LOTS

The Commission will hear and decide applications for subdivision approval, as provided for by the General Statutes of Connecticut. In passing upon any such application, the Commission will be cognizant of the provisions of this Code.

53.05 MAINTENANCE OF ZONING MAP

The Commission and its staff will keep up to date the official Zoning Map and will keep the Town Clerk supplied with a current copy of such map.

53.06 APPEAL FROM DECISION OF COMMISSION

Appeals from decisions of the Commission may be made in accordance with the General Statutes. (Section amended eff. 10/15/97)

53.07 VARIANCES FROM THE ZONING CODE

Variances from the Zoning Code may be granted or denied through an application to the Zoning Board of Appeals made in accordance with the General Statutes.

(Section added effective 3/2/09)

54.00 ZONING ENFORCEMENT OFFICER

The Zoning and Inland Wetlands Enforcement Officer is designated as the enforcement officer of this Code. As a basis for executing enforcement the following duties shall be performed: (a) make on-site inspection as required to determine conformance with zoning regulations; (b) keep and maintain a log of all zoning approvals given or denied; (c) investigate all reports of zoning violations; (d) take appropriate actions to insure compliance with zoning regulations; (e) attend all meetings of the Commission; (f) give testimony or information to other commissions of the City when requested information is relative to zoning enforcement; (g) make a monthly report of activities to the Commission. (Effective date 4/16/87)

## SECTION 55 SITE PLAN APPROVAL REQUIREMENT

55.01 GENERAL

It shall be unlawful to construct, erect, enlarge, alter, or rebuild any structure or significantly modify any site or change any land-use or to apply for any required municipal permit unless such proposed development shall have received a certificate of zoning compliance or site plan approval as herein provided.

For the purpose of this Code a site plan is a drawing, which shows the location of a parcel of land in relationship to its contiguous territory in sufficient detail to locate it on the City Zoning Map, and also meets the specifications herein set forth.

A complete application to the Planning and Zoning Commission for subdivision, re-subdivision and special exception shall include an application, the required fee, plans and written approval, conditional approval, or denial obtained by the applicant of the final revised plans from the City of Middletown Departments of Health, Public Works, Water and Sewer, Police and Fire. The Planning and Zoning Commission is not bound by any departmental comment.

Further, no application for special exception, subdivision or re-subdivision shall be deemed complete without the submission of a notice of decision of an Inland Wetlands Permit as issued by the Middletown Inland Wetlands Agency, provided such a permit shall be required under regulations adopted by said Agency. Any plans submitted to the Commission shall conform, in all relevant respects, to those plans, which were approved, or modified and approved, by said Agency.

(Section amended effective 3/15/02)

55.02 PURPOSE

The purpose of the site plan is: (1) to provide an opportunity to assure that the requirements of this Code, and other pertinent City regulations, ordinances, inspections and procedures are met and; (2) where required, to provide an opportunity for participation in any proposal by various technical personnel and to also incorporate the value judgment of the Commission.

55.03 PROCEDURE

Proposals shall be considered in the following four categories, which are arranged in terms of increasing complexity.

Category (1) includes alterations, which do not change the size of the footprint or use of a building or structure or the site or, if served by well and septic, add additional bedrooms. Examples include re-roofing or residing a building or interior renovations. Proposals in this category shall be approved by the Building Inspector without an actual site plan being presented.

Category (2) includes all single and two family detached dwellings or any addition or accessory uses thereto which meet all Code requirements. Proposals in this category may be issued a certificate of zoning compliance by the Zoning Enforcement Officer and need not go through the formal site plan review process. Class A-2 surveys are required for single and two family dwellings and additions thereto and may be required for other proposals in this category. Proposals for decks, pools, sheds and other accessory uses may not require the submission of an A-2 survey but the applicant accepts all responsibility for adhering to the approved site plan.

Category (3) includes any proposal not in Categories 1 or 2, which meets all Code requirements and does not require the granting of a Special Exception. Examples of this category include new buildings and additions to existing buildings in a proper zone. Proposals in this category which add greater than 5,000 square feet of new construction and more than ten (10) new parking spaces shall be considered for site plan approval by the Commission. Any other proposal within this category shall be considered for site plan approval by the Director of Planning and the Zoning Officer. Class A-2 surveys are required for all proposals in this category.

Category (4) includes any proposal not in categories 1, 2 and 3 and further any proposal about which there is disagreement among any of the participants in categories 1, 2, or 3. Examples of this category include requests for Special Exception, lot line rearrangements and changes in non-conforming uses. Class A-2 Surveys are required for all proposals in this category, unless waived by the Commission. After processing as herein set forth, the site plan shall be considered for approval by the Commission and, if required, a public hearing shall be held in accordance with the Connecticut General Statutes, as amended. (Revised effective 4/15/94).

55.04 SITE PLAN REVIEW

For all uses requiring a Certificate of Zoning Compliance or Site Plan Approval, an application shall be submitted to the Planning and Zoning Office and shall include a minimum of six (6) sets of the following information, maps and plans. Category 4 projects will require twenty-one (21) sets of plans and supporting documentation.

In addition to other requirements, the site plan for projects in Category 3 or 4 and subdivisions shall be shown on at least one (1) print of the "Topography Map of the City of Middletown, Connecticut, Showing Drainage Systems and Inland Wetlands Superimposed" at the scale of 1" = 100', sheet 24' X 36', date of photography April 17, 1980, or a later revision.

A. Site Plan Map. The Site Plan Map shall illustrate the existing proposed development of the property and shall include the following information. All submitted plans shall be properly sealed as required by state statutes or the City of Middletown. For minor accessory uses in Category 2, these requirements may not apply.

1. General information.

   a. Name and address of the applicant and owner of record as listed on the Town's land records, and applicant's interest in property.

   b. Date and subsequent revision dates, north arrow, and numerical and graphical scale.

   c. A key map showing the subject property in relationship to adjoining and nearby streets, at a scale of 1 inch = 1,000 feet.

   d. A table or chart indicating the proposed number or amount and types of uses, lot area, lot width, yards, building height, coverage, floor area, parking spaces, landscaping, open spaces, wetlands and other elements as they relate to the requirements of these Regulations.

2. The property.

   a. The boundaries and area of the property and names of all abutting owners, including those across the street.

   b. Location, width, and purpose of all existing and proposed easements and rights-of-way on the property.

3. Building and uses.

   a. Location, dimensions, area, height and setbacks of all existing and proposed buildings, signs, fences, and walls.

b. Location of all existing and proposed uses and facilities not requiring a building such as but not limited to, swimming pools, tennis courts, light standards, tanks, transformers, and dumpsters.

4. Parking, loading, and circulation.

a. Location, arrangement, and dimensions of automobile parking spaces, aisles, vehicular drives, fire lanes, entrances, exits, and ramps.

b. Location, arrangement, and dimensions of loading docks, loading and unloading areas, including provisions for and access to areas for loading and storage of refuse and recyclable materials and type of screen or enclosure provided therefore.

c. Location and dimensions of pedestrian walkways, entrances, and exits.

d. Bridges for Vehicular Access to property. Signed and sealed plans shall be submitted by a Connecticut licensed structural engineer certifying that the proposed bridge will be capable of carrying H-20 loading all per ASHTO Standards. The load limit shall be prominently posted on the bridge. Once constructed, the owner of the bridge shall obtain the services of a structural engineer (at the owner's expense) once every five (5) years to inspect the bridge and certify to the appropriate Fire Chief and/or Marshal that the bridge remains capable of carrying the original design load. Such certification shall be submitted to the Public Works Engineering Division for review and comment.

Failure to comply will result in notification by the Fire Chief and/or Marshal to the owner, the mortgage holder and the homeowner's insurance company that the Fire Department shall not cross the bridge with the fire apparatus in the event of a fire. However, all other methods practical will be employed to fight the fire. (Section added eff. 3/1/98)

5. Signs and lighting.

a. Location, size, height, orientation and plans of all signs.

b. Location, size, height, orientation and design of any outdoor lighting.

1.) With the exception of public street lights, lighting shall be installed in such a manner as to insure the highest level of energy conservation and cost efficiency using the best technology available and be so shielded that the cone of light shall fall, substantially, within the perimeter of the property. Through the use of shielding and limitations upon intensity, all sources of ambient light traveling outward and upward, producing a sky slow, shall be reduced to the greatest extent possible without duly interfering with the intent and purpose of the outside lighting in the first instance.

2.) Illuminated graphics. Illuminated street graphics in addition to conforming to all other requirements of this section, shall be shielded in such a manner so that no direct source of light is cast into streets or residential properties. Illuminated street graphics shall not interfere with pedestrian or motorist vision. Said illumination shall not be reflective or phosphorescent and shall be in a steady nonfluctuating or nonundulating manner and placed in a manner that will not create a nuisance to the premises and interfere with traffic.

3.) Glare. All lighting shall be so hooded or shielded as to reflect the light in such a manner that no illumination source or glare creates a nuisance to any adjoining property or unreasonably interferes with the lawful use and enjoyment of any adjoining property.
(Section amended effective 4/15/97)

6. Utilities. Location, size, inverts, elevations, and design of all existing and proposed sanitary sewers, storm drainage, water supply facilities, septic tanks, leaching fields and refuse collection areas, as well as other underground utilities. Utility location, size and inverts in the street shall be shown to the limits of the property.

7. Existing and proposed contours with intervals of two (2) feet, spot elevations of building, end of driveway at street, and at driveways at back of walks, spot elevations at local low or high points, site drainage, water intercepting drains, location of footing drain system, elevation of footing drain at foundation, elevation of outlet invert in street, or discharge point.

8. Location of all existing wooded areas, watercourses, wetlands, rock outcrops, and other significant physical features, and, where appropriate, the mean high water line, the wetlands boundary, the flood hazard area, the aquifer boundary, slopes over 25%, and stream encroachment lines.

9. The approximate amount of earth products to be filled or removed from the site, if the amount exceeds 1,000 cubic yards.

10. Location, type, size, and species of shrubs, trees, or other planting and landscaping materials.

11. Location, general layout, type and size of buffer or landscape area, plant material, fencing, screening devices, decorative paving, or other materials proposed.

12. Location of existing trees with a trunk caliper of more than six (6) inches except in wooded areas where the foliage line shall be indicated.

13. Architectural Plans. For all new commercial buildings, unless waived by the Commission, the applicant shall submit preliminary architectural drawings showing elevations of all proposed buildings and structures, indicating schematic building floor plans, and indicating square footage by use.

14. Staging plan map. In cases where the applicant wishes to develop in stages, an overall site and staging plan indicating ultimate development for the entire property shall be submitted at the same scale as the Site Plan.

15. Sedimentation and erosion control plan. All applications shall contain the information required in Section 10.09, including:

    A. A statement explaining:
        (a) the proposed use of the facility;
        (b) the projected number of persons to be employed if an industrial use;

(c) the building area of a business or institutional use;

(d) the number of dwelling or housing units and a tabulation of units by number of bedrooms if a residential use;

B. DELETED (effective 10\15\94)

C. For proposed uses within watershed or aquifer areas, the Applicant shall submit the following information if the proposal is of category (2), (3), or (4) as defined in Section 55.03:

a. List of all chemical substances to be used or stored on the premises including but not limited to those needed for pest and plant control office uses, maintenance, cleaning, production, and raw material for wastewater treatment.

b. Estimated annual use and stored quantities of listed materials.

c. Description of procedures ensuring safe handling, storage and disposal of listed materials and waste products.

d. Response protocol for sudden or unsudden release of listed substances or by-products.

e. Employee training program for handling and use of listed materials and waste products.

f. Fuel storage requirements and measures ensuring safe handling and storage.

(Added effective 11\10\88.)

16. Other information. The applicant shall submit any other information deemed by the approving authority to be necessary to determine conformity with the intent of these regulations.

17. Exceptions. The Director of Planning with the concurrence of the appropriate department may make exceptions to the Site Plan Information required in this Section.

55.05 REVIEW PROCEDURE

The review procedure for proposals in Categories 2, 3, and 4 may include requests for comments from any of the following departments or agencies:

(1) Public Works including Building Division;
(2) Water and Sewer;
(3) Health;
(4) Police Department Traffic Division;
(5) Applicable Fire Department;
(6) Superintendent of Schools shall comment on all proposals in Categories 3 and 4 if within 500 feet of a city school; and
(7) Other technical agencies or organizations who may undertake additional studies and investigations.

55.05.01 SCOPE OF REVIEW

In reviewing a site plan the following shall be taken into consideration:

A. Compliance with the Zoning Code and general intent of the Plan of Development;

B. Efficient provision of all public utilities;

C. Effect of the proposal upon the public health and orderly growth of the community;

D. Provision of adequate public safety devices and access as determined by the Fire and Police Departments;

E. Effect of the proposal on area traffic patterns; and

F. Compliance with the applicable Building, Health, and Housing Codes.

55.06 APPROVAL

Upon submission, plans shall be distributed to pertinent city departments as outlined in Sec. 55.07 for review and comment. After all comments are received, the proposal shall be approved, modified and approved, or denied. The approving authority may attach reasonable conditions to an approval.

55.07 VIOLATIONS

Whenever the approving authority shall find that any of the terms, conditions or restrictions upon which proposed site plan development approval was granted are not being complied with, the approving authority may rescind and revoke such approval after giving due notice to all parties concerned, and require performance as otherwise provided for in this Code.

55.08 BUILDING PERMIT

Subsequent to the zoning approval and the satisfaction of all conditions and payment of all fees, the Zoning Enforcement Officer shall cause to be delivered to the Building Department written zoning certification, in accordance with C.G.S. 8-3(f), along with a stamped and initiated site plan.

At this point, Chapter 5 Buildings of the Middletown Code of Ordinances shall apply to all projects with a valid building permit.

55.08.01 PROCEDURE

1. The building permit applicant will apply and submit payment for a building permit. Barring any corrections to the building plans during the review process, the applicant will receive permission to start the foundation system for the structure through written notification by the department.

2. When the foundation is in place, the applicant shall submit the A-2 As Built survey to the building department. The Building Department shall submit a copy of same to the Zoning Enforcement Officer for review.

3. Upon receipt of the A-2 As Built survey and a finding that it complies with the original zoning approval, the department will immediately issue the building permit to the applicant.

4. Prior to issuing the certificate of occupancy, the applicant shall submit a certification by a licensed land surveyor stating that the finished grades, utilities and drainage correspond to the approved plans and, if applicable, septic as-built and well analysis to the Health Department. The Building Department shall submit a copy of same to the Zoning Enforcement Officer.

55.08.02 UTILITY VERIFICATION

All storm drainage facilities, and water and sanitary sewer facilities required by any Site Plan, Special Permit, or subdivision shall be installed by the applicant and inspected for compliance by the Engineering Departments of Public Works and Water\Sewer or, in the case of a site facility the Health Department, prior to the backfilling of any such utility holes or trenches. The applicant shall notify the proper department forty-eight (48) hours prior to any installation and shall comply with the proper utility regulations and requirements.

55.08.03 PERMITS

When work is to be performed within the street right-of-way, an excavation permit must be obtained from the Sidewalk Conformance Inspector.

55.08.04 VERIFICATION OF ZONING COMPLIANCE

A Verification of Zoning Compliance shall be issued at the same time as application is made for a Certificate of Occupancy from the Building Inspector. The Verification of Zoning Compliance is signified by the Zoning Enforcement Officer's signature on the Certificate of Occupancy. After notification from the applicant that the land, building, or structure is ready for occupancy or use, the Zoning Enforcement Officer shall determine if it is in compliance with these regulations. The Zoning Enforcement Officer may require any other information, which may be necessary to make a determination as to compliance with these regulations.

A. Change of use. The change of use of an existing use of land, buildings, or structures, or part thereof, to another proposed use which is allowable in the applicable zoning district shall be subject to the provisions of Section 55.08.04 for the issuance of a Zoning Verification in the same manner as a new building, structure, or use. (Typo corrected by P&Z Comm. at meeting of 3/24/2004)

B. Conditional Verification of Zoning Compliance. When the require site work cannot be completed because of inclement weather or other pertinent reasons, a Conditional Verification of Zoning Compliance may be issued by the ZEO for a period not to exceed six (6) months. The applicant may be required to post a bond in accordance with Section 8.10, to guarantee satisfactory completion of the site work in accordance with these regulations.

55.08.05 CERTIFICATE OF OCCUPANCY

No land shall hereafter be used except for farming or gardening purposes, and no new building or structure hereafter constructed shall be occupied or used unless a Verification of Zoning Compliance shall have been issued and until a Certificate of Occupancy shall have been issued. No building or structure which is altered, reconstructed, extended, enlarged, moved, changed or converted, such reconstruction, alteration, etc.., increasing the fair market value of the building or structure more than fifty (50) percent, shall be occupied or used unless a Verification of Zoning Compliance shall have been issued and until a Certificate of Occupancy shall have been issued. Furthermore, no temporary certificate of occupancy shall be issued unless a Verification of Zoning Compliance shall have been issued.

In situations where an application for a Certificate of Occupancy concerns property within an incomplete subdivision, a written confirmation is required from the Engineering Departments of Public Works and Water\Sewer that the first course of paving has been installed and is adequate to provide ingress and egress and that the public improvements required by the Subdivision Regulations are in a sufficient state of completeness prior to the issuance of a Certificate of Occupancy.

55.09 TIME LIMITATIONS

Building and any other required City construction or development permits must be applied for within one (1) year after site plan approval or such approval shall be null or void unless a different time limitation is specifically authorized. Upon written request stating specific reasons for delay, the approving authority may grant additional time beyond the initial one (1) year period.

(Section amended effective 6\1\95)

55.10 MAINTENANCE OF LANDSCAPING

All landscaping elements portrayed on the approved landscaping plan, including buffer treatments, shall be maintained in a manner sufficient to ensure its continuing performance and the survival of plantings. Where a maintenance problem arises, upon the order of the Zoning Enforcement Officer, said landscaping shall be restored to a satisfactory condition consistent with the approved landscaping plan.

(Section added effective 6\13\08)

ARTICLE VI USE SCHEDULE

SECTION 60 RESIDENTIAL ZONES AND SOME T.D. ZONE USE SCHEDULES

60.00 No land shall be used or occupied and no structure shall be erected, constructed, reconstructed, altered or used, except for any use of the following permitted uses, special exception uses, accessory use, permitted Residential Unit Business Pursuit uses, or uses by temporary uses.

In any cases where a use is alleged to be similar to a specified use referred to in the following schedule its status shall be determined by the Commission by reference to the most clearly similar use or uses that are specifically referred to in the use schedule or declared that the use is not similar. When the status of a use has been so determined, such determination shall thereafter have general applicability to all uses of the same type.

60.01 PERMITTED USES
The following uses may be operated as Permitted Uses:

60.01.01 Single Family Dwelling, detached
ZONES: RPZ R-30 R-45 R-60 TD* M MX R-1 ~~R-3~~* R-15

60.01.02 Two Family Dwelling
ZONES: RPZ TD* M MX ~~R-3~~*

60.01.03 Farming or other agriculture uses—any green house that brings the total of such ground area to 5,000 sq. ft. or more shall be a Special Exception. Seasonal farm stands shall be allowed provided they receive site plan approval and are a part of a farming operation in excess of twenty (20) acres and sell only products grown on-site. Appropriate parking as determined during the site plan process shall be required.
ZONES: R-15 R-30 R-45 R-60 RPZ (Amended effective 10/31/92)

60.01.04 Residential Unit Business Pursuit
ZONES: RPZ R-30 R-45 R-60 TD* M MX R-1 ~~R-3~~* R-15

60.01.05 Park Land
ZONES: PL

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*TD – Transitional Development Zone – All proposals treated as Special Exception Uses.
* Eliminated Meeting 1/6/88 effective 1/18/88

60.01.06 Business and Professional Offices
ZONES: IM (Added effective 3/28/90)

60.01.07 Assisted Elderly Housing on city property and within 500 feet of an existing city operated elderly housing facility. Density 11 units per acre, parking in accordance with Section 40.04.18, all other requirements in accordance with the R-15 zone.
ZONES: R-15 (Added effective 6/1/91) (Revised effective 7/22/92)

60.02 SPECIAL EXCEPTION USES

The following uses by Special Exception may be permitted in accordance with the provision of SECTION 44:

60.02.01 Ambulance Service (44.08.01)
ZONES: TD MX

60.02.02 Child Care Facilities (44.08.02)
ZONES: RPZ R-15 R-30 R-45 R-60 TD M MX R-1 ~~R-3*~~

60.02.03 Conversion of existing residential buildings to a different number of dwelling units. (44.08.22)
ZONES: MX TD RPZ (Amended effective January 30,1998)

60.02.04 Fraternity and Sorority Houses (44.08.04)
ZONES: TD MX

60.02.05 Private clubs, service organizations, including community buildings and similar recreational uses privately owned and\or operated (44.08.05)
ZONES: TD MX

60.02.06 DELETED (Amended effective 5/1/97)

60.02.07 Housing for elderly or physically handicapped persons (44.08.07)
ZONES: TD MX

60.02.08 Professional and business offices not including medical or dental clinics or mental health/substance abuse treatment facilities, offices or clinics (44.08.08)
ZONES: TD MX (Amended effective 5/1/97)

60.02.09 Neighborhood stores (44.08.09)
ZONES: TD MX

60.02.10 Two (2) family dwellings and single family dwellings with less than fifty (50) feet of frontage on lots of record (44.08.28)
ZONE: RPZ (amended effective 6\30\92)

60.02.11 Public Utility buildings and structures (44.08.11)
ZONES: All zones (effective 1\25\89)

60.02.12 DELETED (amended effective 5/1/97)

60.02.13 Multi-family Dwelling (44.08.21)
ZONES: M MX TD ~~R-3*~~ MR (Added effective 2\10\89)
IM (Added effective 3\28\90)

*Eliminated Meeting 1\6\88 effective 1\18\88

60.02.14 Natural Resource Extraction (44.08.10) (Effective 5\1\86)
ZONES: R-45 R-60 R-1 R-15 R-30

60.02.15 Adaptive residential use for structures currently or recently occupied by non-conforming use.
(Effective 5/1/89)
ZONES: RPZ R-15 R-30 R-45 R-60 TD M MX

60.02.16 Adaptive historic preservation use harmonious with the physical characteristics and originally designed use of the structure (44.08.26)
ZONES: ALL ZONES

60.02.17 Banking Facilities with the drive-up windows (44.08.12)
ZONES: TD MX

60.02.18 Restaurants, providing service for customers either at counters or at tables including sale of alcoholic beverages.
ZONES: RF

60.02.19 Marinas and boatyards for the building, storage, repair, sale, or rental of boats; docks, wharfs, piers for the storage and transport of goods, merchandise, and/or people. If such a facility is located adjacent to an industrial zone, it shall be treated as a permitted use subject to site plan approval (44.04)
ZONES: RF (Amended effective 6/30/92)

60.02.20 Cemeteries and other places of burial of the dead (44.04)
ZONES: R-1 R-15 R-30 R-45 R-60

60.02.21 Churches and other places of worship, including parish houses. Parish house shall include a one or two family house used by a Church as personal residence by members of its clergy and/or its full-time employees.
ZONES: RPZ R-15 R-30 R-45 R-60 R-1 MX
(Added effective 3/1/91)

60.02.22 Convents, monasteries and similar uses.
ZONES: RPZ R-15 R-30 R-45 R-60 R-1

60.02.23 Educational Institutions
ZONES: RPZ R-15 R-30 R-45 R-60 R-1

60.02.24 Group Homes pursuant to Section 16.07.05 of the Zoning Code provided said Use shall not be within twenty-five hundred (2,500) feet of another group home as defined by 16.07.05. Parking shall be provided at a rate of one (1) space for each adult resident. As a reasonable accommodation the Commission may waive any requirement, including the public hearing process, during the special exception process.
ZONES: RPZ R-15 R-30 R-45 R-60 (Modified effective 3/31/04)

60.02.25 Libraries, museums and similar institutions of a non-commercial Nature.
ZONES: MX TD

60.02.26 NONE

60.02.27 Outdoor Recreational uses such as: Parks, Playgrounds, Playfields, Golf courses, Boating areas, Community buildings, Developed open space, such as Arboreta, Botanical and Zoological gardens and similar recreational uses.
ZONES: R-15 R-30 R-45 R-60 RF R-1 (Revised 2\15\88)

60.02.28 Existing Neighborhood Restaurants not to exceed 1800 square feet. Drive- thru permitted by Special Exception. (Amended effective 7/30/04)
ZONES: MX (Added effective 2\28\94)

60.02.29 Care\Nursing Homes (44.08.29)
ZONES: TD MX M (Amended effective 7\1\95)

60.02.30 Bed and Breakfast in the RPZ (44.08.30)
ZONES: TD MX RPZ, R-15 (Amended effective 6/5/09)

60.02.31 NONE

60.02.32 Bus stop Passenger Shelter (44.08.25)
ZONES: ALL ZONES

60.02.33 Retail Sales and\or Rentals of Used Automobiles (44.08.33)
ZONES: MX (Added effective 10\25\89)

60.02.34 Veterinary Hospitals\Practice (44.08.34)
ZONES: RPZ (Added effective 7\11\90)

60.02.35 Leaf Composting Area (44.08.37)
ZONES: ID R-45 R-60 (Added effective 6\30\92)

60.02.36 Adaptive Reuse as a professional office of a structure formerly used a place of congregation for members of a religious faith (44.08.38)
ZONE: RPZ (Added effective 5\30\94)

60.02.37 Modification of Frontage and Area Requirements on Lots Established Subsequent to 1982
ZONE: R-1 (Added effective 4\30\95)

60.02.38 Permanent Year Round Farm Markets
ZONES: R-30 R-45 R-60 (Added effective 6/1/01) RPZ (Added effective 3/30/07)

60.02.39 Active Adult Housing
ZONES: RPZ R-15 R-30 (Added effective 9/1/03)

60.02.40 Elderly Housing within 500 feet of an existing elderly housing facility. Density 11 units per acre, parking in accordance with the R-15 zone.
ZONE: R-15 (Added effective 5/31/05)

60.03 ACCESSORY USES
The following accessory uses shall be permitted in accordance with the provisions of subsection 10.07 of this code.

60.03.01 Uses customarily incidental to the main or principal building or land use.
ZONES: ALL ZONES

60.03.02 Required off-street parking and loading space.
ZONES: ALL ZONES

60.03.03 Business office, provided that there is conducted in said office only business incidental to the rental, operation, service and maintenance of the dwelling.
ZONES: TD M MX

60.03.04 Incidental services for the convenience of occupants, such as newsstands, snack bars, personal service shops, provided that not more than five (5) percent of the total floor area of the building is used.
ZONES: TD M MX

60.03.05 In addition to the permitted uses set forth in Section 39.02.01-.02, uses customarily incidental to the main or principal building or land use and as set forth elsewhere in this code shall be permitted, including employees within such buildings, such as garages, but not limited to cafeterias and like facilities designed to serve only the occupants of the buildings in the zone. Conference and meeting facilities, data processing and storage shall be included within the definition of accessory uses.
ZONES: IM (Added effective 3/28/90)

60.04 NONE

60.05 USES BY TEMPORARY PERMIT
The following are permitted as temporary uses:

60.05.01 Temporary buildings or yard for construction material or equipment both incidental and necessary to construction within the immediate area, provided, however, that each permit shall be valid six (6) months and shall not be renewed for more than four (4) successive periods at the same location.
ALL ZONES

60.05.02 Temporary office or model house, both incidental and necessary for sale or rental of real property within the immediate area provided, however, that each permit shall be valid for a period of not more than six (6) months and shall not be renewed for more than four (4) successive periods at the same locations.
ALL ZONES

60.06 PROHIBITED USES
Any use not specified as a permitted use, special exception, accessory use, permitted home occupation use or use by temporary permit are prohibited uses.

60.06.01 Junk Yards
ZONES ALL (Added eff. 1/22/03)

SECTION 61 BUSINESS ZONES, INDUSTRIAL ZONES AND OTHER NON-RESIDENTIAL ZONES USE SCHEDULE

61.00 No land shall be used or occupied and no structure shall be erected, constructed, reconstructed, altered or used, except for any use of the following permitted uses, special exception uses, accessory uses, permitted home occupation uses or uses by temporary uses.

61.01 PERMITTED USES
The following uses may be operated as permitted uses:

61.01.01 Agriculture, including nurseries and farms, hydroponics farming
ZONES: I-1 I-2 I-3 IT

61.01.01A Raising crops, nursery stock or trees
ZONES: I-4 (Added effective 11/10/88)

61.01.02 Animal hospitals, veterinary clinics, etc. Animal hospitals, kennels, display and housing and board of pets and other domestic animals, provided that any enclosures or buildings in which animals are kept shall be at least two hundred (200) feet from any residential zone and at least one hundred (100) feet from any B-1 zone, and exercise runs shall be enclosed on four (4) sides by a sight-obscuring un-pierced fence or wall at least five (5) feet in height.
ZONES: I1

61.01.03 Automobile, truck, repair garages to provide services such as rebuilding, body and pant work, overhauling, tire re-treading or recapping, but not to include commercial wrecking, dismantling or junk yards – all parking and storage areas shall be paved with concrete, asphalt or comparable hard surface.
ZONES: I1

61.01.04 Automobile services, farm implements--automobile, truck trailers, farm implements, for sale, display, hire or repair, including sales lots, used car lots, trailer lots, repair garages, body and fender shops, paint shops, but not within fifty (50) feet from any residential zone
ZONES: I1

61.01.05 Banks--savings and loan companies, finance companies and similar services.
ZONES: B1 B2 TD* NPC (added effective 1/15/99)

61.01.06 Blacksmith shop, welding or other metal working shop and machine shops.
ZONES: I1 I2 IT IRA (Revised 8\1\86)
NPC (added effective 1/15/99)

61.01.07 Building and related trades--including carpenter shops, electrical, plumbing, paint shops, heating shops, paper hanging shops, furniture upholstering and similar enterprises, but not within one hundred (100) feet from any residential zone. In the B-2 Zone no exterior storage shall be permitted.
ZONES: B2 I1 I2 IRA (Revised 8\1\86)
NPC (added effective 1/15/99)

61.01.08 Commercial studios and art studios--including automobile driving schools, business colleges, trade schools, dancing studios, photographic studios, radio and telecasting studios.
ZONES: B1 B2 (Revised 5\8\96) NPC (added effective 1/15/99)

61.01.09 Commercial Parking Lots, need not be enclosed.
ZONES: B1 B2

61.01.10 Contractor's yard and related establishments—including building material yards (excluding concrete mixing, contractor's equipment storage yard or plant); or storage yard for rental of equipment commonly used by contractors; trucking or motor freight stations or terminals; retail lumber yards, including incidental millwork; storage and sale of grain, livestock feed or fuel; carting, express or hauling establishments, including storage of vehicles; provided new uses are conducted either (1) wholly within a completely enclosed building or buildings, except for storage of vehicles, which building shall be distant at least one hundred (100) feet from any residential zone or (2) when conducted within an area completely enclosed on all sides with a solid wall or uniformly painted solid board fence not less than six (6) feet high, but not within two hundred (200) feet of any residential zone; provided further that all storage yards related to the uses in this paragraph shall be enclosed.
ZONES: I1

61.01.11 Eating and drinking establishments--including eating and drinking places, summer gardens, and roadhouses (Excluding drive-in restaurants); provided that such use is not within two hundred (200) feet of any residential zone.
ZONES: B2 TD*

61.01.12 Eating and drinking places--including soda fountains, ice cream parlors, tea rooms, private dining rooms and restaurants, banquet halls and clubs, subject to all applicable regulations and such permits and licenses as may be required by, but not including drive-in restaurants.
ZONES: B1 B2 TD*

61.01.13 Dry Cleaning Establishments (Addition, Effective 3\15\85)
ZONES: I-2 NPC (added effective 1/15/99)

61.01.14 Entertainment--including theaters, radio and television studios, bowling alleys, assembly halls, or similar places of assembly or entertainment.
ZONES: B1 B2

61.01.15 DELETED (Effective 8\15\94)

61.01.16 DELETED (Effective 2\14\96)

61.01.17 Hotels and Inns—but not including Motels.
ZONES: B1 NPC (added effective 1/15/99)

61.01.18 Laboratories--including experimental, photographic or testing laboratories, dental and medical, provided no operation shall be conducted or equipment used which would create hazards, noxious or offensive conditions.
ZONES: I1 I2 I3 IT IRA IOP (Revised effective 4\10\92)
NPC (added eff. 1/15/99)

61.01.19 Manufacturing – A use engaged in the basic processing and manufacturing of materials, parts or products from extracted or raw materials or from previously prepared materials, including processing, fabrication, assembly, treatment, packaging, and incidental storage, sales and distribution of such products.
ZONES: I1 I2 I3 TD* IT IRA NPC (Section amended 3/30/99)

61.01.19A Enterprises, which perform the following activities with non-primary, finished components or goods; manufacturing with all its integral functions, fabrication, assembly, testing, packaging, storage and distribution.
ZONES: I-4 (Added effective 11\10\88.)

61.01.20 Mortuaries or funeral homes--including ambulance service.
ZONES: B1 B2 TD*

61.01.21 Newspaper and job printing.
ZONES: B1 I1 NPC (added effective 1/15/99)

61.01.22A Non-commercial uses such as churches and other places of worship; libraries, museums, and similar institutions; private clubs or lodges. (Revised effective 4\15\94)
ZONES: B1 B2 TD* NPC (added effective 3/15/02)

61.01.22B Housing for the elderly or handicapped within 1,000 feet of public transportation and shopping; single family dwelling detached; two family dwelling; Urban Core Living Units. (amended 7\15\85)
ZONES: B1 TD*

61.01.23 Professional and Business offices and office buildings--including general and professional tenants as well as banking, savings and loan and other financial institutions but not including medical or dental clinics or mental health/substance abuse treatment facilities, offices or clinics.
ZONES: B1 B2 TD* (Amended effective 5/1/97)
NPC (added effective 1/15/99)

61.01.24 Printing and related trades--including publishing, job printing, lithographing; blueprinting, etc., but not within one hundred (100) feet of any residential zone.
ZONES: B2 I1 I2 I3 TD* IT IRA (Revised 8\1\86.)
NPC (added eff. 1/15/99)

61.01.25 Public building--including post office; fire and police stations; bus passenger terminal, telephone exchange or office or other public utility office; and governmental buildings.
ZONES: B1 B2 TD* NPC (added effective 1/15/99)

61.01.26 Public utilities buildings and structures—including Storage yards and vehicle parking area.
ZONES: I1 I2 I3 TD* IRA (Revised 8\1\86.)

61.01.27 Recreation (commercial)--including baseball field, swimming pools, skating rinks, golf driving ranges, stadiums or arenas and similar open air facilities; livery stables or riding academies, amusement parks, or similar recreational uses; provided such recreational establishments shall be at least two hundred (200) feet from any residential zone.
ZONES: B2 I1

61.01.28A Product testing, Research and Development facilities
ZONES: IT IOP (Amended effective 8\15\94)
NPC (added eff. 1/15/99)

61.01.28B Physical Fitness Centers
ZONES: B-1 B-2 I-2 and IRA (Effective 6\20\88)
NPC (added eff. 1/15/99)

61.01.29 Retail sales distribution facility for the processing of orders for and preparation of pharmaceutical and related products in the health care field but not to include sale and delivery of product to customers on premises. (1\84)
ZONES: IT

61.01.30 Restaurants--With or without alcoholic beverages.
ZONES B1 B2 I1 TD* NPC (added eff. 1/15/99)

61.01.31 Retail business--whose principal activity is the sale of merchandise in an enclosed building (except automobile sales, boat sales, mobile home sales; etc., which tend to detract or interfere with a high intensity of pedestrian shopping activity).
ZONES: B1 B2 NPC (added effective 1/15/99)

61.01.32 Retail sales or rental-including lumber, paints, hardware and other building supplies; automobiles, trucks, trailers, boats, motorcycles, new or used; warehousing and distribution of unprepared food products at no cost to general public for consumption off-site. Further, the location of the "distribution of unprepared food products" use shall not have frontage on a state highway; construction equipment, agricultural equipment, power tools, new or used; scientific and laboratory supplies.
ZONES: B2 I1 IRA (Revised 8\1\86.) (amended effective 5/1/09)

61.01.33 Retail sales in which both a workshop and a retail outlet are required, such as interior decorating, dressmaking, upholstering, printing, photographic reproducing, radio and home appliances, provided that no more than fifty (50) percent of the total usable floor area of the establishment shall be used for servicing, repair or processing activities.
ZONES: B1 B2 TD* NPC (added eff. 1/15/99)

61.01.34 Retail services--including grocery stores; supermarkets; fruit, meat and vegetable stores; drug stores; garden stores; barber shops; beauty parlors; clothes cleaning and laundry pick-ups; art and antique shops, artists supply stores; self-service laundries; department stores including discount houses; variety and dime stores; dry goods and apparel stores; mail-order houses; and similar uses. (Revised effective 4\15\94)
ZONES: B1 B2 TD*

61.01.35 Service establishments, including barber shops and beauty parlors; dry cleaning and laundry pickup stations for work to be done elsewhere; dry cleaning, using non-inflammable cleaning agents only, for work accepted on the premises; locksmith; radio and television repair shop; shoe repair; tailoring, dressmaking and pressing; newspaper stand; and similar uses (Revised 4/15/94)
ZONES: B1 B2 NPC (added eff. 1/15/99)

61.01.36 Studios -- motion picture, recording, television and radio production studios, transmitters and related equipment.
ZONES: I1 I2 IT I-4 (revised eff. 11/10/88)

61.01.37A Wholesale and warehousing of items manufacture on the premises.
ZONES: I-1 I-2 IT (Revision eff. 7/1/86)
NPC (added effective 1/15/99)

61.01.37B Warehousing of items or materials not produced or created on the premises (except items prohibited as shown elsewhere in the Code).
ZONES: I-1 (Revision effective 7/1/86)
IRA (Revised 8/1/86)
I-2 (Addition 2/15/88)
I-4 (Added eff. 11/10/88)
NPC (Added eff. 1/15/99)

61.01.38 Office buildings – including general and professional tenants but not including mental health/substance abuse treatment facilities, offices or clinics. (Amended effective 5/1/97)
ZONES: I-1 I-2 IT IRA Revised 8/1/86)

61.01.38A Offices except medical and dental but not including mental health/substance abuse treatment facilities, offices or clinics. (Amended eff. 5/1/97)
ZONES: I-4 (Added eff. 11/10/88)

61.01.39 Interstate Office Park Zone
The use of the zone shall be limited to business and professional offices and corporate business offices. Business uses shall include but not be limited to, any occupation or trade primarily of a clerical nature such as insurance company or sales offices but shall not include commercial activities such as the manufacturing or assembling of wares.
ZONES: IOP

*Transitional Development Zone – all proposals treated as Special Exception Uses.

61.01.40 DELETED (Effective 7/1/95)

61.01.41 Institutions, health, religious, charitable, and governmental uses
ZONES: ID (Amended effective 12/31/03)

61.01.42 Repair, replacement and reconditioning of diesel engines, components, power trains and equipment, but not to include junkyards or permanent outside storage of dismantled or salvaged parts, equipment or vehicles.
ZONES: IT

61.01.43 DELETED (Effective 9/15/94)

61.01.44 Servicing, repair, installation and assembly of computers and communication equipment, including two-way marine and automobile radios, emergency alarms and lighting systems, but not to include the general retail sales thereof.
ZONES: IT

61.01.45 Motor vehicle services and repair and body and fender repair and paint shop, provided that no building or structure for said use is located within fifty feet of any residential zone and further provided that all outside storage of material associated with said business be screened so as to not be observable from abutting properties. (Revised effective 4/15/94)
ZONES: I1 I2 IRA (Revised 8/1/86) B-2

61.01.46 Conference Center Complex. A hotel with a minimum area of 200,000 square feet on at least fifteen (15) acres and a minimum of two hundred fifty (250) rooms with multi-purpose public meeting and conference rooms, auditoriums, ballrooms and assembly halls, together with customary conference center-hotel accessory uses, including, but not limited to, eating establishments, dining facilities and entertainment areas, all serving food only as well as those serving both food and alcoholic beverages, gift and other shops; swimming pools, sauna and steam rooms; barbershops and beauty parlors; and secretarial and other services. (Effective 8/1/84.)
ZONES: IT

61.01.47 Manufacturing and distribution. Only in buildings, which have been used, historically, for this purpose, and only in buildings with more than 40,000 SF.
ZONES: B-1 (Added effective 3\12\92)

61.01.48 DELETED (effective 5\8\96)

61.01.49 Business and Professional Offices
ZONES: B-3 (Added effective 6\30\93)
NPC (added effective 1/15/99)

61.01.50 A Golf Driving Range subject to conditions described hereafter:

(1) that not more than 25% of the I-4 parcel is used as a driving range; (2) that not more than 10 acres of the I-4 zone parcel is used as such golf driving range; (3) that the sales office\pro shop has a land footprint not any greater than 900 square feet; and (4) that the Planning and Zoning staff approve the site plan as a whole including location of protective fencing and such other structures and improvements as the particular site shall demand.
ZONES: I-4 (Added effective 10\30\93)

61.01.51 Wholesaling, warehousing and distribution facilities employing greater than 50 employees (not to include terminal exclusively for the transfer of freight not owned by the building occupant).
ZONES: IT (Added effective 8\15\94)

61.01.52 Biotech, telecommunication, and environmental service industries excluding those dealing with the transfer and\or final disposition of solid waste.
ZONES: IT I-2 IRA I-4 (Added effective 8\15\94)
NPC (added eff. 1/15/99)

61.01.53 Sports training facilities solely for use by a professional sports team.
ZONES: ID IT IOP (Added effective 8\15\94)
NPC (added eff. 1/15/99)

61.01.54 Medical and Dental Offices. Medical and Dental Offices with less than five (5) practitioners, specifically excluding those whose principal service is mental health and/or substance abuse diagnosis and treatment.
ZONES: B-1 B-2 TD MX (Added effective 5/1/97)
NPC (added eff. 1/15/99)

61.01.55 Vocational School for Massage Therapy
Including classroom training facilities, administrative offices, Student Clinic, Professional Graduate Clinic, and associated services and support activities involved in the daily operation of a Professional Massage Therapy Vocational School. All activities are to be in compliance with state statutes regulating the training and practice of Massage Therapy.
ZONES: IT (Amended effective 3/30/99)

61.01.56 Design Center approved by issuance of a Special Permit (Special Exception) where the Design Center, including corporate offices, sales area, warehousing, and stone and tile distribution, is part of a Stone Fabrication facility. And where such Center:

1. is located not less than a ½ mile from the entrance to an interstate highway; and

2. is not greater in size than thirty (30) percent of the area of the combined facility and where such center is found to support or enhance employment in the on-site manufacture and fabrication of such items as are on display.

A Design Center shall display stone items fabricated on-site and may incorporate other interior and exterior decorating items including architectural woodwork, wood inlays, cabinets, plumbing fixtures, works of art, and other accessory and coordinated items and may also include offices, meeting areas, or areas for architects, decorators, and designers.
ZONES: IT (Added effective 7/31/01)

61.01.57 Retail Sales and Self Storage. Retail Sales and Self Storage in commercial buildings where the currently existing space, used for hardware stores, paint shops, other building supplies and similar business uses, may use up to fifty percent (50%) of the space of the building, which shall be separately petitioned, for self storage purposes.
ZONES: B-2 (Added effective 9/30/10)

61.01.58 Sale or Dispensation of any form of marijuana and/or medical marijuana by a CT licensed pharmacist on the premises of a pharmacy licensed by the State of Connecticut – Connecticut Commission of Pharmacy provided the State of Connecticut legalizes said use.
ZONES: TD*, B-2, NPC (Added effective 7/29/11)

61.02 SPECIAL EXCEPTION USES

The following uses by special exception may be permitted in accordance with the provisions of Section 44.

61.02.01 Gasoline filling stations (44.08.13)
ZONES: B2 TD (Amended effective 3/1/98)

61.02.02 DELETED (Effective 3/1/98)

61.02.03 DELETED (Effective 3/1/98)

61.02.04 Drive-in establishment, limited to drive-in banks (44.08.12)
ZONES B2 TD (Amended effective 3/1/98)

61.02.05 Eleemonsynary or philanthropic institutions—need not be enclosed. (44.08.15)
ZONES: B1 B2

61.02.06 General retail use not expressly prohibited by this Code. (44.04)
ZONES: B1 B2

61.02.07 Junkyards and building material salvage yards.
ZONES: I-1 I-2 I-3

61.02.08 DELETED (Effective 5/1/97)

61.02.09 DELETED (Effective 7/1/95)

61.02.10 Public utility structures. (44.08.11)
ZONES: B1 B2 TD IT I-4 (added effective 11/10/88)
NPC (added eff. 1/15/99)

61.02.11 Readymix concrete plant. (44.08.18)
ZONES: I-1

61.02.12 Restaurant or lunchroom (44.08.19)
ZONES: I-1 I-2 TD

61.02.13 Taxicab stand--need not be enclosed. (44.08.20)
ZONES: B1 B2

61.02.14 Adaptive residential use for structures currently or recently occupied by non-conforming use. (Effective 5/1/89)
ZONES: B1

61.02.15 Natural Resource Extraction (44.08.10) (Effective 5/1/86)
ZONES: B1 I-1 I-2 I-3

61.02.16 Alcoholic Liquor Establishments (44.08.24)
ZONES: B1 B2 NPC (added eff. 10/22/03) (Amended effective 8/25/05)

61.02.17 Automobile, truck, trailer, farm implements and similar automotive equipment sales, new and used. (44.08.24)
ZONES: I-1 I-2 NPC (added effective 1/15/99)

61.02.18 Bustop Passenger Shelters (44.08.25)
ZONES: B1 B2 I-1 I-2 I-3 TD IT
I-4 (Added effective 11/10/8)
ID (Added effective 12/31/03)

61.02.19 Adaptive historic preservation use harmonious with the physical characteristics and originally designed use of the structure. (44.08.26)
ZONES: B1 B2 I-1 I-2 I-3 TD IT
B-3 (Added effective 6/30/93)
NPC (added effective 1/15/99)

61.02.20 Banking facilities with drive-up windows. (44.08.12)
ZONES: B1 I-2 IT I-4 (Added effective 11/10/88)
NPC (added eff. 1/15/99)

61.02.21 Child Care Facilities (44.08.02)
ZONES: B1 I-1 I-2 I-3 TD IT
B-2 (added effective 7/1/94)

61.02.22 Care/nursing homes (44.08.29)
ZONES: TD B2 (revised 5/1/97)

61.02.23 Solid Waste Facility (44.08.32)
All proposals including expansion to existing facilities shall be subject to Category 4 Site Plan Approval.
ZONES: I-1 I-2 I-3 ID IT
Except that: Solid Waste Disposal Areas (16.19.05) shall not be permitted in the IT zone.(Amended effective 9/15/96)

61.02.24 DELETED (effective 5/8/96)

61.02.25 DELETED (effective 5/8/96)

61.02.26 Upper story multi-family dwelling designed as an integral part of a mixed use development.
ZONES: B-3 (Added effective 6/30/93)

61.02.27 DELETED (effective 5/8/96)

61.02.28 Recreation (commercial)--including billiard parlors and pool halls; bowling alleys; nightclubs; theaters and other assembly halls; subject to all applicable regulations and such permits and licenses as may be required by law, and expressly prohibiting drive-in theaters.
ZONES B1 B2 (Added effective 2/28/94)
NPC (Added effective 1/30/04)

61.02.29 Research, experimental and testing laboratories and light manufacturing in existing buildings in excess of 15,000 square feet.
ZONES: B2 (Added effective 8/15/94)
NPC (added effective 1/15/99)

61.02.30 Trucking company terminals for storage, assembly, distribution, handling or transfer of freight.
ZONES: IT (Added effective 8/15/94)

61.02.31 Golf Driving Ranges, Miniature Golf Courses, and golf courses.
ZONES: I-2 (Amended effective 8/15/95)
NPC (added effective 1/15/99)

61.02.32 Antique/Flea Market whose principal activity would be to allow antique dealers and other vendors to see their merchandise.
ZONES: I-2 (Added effective 7/1/95)

61.02.33 Commercial schools and art studios, business colleges, trade schools, dancing studios, photographic studios, radio and telecasting studios. There shall be no more than one (1) satellite dish per property and the diameter shall not be more than six (6) feet.
ZONES: B-3 (Added effective 5/8/96)

61.02.34 Landscape and Garden Center
ZONES: I-2 (Added effective 1/31/97)
NPC (added effective 1/15/99)

61.02.35 Medical and Dental Clinics. Medical and Dental Clinics comprised of five (5) or more practitioners, specifically excluding clinics whose principal service is mental health and/or substance abuse diagnosis and treatment.
ZONES: B1 B2 TD MX (Added effective 5/1/97)
NPC (added effective 1/15/99)

61.02.36 Corporate office/high technology processing of previously manufactured parts used in aerospace, automotive, medical and similar industries, provided, that such processing does not create hazardous, noxious or offensive conditions, and specifically excluding (a) traditional manufacturing (i.e. conversion of raw materials) and (b) the use, storage or disposition of medical or solid wastes. (44.08.42)
ZONES: IOP (Added effective 7/3/98)

61.02.37 Indoor Recreational Facility. A facility where a fee is paid in exchange for activities, events, or programs related to athletics, physical conditioning and accessory activities conducted indoors.
ZONES: I-4 (Added effective 10/13/06)

61.03 ACCESSORY USES

The following Accessory Uses shall be permitted in accordance with the provisions of subsection 10.07 of this Code.

61.03.01 Uses customarily incidental to the main or principal building or land use such as business office, conference / meeting facilities, data processing/ storage, personnel services (i.e. dining facilities, child care facilities, medical services) and off-street parking and loading space.
ZONES: ALL (Revised effective 11/10/88)

61.03.02 Closely associated accessory uses as an integral part of the principal, or main use of the premises, conference / meeting facility, data processing/ storage, personnel services (i.e. dining facilities, child care facilities, medical and emergency services), off-street parking and loading space, research laboratories and solid waste facility. Dining facilities serving both food and alcoholic beverages shall be permitted in any office building housing any corporate headquarters or corporate branch office provided that the uses occupy a minimum of 500,000 square feet on a single parcel. Heliports or Helicopter landing areas shall be permitted as an accessory use only if the principal use is conducted on a single lot having an area of 20 acres or larger.
ZONES: IOP IT (Revised effective 8/1/86)

61.04 USES BY TEMPORARY PERMIT

The following are permitted as Temporary Uses.

61.04.01 Temporary office and building or yard for construction material of equipment and model all incidental and related to construction within the immediate area; provided, however, that each permit shall be valid for a period of not more than six (6) months and shall not be renewed for more than four (6) successive periods at the same location.
ZONES: ALL

61.05 PROHIBITED USES

Any use which can be reasonably considered to cause, despite existing environmental safeguards, hazardous or noxious conditions or which would violate Section 15.01, Performance Standards. Further any use not specified as a permitted use, special exception use, accessory use, permitted home occupation use or use by temporary permit are prohibited uses including but not limited to the incineration of solid waste, correctional facilities, alternate incarceration centers, methodane clinics, half way houses, rooming houses, tattoo and\or body piercing studios, pawn shops, check cashing establishments, and asphalt/batch plants. (Amended effective 4/15/98)

ZONES: ALL

61.05.01 No land or building, or any portions thereof, shall be used in the City of Middletown for gambling purposes as a principal or accessory use (including land used for parking or other uses to benefit water based gambling). No manually or automatically operated gambling devices, video or otherwise, including, but not limited to slot machines, shall be permitted as a principal or accessory use in any zone in the City of Middletown. Where such land or building is used solely for the benefit of charitable or non-profit institutions this section shall not apply. Nothing in this section shall be construed to prohibit the sale of State of Connecticut lottery tickets in the City of Middletown.

ZONES: ALL (Added effective 4\30\95)

61.05.02 Junk Yards

ZONES: ALL (Added effective 1/22/03)

## SECTION 62 MORATORIUMS

62.01 Considering the demonstrated negative impacts on the public school system including but not limited to overcrowded schools, the need for modular class rooms and increasing budget constraints from the rapid residential growth which resulted in over one hundred and fifty (150) homes per year for the last five (5) years and over two hundred (200) homes projected for the upcoming year a zoning moratorium is declared with respect to residential subdivisions or re-subdivisions in excess of three (3) lots for the purpose of engaging in a comprehensive land use planning process to determine the ideal rate of growth and the ideal future population within the city.

For a period not to exceed nine (9) months following the adoption of this amendment, no proposal for subdivision or re-subdivision may be considered or approved.

During the nine (9) month period the Planning and Zoning Commission shall engage in a comprehensive land use planning process and shall produce and adopt a new Plan of Conservation and Development as required in CGS 8-23. The Plan, as authorized by CGS 8-23, shall determine the ideal future population and identify a schedule of open space acquisitions using the recently approved $3 million open space bond. The Planning and Zoning Commission shall also, if needed, proposed zoning text and/or map amendments, which would lead to implementation of the Plan of Conservation and Development.

(amended effective 2/19/03)

62.02 I-3 ZONE MORATORIUM

Considering the potential impacts on the natural environment, public health and economic welfare resulting from the physical development of the currently undeveloped areas in the Maromas (I-3 Zone) Area due to public sewer / water access expansion into the Maromas (I-3 Zone) Area, a zoning moratorium is declared with respect to the three land use application processes enumerated below for the purpose of engaging in a comprehensive land use planning process for the Maromas (I-3 Zone) Area:

1. Site Plan Approvals for manufacturing, laboratory, printing and public utility building development on land contained in the presently existing I-3 Zone; and

2. Special Exception Approvals for solid waste facility, junkyard and natural resource extraction development on land contained in the presently existing I-3 Zone; and

3. Zoning Changes involving the land contained in the presently existing I-3 Zone.

For a period not to exceed three (3) months following the adoption of this amendment, no proposal regarding any of the above three application processes, except for additions to existing buildings and improvements and initiatives of the Planning and Zoning Commission (the "Commission"), may be considered or approved.

During the three (3) month period the Commission shall engage in a comprehensive land use planning process and shall produce a Maromas Plan (the "Plan") with the intent to promote and protect the public health, safety, natural environment, economic prosperity and general welfare of the citizens of Middletown. The Plan shall include, either in whole or in part, the pertinent recommendations of the 2000-1 Middletown Plan of Development, to be adopted, as they relate to the Maromas (I-3 Zone) Area. The Commission shall then, if needed, propose zoning text and/or map amendments that would lead to implementation of the Plan.

The Commission shall have the latitude in the existence of a demonstrated catastrophic act of God or other force major occurrence that is beyond the property owners' control to waive the moratorium and accept and act upon applications.

(Section adopted effective 11/15/2000)
(Extended 2/14/01 until 4/15/01)

ARTICLE VII LEGISLATIVE

SECTION 70 REFERENCE

This Code shall be known and cited as the "ZONING CODE OF THE CITY OF MIDDLETOWN, CONNECTICUT".

SECTION 71 AMENDMENT PROCEDURE

These Regulations and the Zones established hereunder may be amended, modified, changed, added to, or repealed by:

(A) Initiative of the Commission or; (B) by the Commission approval of an application filed by any other person or entity.

Applications shall consist of four parts: (1) Completed applications form(s) provided by the Commission's Office; (2) Payment of the fee designated in Section 10; (3) Text and/or maps identifying the proposed amendment including the present status of the Code, if existing regulations are involved in the proposed amendment; and (4) a statement and/or schematic plans explaining the purpose of the zone change. If a map amendment is involved, the scale of the map shall be adequate to clearly identify the boundaries of the zones. Prior to a decision, the Commission shall conduct a public hearing as specified in the General Statutes, as amended. No fee shall be collected on any Commission initiated application. (Section amended effective 3/15/96)

BASIS FOR DECISION

In passing upon any such petition, the Commission shall take into account the various factors favoring and disfavoring a change, such as but not limited to the following:

A. Errors in the existing Code; changes that have taken place in the City in patterns of development and land use; the supply of land and its peculiar suitability for various purposes; the effect of a map change on the surrounding area, the purposes of zoning; the objectives of the Plan of Development; neighborhood acceptance weighed against community needs; and legality;

B. Whether some other method or procedure under the Zoning Regulations is available and more appropriate that the amendment proposed.

C. As a general policy, the Commission should not establish any zone with a geographic area less than twenty (20) acres. (Revision effective 10/16/87)

SECTION 72 REPEALER

The Zoning Code of 1927, as amended, of the City of Middletown, passed and adopted by the Zoning Commission of the City of Middletown on the 7th day of February, 1927, is hereby repealed, provided that nothing herein contained shall be deemed to repeal or amend any law of said City requiring a permit or license or both to carry on any business, trade or occupation.

SECTION 73 CONTROLLING REGULATION

If this Code requires a greater width or size of yards, courts or other open spaces or lower height of building or a fewer number of stories or a greater percentage of lot area to be left unoccupied or imposes other and higher standards than are required in any other statute, bylaw ordinance or regulation the provisions of this Code shall govern. If the provisions of any other statute, bylaw, ordinance or regulation require a greater width or size of yards, courts or other open spaces or a lower height of building or a fewer number of stories or a greater percentage of lot area to be left unoccupied or impose other and higher standards than are required by this Code the provisions of such statute, bylaw, ordinance or regulation shall govern.

SECTION 74 EFFECTIVE DATE

The effective date of this shall be March 21, 1984, amended effective November 3, 1987.

APPENDIX I
TRIP GENERATION TABLE

| USE | PEAK HOUR TRIPS |
|---|---|
| Auto Sales | 4.6/1,000 sq. ft. |
| Bank | 27.3/1,000 sq. ft. |
| Business & Professional Offices | 2.36/1,000 sq. ft. |
| Church | .6/1,000 sq. ft.<br>(8.4/1,000 sq. ft. Sunday) |
| Convenience Market | 71.7/1,000 sq. ft. |
| Fast Food Restaurant | 33.3/1,000 sq. ft. |
| Grocery Store | 8.8/1,000 sq. ft. |
| Hotel, Motel | .6/room |
| Light Industry | 7.4/1,000 sq. ft. |
| Manufacturing, assembling. Processing, packaging | .7/1,000 sq. ft. |
| Medical Clinic | 1.1/employees |
| Medical Office | 3.6/1,000 sq. ft. gross sq. ft. |
| Movie Theater | .3/seat |
| Multi-family dwelling unit | .6/unit |
| Recreational | 31.5/acre |
| Research Center | 1/1,000 sq. ft. |
| Restaurant with waitress service | 13.6/1,000 sq. ft. |
| Retail Store | 11.3/1,000 sq. ft. |
| Service Station | 3.6/pump |
| Single family dwelling unit | 1/unit |
| Warehousing | 1.6/1,000 sq. ft. |
| Other uses not listed | As determined by the Commission using the most recent edition of Trip Generation, ITE as a guide. |

APPENDIX II
CITY OF MIDDLETOWN REGULATIONS
AQUIFER PROTECTION AREAS

PLEASE SEE PCD OFFICE STAFF FOR A COPY OF THIS DOCUMENT.

AMENDMENTS ADOPTED TO THE ZONING CODE
AFTER ITS EFFECTIVE DATE OF MARCH 21, 1984

PLEASE SEE PCD OFFICE STAFF FOR A COPY OF AMENDMENTS #1 TO #245 (PAGES #182 TO #219)

AMENDMENTS ADOPTED TO THE ZONING CODE
AFTER ITS EFFECTIVE DATE OF MARCH 21, 1984

| NO. | TOPIC | SPECIFIC SECTIONS | MTG. DATE | EFF. DATE |
|---|---|---|---|---|
| 246 | Zoning Text Amendment – Recreation (commercial) | Amended Section 61.02.28 | 1/14/04 | 1/30/04 |
| 247 | Zoning Text Amendment – Group Homes | Amended Section 16.07.05<br>Amended Section 60.02.24 | 3/24/04 | 3/31/04 |
| 248 | Zoning Map | Adopted a new Zoning Map pursuant to Section 11.03 | 3/24/04 | 3/31/04 |
| 249 | Zoning Text Amendment – Active Adult Housing | Amended Section 44.08.43 | 4/14/04 | 4/30/04 |
| 250 | Zoning Text Amendment – Existing Neighborhood Restaurants | Amended Section 60.02.28 | 7/14/04 | 7/30/04 |

AMENDMENTS ADOPTED TO THE ZONING CODE
AFTER ITS EFFECTIVE DATE OF MARCH 21, 1984

| NO. | TOPIC | SPECIFIC SECTIONS | MTG. DATE | EFF. DATE |
|---|---|---|---|---|
| 251 | Zoning Text Amendment – Political Signs | Deleted Section 48.02.08 | 11/10/04 | 11/30/04 |
| 252 | Zoning Text Amendment - Elderly Housing | Added Section 60.02.40 | 5/11/05 | 5/31/05 |
| 253 | Zoning Map Amendment – rezone 275 Middle Street from R-60 Rural Residential to the IT Interstate Trade zone. | Amendment II | 6/22/05 | 7/1/05 |
| 254 | Zoning Text Amendment -- Alcoholic Liquor Permits, Establishments | Amended Section 16.18.02<br>Amended Section 44.08.23<br>Amended Section 61.02.16 | 8/10/05 | 8/25/05 |
| 255 | Zoning Text Amendment - Active Adult Housing | Amended Section 44.08.43 | 10/26/05 | 11/1/05 |

AMENDMENTS ADOPTED TO THE ZONING CODE
AFTER ITS EFFECTIVE DATE OF MARCH 21, 1984

| NO. | TOPIC | SPECIFIC SECTIONS | MTG. DATE | EFF. DATE |
|---|---|---|---|---|
| 256 | Zoning Text Amendment – Active Adult Housing | Amended Section 44.08.43(D)(9) and (10) | 3/22/06 | 3/31/06 |
| 257 | Zoning Text Amendment - Aquifer Protection Areas | Added Appendix II | 6/28/06 | 7/31/06 |
| 258 | Zoning Map Amendment – delineate areas of contribution and re-charge for the John S. Roth Wellfields on River Road | Amendment JJ | 6/28/06 | 7/31/06 |
| 259 | Zoning Text Amendment – Indoor Recreational Facility | Added Section 40.04.28<br>Added Section 44.08.44<br>Added Section 61.02.37 | 9/27/06 | 10/13/06 |
| 260 | Zoning Text Amendment – Signs | Amended Section 48.07(O)<br>Added Section 48.07(R) | 10/11/06 | 10/31/06 |

AMENDMENTS ADOPTED TO THE ZONING CODE
AFTER ITS EFFECTIVE DATE OF MARCH 21, 1984

| NO. | TOPIC | SPECIFIC SECTIONS | MTG. DATE | EFF. DATE |
|---|---|---|---|---|
| 261 | Zoning Text Amendment – Permanent Year Round Farm Markets | Amended Section 60.02.38 | 3/14/07 | 3/30/07 |
| 262 | Zoning Text Amendment – Family | Amended Section 16.06.01 | 6/13/07 | 6/29/07 |
| 263 | Zoning Map Amendment – rezone 496 Saybrook Road from R-15 Residential to the MX Mixed Use zone. | Amendment KK | 8/22/07 | 8/31/07 |
| 264 | Zoning Text Amendment – Maintenance of Landscaping | Added Section 55.10 | 5/28/08 | 6/13/08 |
| 265 | Zoning Text Amendment – Flood Area Managements Regulations | Amended Section 46 | 5/28/08 | 8/28/08 |

AMENDMENTS ADOPTED TO THE ZONING CODE
AFTER ITS EFFECTIVE DATE OF MARCH 21, 1984

| NO. | TOPIC | SPECIFIC SECTIONS | MTG.DATE | EFF.DATE |
|---|---|---|---|---|
| 266 | Zoning Text Amendment – Enforcement of the Floodplain Regulations | Amended Section 46.07 | 2/11/09 | 3/2/09 |
| 267 | Zoning Text Amendment – Variances from the Floodplain Regulations and Floodplain Variance Procedures | Added Section 53.07<br>Added Section 46.09 | 2/11/09 | 3/2/09 |
| 268 | Zoning Text Amendment – Retail sales or rental | Amended Section 61.01.32 | 4/22/09 | 5/1/09 |
| 269 | Zoning Text Amendment – Bed and Breakfast Uses | Amended Section 44.08.30<br>Amended Section 60.02.30 | 5/27/09 | 6/5/09 |
| 270 | Zoning Text Amendment – Retail Sales and Self Storage | Added Section 61.01.57 | 9/8/10 | 9/30/10 |
| 271 | Zoning Text Amendment – B-1 Central Business Zone Uses | Amended Section 32.01 | 5/11/11 | 5/31/11 |
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