

1969

*E. J. Butler*

( P R O P O S E D )

THE ZONING CODE

of the

CITY OF MIDDLETOWN, CONNECTICUT

1969

COMMISSION ON THE CITY PLAN AND ZONING

for the

CITY OF MIDDLETOWN, CONNECTICUT

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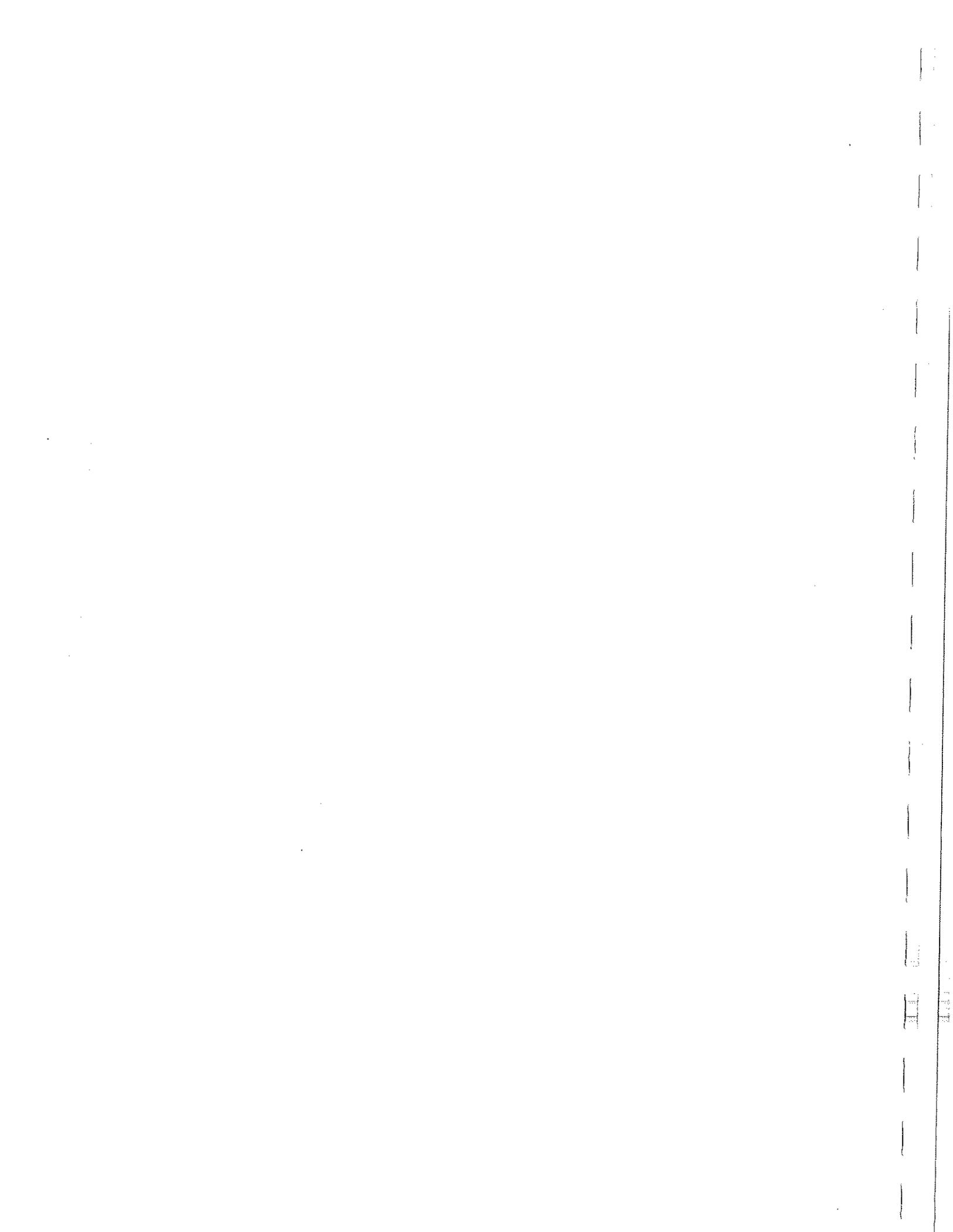
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ARTICLE I

ZONING PROVISION

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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 noisesome 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, per cent of lot occupancy, and location of buildings; by regulating and 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 overcrowding of the land; 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 economical 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 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.

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- 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 per cent 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.
- 10.03.04 No yard or lot existing at the time of passage of this amendment shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this amendment shall meet, at least, the minimum requirements established by this Code.
- 10.03.05 No parking area, parking space or loading space which exists on the effective date of this amendment or which subsequent thereto is provided for the purpose of complying with the provisions of this Code shall thereafter be relinquished or reduced in any manner below the requirements established by this Code, unless additional parking area or space is provided sufficient for the purpose of complying with the provisions of this Code within three hundred (300) feet of the proposed or existing uses for which such parking will be available.

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 the application thereof to any person or circumstance, is held invalid for any reason, the remaining sections or parts of sections and the application

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of such provision to any person or circumstance 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, morals, 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 standard shall govern.

10.06 ZONING CERTIFICATE

10.06.01 When Required  
Except as provided in subsection 10.06.02, no land shall be used, nor shall any building or other structure erected, constructed, reconstructed, moved or structurally altered after the effective date of this Code be used, nor shall the use of any land, building or other structure be changed, without a Zoning Certificate therefor issued by the Zoning Administrator.

10.06.02 When Not Required  
A Zoning Certificate shall not be required for the erection or occupancy of a single-family detached dwelling, nor for the continuance of the use of land, building or other structure if such use was in existence on the effective date of this Code.

10.07 LIMITATIONS ON ACCESSORY USES  
Any use which is incidental only to Permitted Uses and which complies with all of the following conditions may be operated as an Accessory Use:

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- 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 LIMITATIONS ON PERMITTED HOME OCCUPATION USES  
Any Home Occupation in a single dwelling unit may be operated only if it complies with all of the following:

- 10.08.01 Conditions  
Shall be operated in its entirety within the single unit dwelling and only by the person or persons maintaining a dwelling therein.
- 10.08.02 Entrance  
Shall not have a separate entrance from outside the building, except for offices of doctors, dentists and other similar practitioners.

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- 10.08.03 Appearance  
Does not display or create outside the building any external evidence of the operation of the Home Occupation.
- 10.08.04 Area  
Does not utilize more than twenty (20) percent of the gross floor area, but not to exceed three hundred (300) square feet, in the single dwelling unit.
- 10.08.05 Employees  
Does not have any employees or regular assistants, not residing in the single dwelling unit, except for offices of doctors, dentists or other similar practitioners.
- 10.08.06 Power  
Is limited to the use of electric motors for power, with a total limitation of three (3) horsepower.
- 10.08.07 Signs  
No signs shall be permitted.
- 10.08.08 Findings  
A Home Occupation Certificate shall be granted when the Zoning Administrator finds that the proposed Home Occupation will not constitute a violation of any provision of the Zoning Code.
- 10.08.09 Approved Use  
No substantial deviation from the proposed use, so approved, shall be permitted without the approval of the Zoning Administrator. Upon any such deviation without approval, the Commission may revoke the Home Occupation Certificate.

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SECTION 11

ESTABLISHMENT OF ZONES

11.01 ZONES

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

- a.           Residential Zones  
R-2    Restricted Residence  
R-3    General Residence  
R-4    General Residence  
R-5    General Residence
- b.           Non-Residential Zones  
B-1    Waterfront Business  
B-2    General Business  
B-3    Central Business  
I-1    Service Industrial  
I-2    Restricted Industrial  
I-3    Restricted Industrial  
I-4    Special Industrial  
P       Park

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 a part of this Code.

11.02.01 Identification

The official Zoning Map shall be identified by the signature of the Chairman of the Zoning Commission, attested by its Executive Officer, 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 Chapter 124, State Statutes, changes are made in zone boundaries or other matter portrayed on the Official Zoning Map, such changes shall be

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entered on the Official Zoning Map promptly after the amendment has been approved and adopted by the Commission, with an entry on 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 Official Zoning 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 on the City Plan and Zoning shall be the final authority as to the current zoning status of land and water areas, buildings, and other structures in the city.

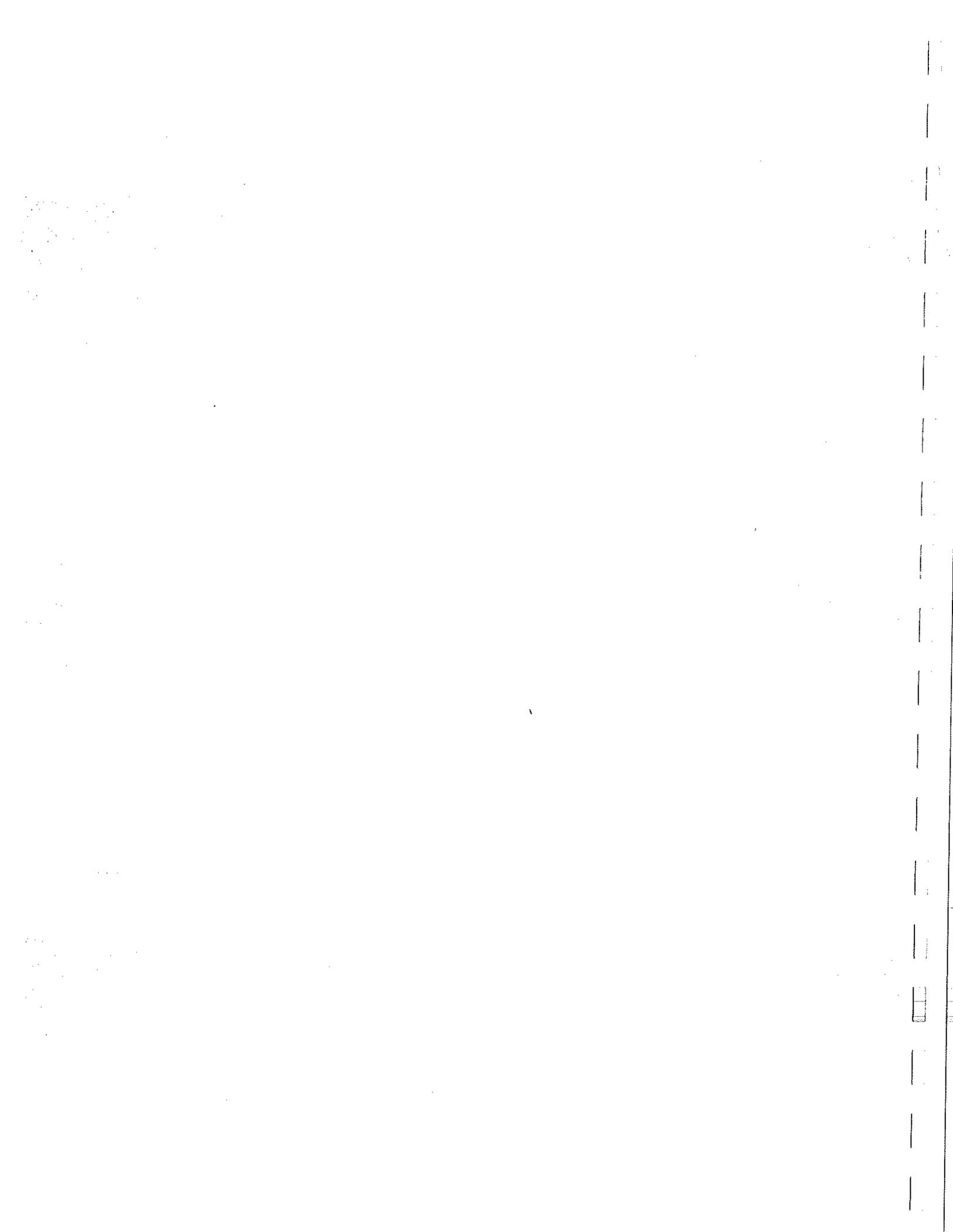
11.03 REPLACEMENT OF OFFICIAL ZONING MAP  
In the event that the Official Zoning Map becomes damaged, destroyed, lost, or difficult to interpret because of the nature or number of changes and additions, the Commission may by resolution adopt a new Official Zoning Map which shall supersede the prior Official 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 have 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 Zoning Commission attested by the Zoning Administrator, 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 uncertainty exists as to the boundaries of any zone ~~shown on the Official Zoning Map~~ (11.04) 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 platted 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 Zoning 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 Zoning Board of Appeals 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.



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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 projection 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 provision 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

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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

Any lot as defined herein, which was legally recorded at the time of adoption of this SECTION or which appeared on a preliminary subdivision plat approved by the Plan 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 shall be deemed a buildable lot even though it may have less than the minimum area requirements.

12.06

STRUCTURES TO HAVE ACCESS

Every building hereafter erected or moved shall be on a lot adjacent to a public street, or with access to an approved private 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

BUILDING IN FLOOD PLAIN

Every building hereafter erected for residential use shall have its first habitable floor elevation at least at thirty-two (32) feet above mean sea level of the U. S. Coast and Geodetic datum.

12.08

BUFFER STRIPS

12.08.01

Location and minimum width

In any Non-Residential Zone where the premises are occupied by a building or other use and abut a Residential Zone, there shall be a ten (10) foot landscaped buffer strip in addition to any required yards.

12.08.02

Buffer materials

The Non-Residential premises shall be screened from

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the abutting residential area by hedges or coniferous planting having a height of at least four (4) feet at the time of planting; by grading of at least six (6) feet in height; by ornamental fencing at least six (6) feet in height; or by any combination of these as approved by the Planning Commission.

12.08.03 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.

12.09 PARKING, STORAGE OR USE OF MAJOR RECREATIONAL EQUIPMENT

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. No such equipment shall be used for living, sleeping or house-keeping purposes 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

Automotive vehicles or trailers of any kind or type without current license plates shall not be parked or stored on any residentially zoned property other than in completely enclosed buildings.

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.



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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, irrespective of its area or width, provided the applicable yard and other open space requirements are complied with as nearly as possible, provided further:

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 not be 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, flag poles, 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 of Public Assembly

Places of public assembly in churches, schools and

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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, antennae 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 be not 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

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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 the lot immediately adjoining; provided, however, that the depth of a 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 yard abuts an alley, one-half ( $\frac{1}{2}$ ) 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 side wall 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 side wall 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 ( $\frac{1}{2}$ ) the otherwise required least width, or narrower than three (3) feet in any case.

C Side Yard - Corner Lot

A side yard along the side street lot line of a corner lot, which lot abuts in the rear, either directly or across an alley, the side lot line of another lot in a Residential Zone, shall have a width of not less than one-half ( $\frac{1}{2}$ ) the required depth of the front yard on such other lot fronting the side street.

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 lintels

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

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- 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 such fences shall not be deemed "structures" or "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 front yard, ten (10) feet into rear yard, and three (3) feet into side yard.
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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 Carport

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:

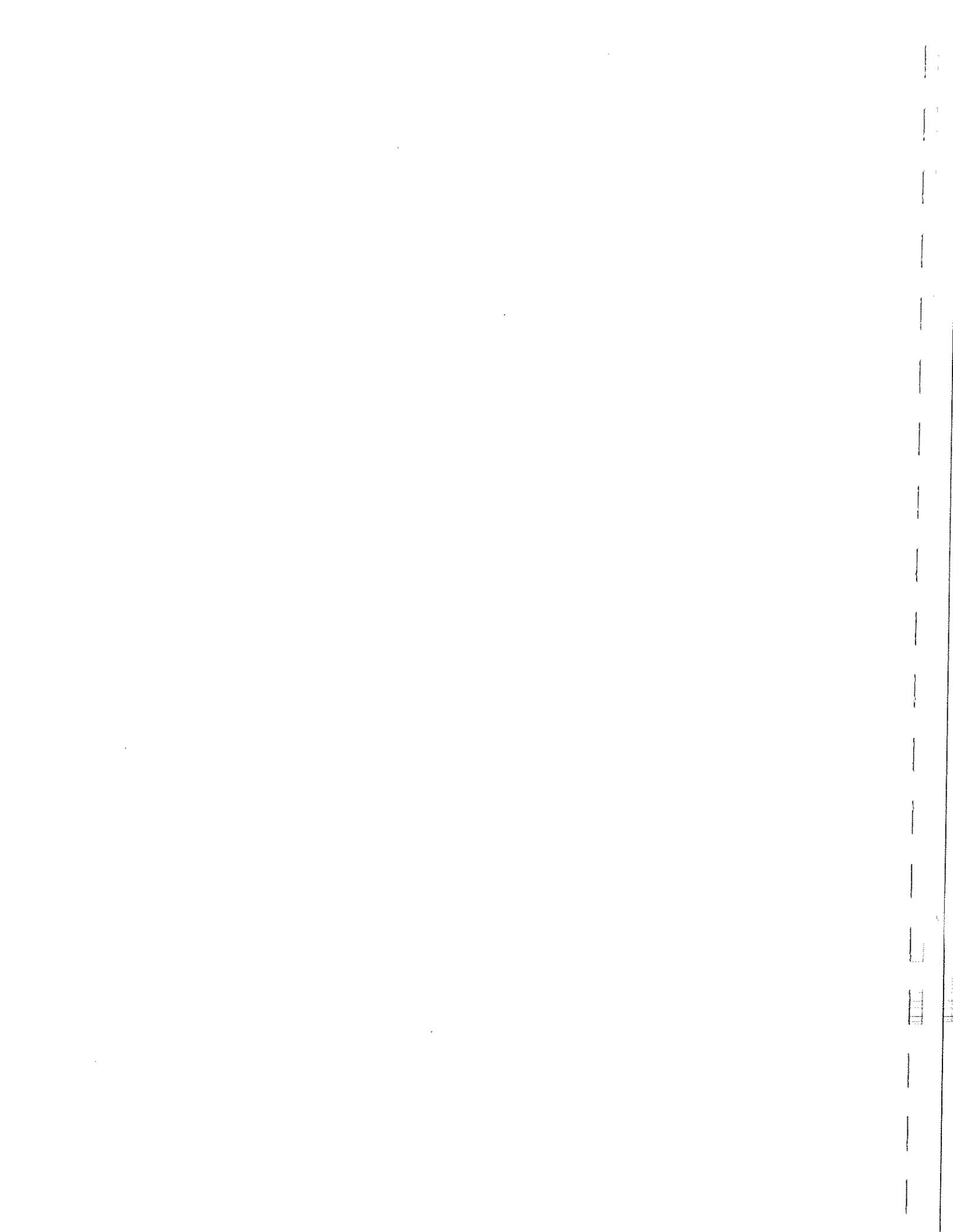
(1) Front Yard - three (3) feet

(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.



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SECTION 14

NON-CONFORMING BUILDINGS AND USES

14.01

INTENT  
Within the zones established by the Zoning Code or amendments that may later be adopted there exist

- (a) lots,
- (b) structures,
- (c) uses of land and structures, and
- (d) characteristics of use

which were lawful before this Code was passed or amended, but which would be prohibited, regulated or restricted under the terms of this Code or future amendment. It is the intent of this Code to permit these non-conformities to continue until they are removed, but not to encourage their survival. It is further the intent of this Zoning Code that non-conformities shall not be enlarged upon, expanded or extended, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same zone.

Non-conforming uses are declared by this Code to be incompatible with permitted uses in the zones involved. A non-conforming use of a structure, a non-conforming use of land, or a non-conforming use of structure and land in combination shall not be extended or enlarged after passage of this Code by attachment on a building or premises of additional signs intended to be seen from off the premises, or by the addition of other uses, of a nature which would be prohibited generally in the zone involved.

To avoid undue hardship, nothing in this Code shall be deemed to require a change in the plans, construction or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this Code and upon which actual building construction has been carried on diligently. Actual construction is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner. Where excavation or demolition or removal of an existing building has been substantially begun preparatory to rebuilding, such excavation or demolition or removal shall be deemed to be actual construction, provided that work shall be carried on diligently.

14.02

NON-CONFORMING LOTS OF RECORD

In any zone in which single-family dwellings are permitted, a single-family dwelling and customary accessory buildings may be erected on any single lot of record at the effective date of adoption or amendment of this ordinance, notwithstanding limitations imposed by other provisions of the Zoning Code. Such lot must be in separate ownership and not of continuous frontage with other lots in the same ownership. This provision shall apply even though such lot fails to meet the requirements for area or width, or both, that are generally applicable in the zone, provided that yard dimensions and requirements other than these applying to area or width, or both, of the lot shall conform to the regulations for the zone in which such lot is located. Variance of yard requirements shall be obtained only through action of the Zoning Board of Appeals.

If two or more lots or combinations of lots and portions of lots with continuous frontage in single ownership are of record at the time of passage or amendment of this Code, and if all or part of the lots do not meet the requirements established for lot width and area, the lands involved shall be considered to be an undivided parcel for the purposes of this Zoning Code, and no portion of said parcel shall be used or sold in a manner which diminishes compliance with lot width and area requirements established by the Zoning Code, nor shall any division of any parcel be made which creates a lot with width or area below the requirements stated in the Zoning Code.

14.03

NON-CONFORMING USES OF LAND (OR LAND WITH MINOR STRUCTURES ONLY)

Where at the time of passage of this Code lawful use of land exists which would not be permitted by the regulations imposed by the Zoning Code, and where such use involves no individual structure with a replacement cost exceeding one thousand dollars (\$1,000.00), the use may be continued so long as it remains otherwise lawful, provided:

- 14.03.01 Expansion  
No such non-conforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this Code;
- 14.03.02 Moving  
No such non-conforming use shall be moved in whole or in part to any portion of the lot or parcel other than that occupied by such use at the effective date of adoption or amendment of this Code;
- 14.03.03 Discontinuance  
If any such non-conforming use of land ceases for any reason for a period of more than sixty (60) days, any subsequent use of such land shall conform to the regulations specified by the Zoning Code for the zone in which such land is located.
- 14.03.04 Additions  
No additional structure not conforming to the requirements of the Zoning Code shall be erected in connection with such non-conforming use of land.
- 14.04 NON-CONFORMING STRUCTURES  
Where a lawful structure exists at the effective date of adoption or amendment of this Code that could not be built under the terms of this Code by reason of restrictions on area, lot coverage, height, yards, its location on the lot, or other requirements concerning the structure, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:
- 14.04.01 Expansion  
No such non-conforming structure may be enlarged or altered in a way which increases its non-conformity, but any structure or portion thereof may be altered to decrease its non-conformity.
- 14.04.02 Restoration  
Should such non-conforming structure or non-conforming portion of structure be destroyed by any means to an extent of more than fifty per cent (50%) of its replacement cost at time of destruction, it shall not be reconstructed except in conformity with the provisions of the Zoning Code.

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14.04.03 Moving  
Should such structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the zone in which it is located after it is moved.

14.05 NON-CONFORMING USES OF STRUCTURES OR OF STRUCTURES AND PREMISES IN COMBINATION

If lawful use involving individual structures with a replacement cost of one thousand dollars (\$1,000.00) or more, or of structure and premises in combination, exists at the effective date of adoption or amendment of this Code, that would not be allowed in the zone under the terms of this Code, the lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions:

14.05.01 Expansion

No existing structure devoted to a use not permitted by this Code in the zone in which it is located shall be enlarged, extended, constructed, reconstructed, moved, or structurally altered except in changing the use of the structure to a use permitted in the zone in which it is located;

14.05.02 Limitation

Any non-conforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use at the time of adoption or amendment of this Code, but no such use shall be extended to occupy any land outside such building;

14.05.03 Change of Use

If no structural alterations are made, any non-conforming use of a structure, or structure and premises, may as a special exception be changed to another non-conforming use provided that the Zoning Board of Appeals, either by general rule or by making findings in the specific case, shall find that the proposed use is equally appropriate or more appropriate to the zone than the existing non-conforming use. In permitting such change, the Zoning Board of Appeals may require appropriate conditions and safeguards in accord with the provisions of the Zoning Code;

14.05.04 Discontinuance

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;

14.05.05 Discontinuance

When a non-conforming use of a structure, or structure and premises in combination, is discontinued or abandoned for six (6) consecutive months or for eighteen (18) months during any three (3) year period (except when government action impedes access to the premises), the structure, or structure and premises in combination, shall not thereafter be used except in conformity with the regulations of the zone in which it is located;

14.05.06 Restoration

Where non-conforming use status applies to a structure and premises in combination, removal or destruction of the structure shall eliminate the non-conforming status of the land. Destruction for the purpose of this subsection is defined as damage to an extent of more than fifty per cent (50%), or other figure, of the replacement cost at time of destruction.

14.06 REPAIRS AND MAINTENANCE

On any non-conforming structure or portion of a structure containing a non-conforming use, work may be done in any period of twelve (12) consecutive months on ordinary repairs, or on repair or replacement of non-bearing walls, fixtures, wiring, or plumbing, to an extent not exceeding ten per cent (10%) of the current replacement cost of the non-conforming structure or non-conforming portion of the structure as the case may be, provided that the cubic content existing when it became non-conforming shall not be increased.

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.

Nothing in the Zoning Code shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official.

14.07

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 (other than a change through the Zoning Board of Appeals action from a non-conforming use to another use not generally permitted in the zone) shall not be deemed a non-conforming use in such district, but shall without further action be considered a conforming use.

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SECTION 15

PERFORMANCE STANDARDS

15.01 GENERAL REQUIREMENTS

No land or structure 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 NON-CONFORMING USES

Certain uses established before the effective date of this section and non-conforming as to performance standards shall be given a reasonable time in which to conform therewith as determined by the Planning Commission.

15.03 EXISTING AND NEW USES

15.03.01 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 Planning Commission shall make a preliminary investigation of the matter. In the event that the Planning 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.

15.03.02 Location Where Determinations are to be Made for Enforcement of Performance Standards: The determination

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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.

15.03.03 Enforcement: Upon receipt of the findings and recommendations of such specialist or laboratory, the Planning Commission may approve, partially approve or disapprove the measure recommended therein and instruct the Zoning Administrator to proceed with the enforcement of said measures in accordance with the provisions of SECTION 51 of this Code.

15.03.04 Cost of Investigation, etc: The City shall bear the costs of the various tests, consultant fees or other investigations 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 Planning 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 Planning Commission ruling or court judgment.

15.03.05 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.

15.04 NEW USES

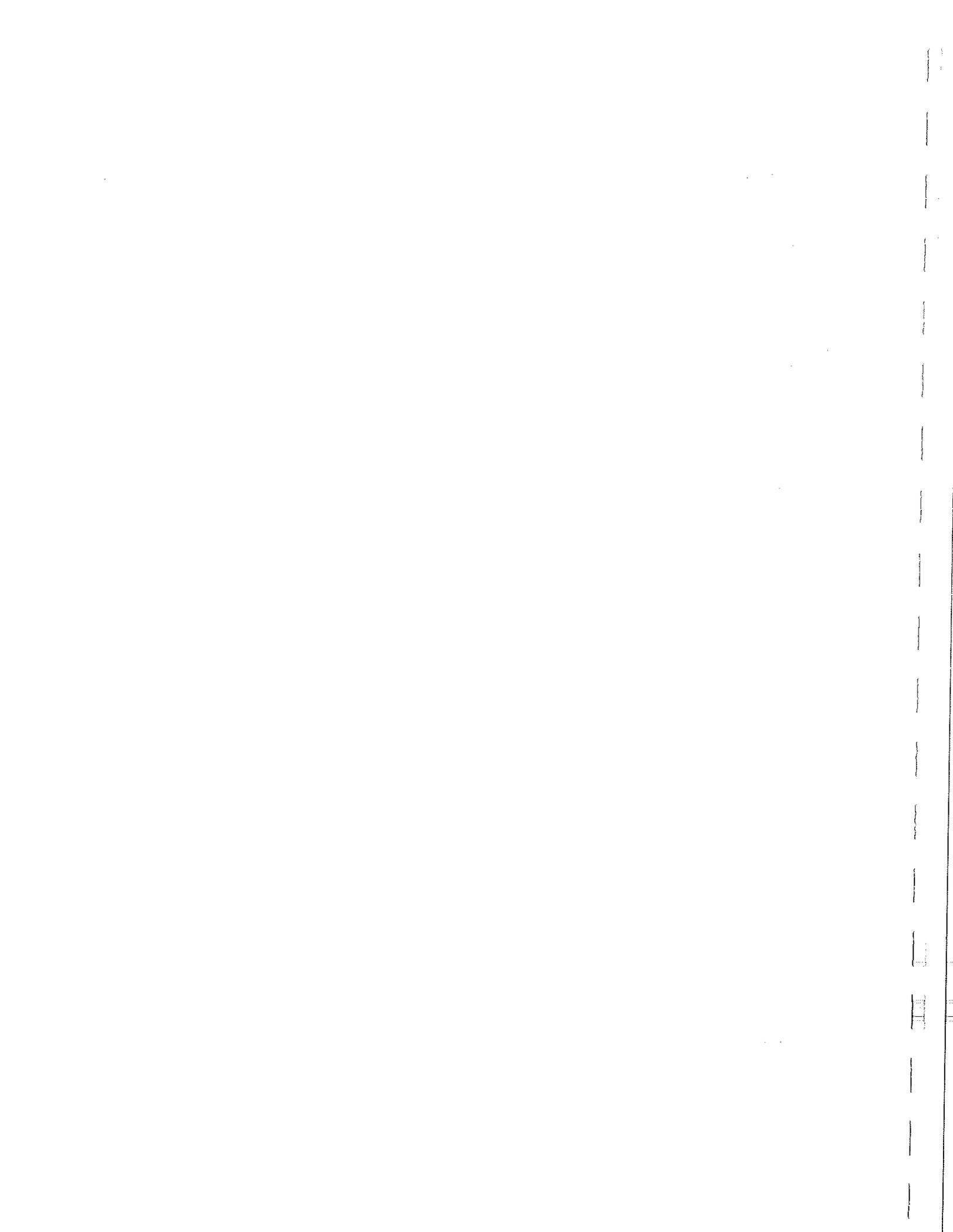
In addition to the standards herein above stated, every use permitted from the effective date of this Section, unless expressly exempted by this Code, shall be operated in its entirety within a completely enclosed structure or a completely enclosed fence except residential uses and shall comply with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

15.04.01 A solid wall, cyclone-type fence or uniformly painted

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fence or fire-resistant material with a minimum of five (5) feet and a maximum of eight (8) feet finished grade (or above roof level or on a roof).

- 15.04.02 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.
- 15.04.03 Buffer strips shall be between the wall or fence and the property line.
- 15.04.04 Such buffer strips, shrubs, trees, walls or fences shall be maintained in good condition at all times.
- 15.04.05 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.
- 15.04.06 No parking of vehicles shall be allowed within five (5) feet of the front lot line except in industrial zones only.



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SECTION 16

DEFINITIONS

16.00

DEFINITIONS

For the purposes 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 or 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 of the principal building or land use.

16.01.02

Agriculture

The use of land for agricultural purposes, including farming, dairying, pasturage, apiculture, 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.

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- 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, hangars and other necessary buildings and open spaces.
- 16.01.04 Ambulance Service  
The term "ambulance service" shall have the meaning commonly and usually given to the term and shall also include uses necessarily incident or accessory thereto, except that it shall not permit limousine service.
- 16.01.05 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.
- 16.01.06 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, and having, at least, four hundred (400) square feet of living space per family.
- 16.01.07 Apartment Hotel  
An apartment house which furnishes services for the use of its tenants which are ordinarily furnished by hotels.
- 16.01.08 Apartment House  
See Dwelling, Multi-Family.
- 16.01.09 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.
- 16.01.10 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.
- 16.01.11 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
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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.

- 16.01.12 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, anti-freeze, tires, batteries, and automobile accessories directly to users of motor vehicles; tuning motors, minor wheel and brake adjustment, 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 glass work, tire recapping, auto dismantling and auto sales.
- 16.01.13 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.
- 16.01.14 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.
- 16.02 "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 is 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 Billboard or Signboard  
Any structure or portion thereof, situated on pri-

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vate premises, on which lettered, figured or pictorial matter is displayed for advertising purposes, other than the name and occupation of the user of the premises or the nature of the business conducted thereon or the products primarily sold or manufactured thereon, or any such structure or portion thereof, the area of which, devoted to advertising purposes, exceeds one hundred (100) square feet. This definition shall not be held to include any board, sign or surface used to display any official notices issued by any court or public office, or posted by a public officer in the performance of a public duty, or bulletin boards used to display announcement of meetings to be held on premises wherein such bulletin boards are located, nor shall it be held to include a real estate sign advertising for sale or rent the property upon which it stands.

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 two (2) intersecting streets or a street and a railroad right-of-way or watercourse.

16.02.05 Board

The Zoning Board of Appeals of 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 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 sideyard requirements, as hereinafter provided.

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- 16.02.08 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 to be devoted to an accessory use is not an accessory building.
- 16.02.09 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.
- 16.02.10 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.
- 16.02.11 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.
- 16.02.12 Building Line  
The line beyond which no building or part thereof shall project, except as otherwise provided by this Code.
- 16.02.13 Buildable Lot Area  
That part of the lot not included within the open areas required by this Code.
- 16.03 "C"
- 16.03.01 Care Home  
Includes rest and nursing homes, convalescent homes, and boarding homes for the aged established to render domiciliary or nursing care for chronic or convalescent patients, including rehabilitation homes or facilities for care of mental patients, alcoholics, senile psychotics or drug addicts, but excluding violent patient care.
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- 16.03.02 Cellar  
A story, the floor of which is more than one-half ( $\frac{1}{2}$ ) of 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  
The Planning Commission of the City of Middletown.
- 16.03.08 Convalescent (Rest) Home  
A home designed for the care of patients after they leave the hospital but before they are released from observation and treatment.

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- 16.03.09 Council  
The Common Council of the City of Middle-  
town.
- 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.
- 16.04 "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 Display Sign  
A structure that is arranged, intended,  
designed, or used as an advertisement,  
announcement, or direction, including a  
sign, billboard and advertising device of  
any kind.
- 16.04.03 Dormitory  
A building or part of a building operated  
by 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 for living  
and sleeping, but not for cooking or eat-  
ing purposes.
- 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  
the immediate servicing of a vehicle.
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- 16.04.05 Dump  
Any premises used primarily for disposal by abandonment, discarding, dumping, reduction, burial, incineration, or any other means and for whatever purpose of garbage, trash, refuse, waste materials of any kind, junk, discarded machinery, vehicles or parts thereof, but not for raw or untreated sewage or animal waste.
- 16.04.06 Dwelling Unit  
A building or portion thereof arranged or designed for permanent occupancy by not more than one (1) family and having facilities for living, working 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 having, at least, seven hundred fifty (750) square feet of living space.
- 16.04.08 Dwelling, Two Family  
A building designed for or used exclusively by two (2) families or housekeeping units having, at least, seven hundred fifty (750) square feet of living space per family.
- 16.04.09 Dwelling, Multi-Family  
A building or portion thereof designed for or used by three (3) or more families or housekeeping units having, at least, five hundred (500) square feet of living space per family.

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- 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 purposes 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 occupied 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

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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 net earnings of which inures to the benefit of any member of 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 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 or marriage, or a group of not more than (5) persons (excluding servants) not related by blood or marriage, living together as a single housekeeping group in a dwelling unit.

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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, waterway, end of a dead-end street, or city boundary measured along the street line. An intercepting street shall determine only the boundary of 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

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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.

16.08 "H"

16.08.01 Home Occupation

An occupation conducted entirely within a single-family dwelling or dwelling unit, by a member or members of the immediate family residing therein. Boarding and rooming houses, tourist homes and private educational institutions shall not be deemed home occupations.

16.08.02 Hospital

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

16.08.03 Hotel

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

16.08.04 Housing for Elderly or Physically Handicapped Persons

Multiple-family dwelling owned and operated by a private, non-profit organization, no part of the net earnings of which inures to the benefit

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of any individual, and occupied exclusively by elderly persons or spouses of such persons, physically handicapped persons, and such other persons as are necessary for maintenance and management of the building.

16.09 "I"

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

16.10 "J"

16.10.01 Junk or 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, use lumber yards and places or yards for storage of salvaged house wrecking and structural steel materials and equipment; but not including such places where such uses are conducted entirely within a completely enclosed building, and not including pawn shops and establishments for the sale, purchase or storage of used furniture and household equipment, used cars in operable condition, or salvaged materials incidental to manufacturing operations.

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.

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

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- 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 of 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 uses, or by group dwellings and their accessory buildings or uses, 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 principal 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.
- 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 a 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 Line, Front  
The line separating the lot from the street on which it fronts.
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- 16.12.08 Lot Line, Rear  
The lot line opposite and most distant from the front lot line.
- 16.12.09 Lot Line, Side  
Any lot line other than a 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.
- 16.12.12 Lot Area  
The computed area contained within the lot lines.
- 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.
- 16.13 "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.
- 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 individual cooking or kitchen facilities, said units having convenient access to off-street parking spaces, for the exclusive use of the guests or occupants.
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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.

16.15        "O"

16.15.01    Outlot

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 outlot so long as such conditions exist.

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.

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- 16.16.04 Parking Space  
A permanently surfaced area of not less than one hundred eighty (180) square feet, either within a structure or in the open, exclusive of driveways or access drives, for the 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.
- 16.17 "Q"
- 16.18 "R"
- 16.18.01 Residential Principal Building  
Any building containing one or more dwelling units, excluding residential accessory buildings for domestic servants and caretakers employed on the premises and for occasional gratuitous guests.
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- 16.18.02 Retail Package Store Permit  
Shall mean any permit which may be issued by the Liquor Control Commission of the State of Connecticut under Section 30-15 (c) (1) of the General Statutes of the State of Connecticut, Revision of 1958, as amended.
- 16.18.03 Rooming House  
Any dwelling or that part of any dwelling containing one or more rooming units in which space is let by the owner or operator to three or more persons who are not members of a single family.
- 16.19 "S"
- 16.19.01 Sign  
Any structure, part thereof, or device or inscription attached thereto or painted or represented thereon, which is located upon any land, on any building, or on the outside or inside of a window, and which displays or includes any numeral, letter, word, model, banner, emblem, insignia, device, trademark, or other representation used as, or in the nature of, an announcement, advertisement, direction, warning, or designation of any person, firm, group, organization, place, commodity, product, service, business, profession, enterprise, or industry. But this definition shall not include the flag, emblem, insignia, poster or other display of any nation or political subdivision including traffic or similar regulatory devices; or legal notices, warnings at railroad crossings, signs or tablets which are primarily memorials, or emblems of religious institutions that are attached to buildings.
- 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 Special Exception  
A special exception is a use that would not be appropriate generally or without restriction throughout the zoning district but which, if
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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 exceptions, if specific provision for such special exceptions is made in this Zoning Code.

- 16.19.04 Story  
That portion of a building, included between the surface of any floor and the surface of the floor next above it, or, if there be no floor above it, then the space between the floor and the ceiling next above it.
- 16.19.05 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, shall be deemed a full story.
- 16.19.06 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 residence purposes, other than for a janitor or caretaker or his family, shall be deemed the first story.
- 16.19.07 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.
- 16.19.08 Street  
A public right-of-way fifty (50) feet or more in width which provides a public means of access to abutting property, or any such right-of-way pro-

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vided it existed prior to the enactment of this Code. The term "street" shall include avenue, drive, circle, road, parkway, boulevard, highway, thoroughfare, or any other similar term.

16.19.09 Structure

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

16.19.10 Structural Alteration

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

16.19.11 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 (1½) feet used for swimming.

16.19.12 Swimming Pool, Specifications for

Are regulated by State of Connecticut Basic Code, Article IV, Section 429.0 - Swimming Pools.

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

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may

designed that it is or/be mounted on wheels and used as a conveyance on highways and streets, propelled or drawn by its own or other motor power.

16.20.03 Trailer or Mobile Home Park or Camp

Any lot or part thereof, or any parcel of land which is used or offered as a location for two (2) or more trailers used for any purpose set forth in subsection 16.20.02 above.

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 buildings 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) above.

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 or may be used, occupied or maintained.

16.21.03 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.

16.21.04 Use, Permitted

A use which is permitted outright in a zone for which a Zoning Certificate may be issued by the Zoning Administrator in accordance with Section 54.

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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 of 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, most 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 from 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.

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- 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 Side Yard, Least Width, How Measured  
Such width shall be measured from the nearest side lot line and in case the nearest side lot line is a side street lot line, from the right-of-way line of the existing street.
- 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 Zoning Administrator  
The Zoning Administrator or his authorized representative.
- 16.26.03 Zoning Certificate  
A document issued by the Zoning Administrator authorizing buildings, structures or uses consistent with the terms of this Code and for the purpose of carrying out and enforcing its provisions.
- 16.26.04 Zoning Commission  
The Commission on the City Plan and Zoning of the City of Middletown.
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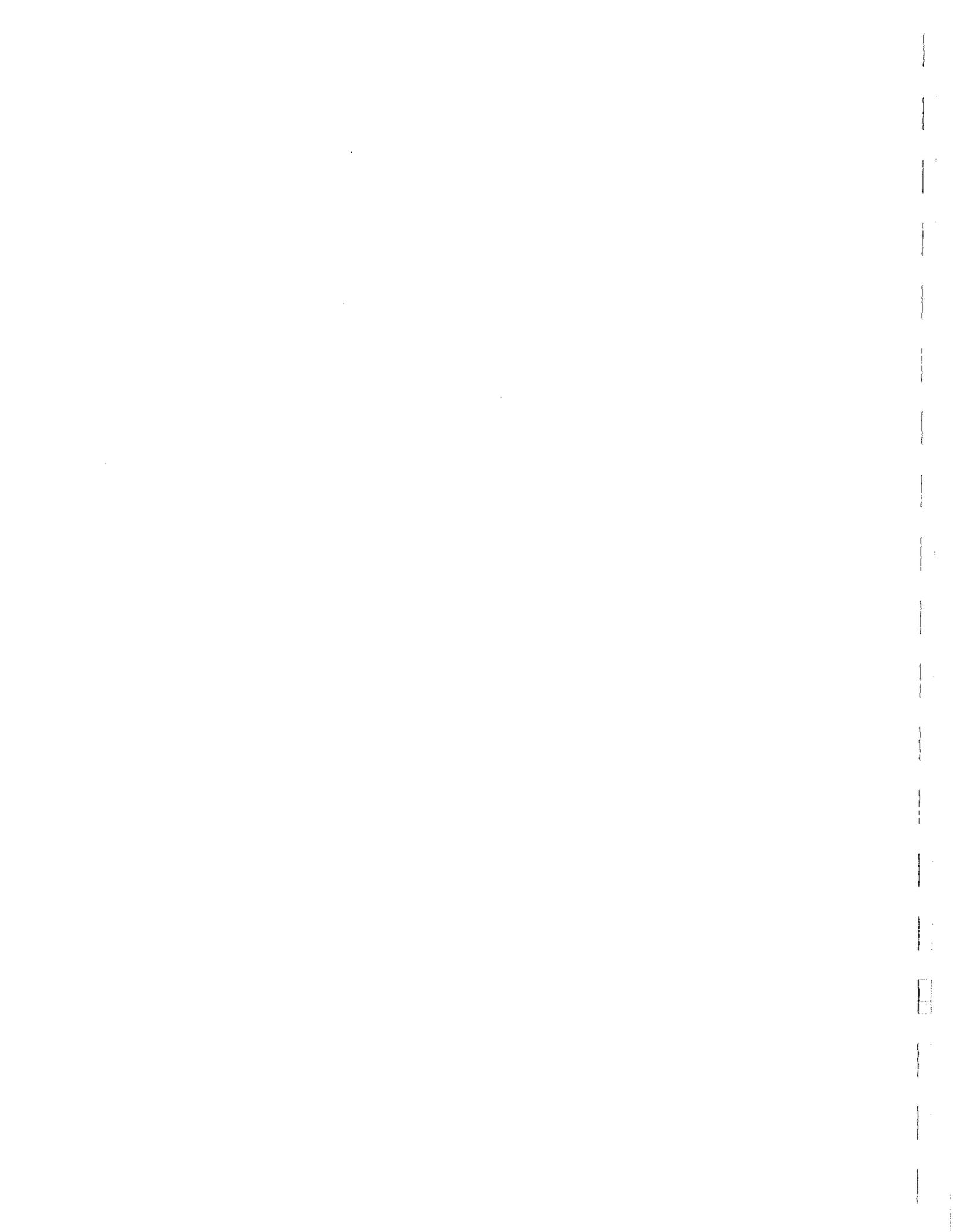
16.26.05 Zoning Map  
The Zoning Map or Maps of the City of  
Middletown, dated 1969  
together with all amendments subsequently  
adopted.

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16.26.05

ARTICLE II

RESIDENCE ZONES



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SECTION 21

R-2 RESTRICTED RESIDENCE ZONE

21.00 DESCRIPTION OF ZONE

This zone is composed of certain land so situated as to be suitable for a certain quiet low density residential areas. 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, and certain non-residential use which serve the residents of the zone.

21.01 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 R-2 columns of the Use Schedule, Section 60 of this Zoning Code and shall be subject to such provisions as referred to in that column.

21.02 HEIGHT

The maximum height shall not exceed three and one-half (3 1/2) stories.

21.03

LOT AREA, WIDTH AND YARD REQUIREMENTS

The following minimum requirements shall apply:

| Use                  | Minimum Lot area (sq. ft.) | Lot Width | Front Yard | Side Yards  |               | Rear Yard |
|----------------------|----------------------------|-----------|------------|-------------|---------------|-----------|
|                      |                            |           |            | Least Width | Sum of Widths |           |
| <u>Dwellings</u>     |                            |           |            |             |               |           |
| with S & W           | 15,000                     | 100ft     | 25ft       | 10ft        | 30ft          | 30ft      |
| with Sor W           | 20,000                     | 100ft     | 25ft       | 10ft        | 30ft          | 30ft      |
| without S&W          | 40,000                     | 200ft     | 25ft       | 10ft        | 30ft          | 30ft      |
| other permitted uses | 20,000                     | 100ft     | 25ft       | 10ft        | 30ft          | 30ft      |

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

21.04

LOT COVERAGE

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

21.05

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.

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SECTION 22

R-3 GENERAL RESIDENCE ZONE

22.00

DESCRIPTION OF ZONE

This zone is composed of certain land so situated as to be suitable for low density multi-family dwellings of various types. Accordingly, the use of the land and buildings within these areas is limited in general to about eight (8) dwelling units per acre and to such non-residential uses as generally support and harmonize with a low density area. To these ends, development is limited to low concentration, and permitted uses are typically two-family, row house and town house, providing homes for the residents plus certain additional uses such as parks, certain public facilities which serve the residents of the zone.

22.01

USES

No land shall be used or occupied and no structure shall be erected, constructed, reconstructed, altered or used, except for any uses which is indicated in the R-3 column of the Use Schedule, Section 60 of this Zoning Code; and shall be subject to such provisions as referred to in that column.

22.02

HEIGHT

The maximum height shall not exceed three and one-half (3 1/2) stories.

22.03

LOT AREA, WIDTH AND YARD REQUIREMENTS:

The following minimum requirements shall apply:

| Use | Net Lot area (sq.ft.) | Lot Width | Front Yard | Side Yards  |               |           |
|-----|-----------------------|-----------|------------|-------------|---------------|-----------|
|     |                       |           |            | Least Width | Sum of Widths | Rear Yard |

|                  |        |      |      |      |      |      |
|------------------|--------|------|------|------|------|------|
| <u>Dwellings</u> | 10,000 | 75ft | 25ft | 10ft | 30ft | 30ft |
|------------------|--------|------|------|------|------|------|

There shall be at least the following square feet of net lot area for each dwelling unit (D.U.)

- 1 family dwelling....10,000 sq.ft./D.U.
- 2 family dwelling.... 7,500 sq.ft./D.U.
- multi-family dwelling.5,000 sq.ft./D.U.

other permitted uses

|        |       |      |      |      |      |
|--------|-------|------|------|------|------|
| 15,000 | 100ft | 50ft | 10ft | 30ft | 30ft |
|--------|-------|------|------|------|------|

22.04

LOT COVERAGE

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

22.05

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.

22.06

BUFFER AREA

Whenever a lot in this zone adjoins a lot in a R-2 residential zone, there shall be a sixty (60) foot buffer area in addition to the required yard or yards and a buffer strip, as provided in subsection 12.08 of this Code.

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SECTION 23

R-4 GENERAL RESIDENCE ZONE

23.00

DESCRIPTION OF ZONE

This zone is composed of certain land so situated as to be suitable for certain low density multi-family dwellings of various types that have been predominantly developed for low density multi-family dwellings. Accordingly, the use of the land and buildings within these areas is limited in general to about twenty (20) dwelling units per acre and to such non-residential uses as generally support and harmonize with a middle density area. To these ends development is limited to a medium concentration and permitted uses are typically two and three-story detached, semi-detached houses, row houses, and garden apartments providing homes for the residents plus certain additional uses such as parks, certain public facilities and non-residential facilities which serve the residents of the zone.

23.01

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 R-4 column of the Use Schedule, Section 60 of the Zoning Code, and shall be subject to such provisions as referred to in that column.

23.02

HEIGHT

The maximum height shall not exceed three and one-half (3 1/2) stories.

23.03

LOT AREA, WIDTH AND YARD REQUIREMENTS

The following minimum requirements shall apply:

| Use   | Minimum Lot Area (sq.ft.) | Lot Width | Front Yard | Side Yards            |                        | Rear Yard |
|---|---------------------------|-----------|------------|-----------------------|------------------------|-----------|
|   |                           |           |            | Least Width           | Sum of Widths          |           |
| Dwellings   | 10,000                    | 75ft      | 25ft       | 10ft                  | 30ft                   | 30ft      |
| There shall be at least the following square feet of net lot area for each dwelling unit (D.U.) |                           |           |            |                       |                        |           |
|   |                           |           |            | 1 family dwelling     | ....10,000 sq.ft./D.U. |           |
|   |                           |           |            | 2 family dwelling     | .... 5,000 sq.ft./D.U. |           |
|   |                           |           |            | multi-family dwelling | 2,000 sq.ft./D.U.      |           |
| <u>other permitted uses</u>   | 15,000                    | 100ft     | 25ft       | 10ft                  | 25ft                   | 30ft      |

23.04

LOT COVERAGE

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

23.05

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.

23.06

BUFFER AREA

Whenever a lot in this zone adjoins a lot in a R-2 residential zone, there shall be a sixty (60) foot buffer area in addition to the required yard or yards and a buffer strip, as provided in subsection 12.08 of this Code.

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SECTION 24

R-5 GENERAL RESIDENCE ZONE

24.00

DESCRIPTION OF ZONE

This zone is composed of certain land around the Central Business Zone which is suitable for high density multi-family dwellings of various types. Accordingly, the use of the land and buildings within those areas is limited in general to about forty (40) dwelling units per acre and to such non-residential uses as generally support and harmonize with a high density area. To these ends development is limited to high concentration and permitted uses are typically row houses, garden apartments and multi-story apartments for the residents plus certain additional uses such as parks, certain public facilities and non-residential facilities which serve the residents of the zone and in certain cases residents outside the zone.

24.01

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 R-5 column of the Use Schedule, Section 60 of the Zoning Code, and shall be subject to such provisions as referred to in that column.

24.02

HEIGHT

The maximum height shall not exceed ten (10) stories.

24.03

LOT AREA, WIDTH AND YARD REQUIREMENTS

The following minimum requirements shall apply:

| Use | Minimum Lot Area (sq.ft.) | Lot Width | Front Yard | Side Yards  |               | Rear Yard |
|-----|---------------------------|-----------|------------|-------------|---------------|-----------|
|     |                           |           |            | Least Width | Sum of Widths |           |

|           |        |      |      |      |      |      |
|-----------|--------|------|------|------|------|------|
| Dwellings | 10,000 | 75ft | 25ft | 10ft | 30ft | 20ft |
|-----------|--------|------|------|------|------|------|

There shall be at least the following square feet of net lot area for each dwelling unit (D.U.)

|                            |                   |
|----------------------------|-------------------|
| multi-family dwellings.... | 1,100 sq.ft./D.U. |
| elderly housing dwellings. | 725 sq.ft./D.U.   |
| dormitories.....           | 435 sq.ft./person |

|                      |        |       |      |      |      |      |
|----------------------|--------|-------|------|------|------|------|
| other permitted uses | 15,000 | 100ft | 25ft | 10ft | 25ft | 30ft |
|----------------------|--------|-------|------|------|------|------|

24.04

LOT COVERAGE AND USABLE OPEN SPACE

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. For every dwelling unit there shall be provided at least two hundred and fifty (250) square feet of usable open space.

24.05

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. In addition off-street parking shall be provided for in an enclosed structure or be screened from the street by means of screening material described in sub-section 12.08.02 of this Code, with the exception that twenty-five (25) percent of the required parking may be provided for on the surface and be so located as to accommodate temporary and occasional deliveries and other such short term needs.

ARTICLE III

NON-RESIDENCE ZONE



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SECTION 31

B-1 WATERFRONT BUSINESS ZONE

31.00

DESCRIPTION OF ZONE

This zone is composed of certain land so situated along the Connecticut River as to be suitable for certain river-oriented uses. Accordingly, the use of land and buildings within this zone is limited to certain retail, service, and residential uses. To these ends development is limited to river oriented uses such as docks, marinas, restaurants, etc. and high density residential use which is compatible with the function of this zone.

31.01

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.

31.02

HEIGHT

The maximum height in the B-1 zone shall not exceed ten (10) stories.

31.03

LOT AREA, WIDTH AND YARD REQUIREMENTS

The following minimum requirements shall apply:

|                 | net lot                          | lot   | front | Side Yards |        | rear |
|-----------------|----------------------------------|-------|-------|------------|--------|------|
|                 | area                             | width | yard  | least      | sum of | yard |
|                 |                                  |       |       | width      | widths |      |
| non-residential | none                             | 20    | none  | none       | none   | none |
| residential     | - same requirement as R-5 zone - |       |       |            |        |      |

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31.04

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.

31.05

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 32

B-2 GENERAL BUSINESS ZONE

32.00 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.

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-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.

32.02 HEIGHT

The maximum height in the B-2 zone shall not exceed three and one-half (3 1/2) stories.

32.03 LOT AREA, WIDTH AND YARD REQUIREMENTS

the following minimum requirements shall apply:

| Use             | Net lot area                     | Lot width | Front Yard | Side Yards  |               |           |
|-----------------|----------------------------------|-----------|------------|-------------|---------------|-----------|
|                 |                                  |           |            | Least Width | Sum of Widths | Rear Yard |
| non-residential | none                             | 50        | 50         | none        | 10            | 10        |
| residential     | - same requirement as R-3 zone - |           |            |             |               |           |

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32.04

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.

32.05

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.

32.06

BUFFER AREA

Whenever a lot in this zone adjoins a lot in a R-2 residential zone, there shall be a sixty (60) foot buffer area in addition to the required yard or yards and a buffer strip, as provided in subsection 12.08 of this Code.

SECTION 33

B-3 CENTRAL BUSINESS ZONE

33.00

DESCRIPTION OF ZONE

This zone is composed and limited to the Central Business area. The zone provides for the central retail, office, cultural and governmental activities of the community as well as high density residential use. 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 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-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.

33.02

HEIGHT

The maximum height shall not exceed ten (10) stories.

33.03

LOT AREA, WIDTH AND YARD REQUIREMENTS

The following minimum requirement shall apply

| Use                 | Net<br>lot area<br>(sq.ft.)         | Lot<br>width | Front<br>Yard | Side Yards     |                  |               |
|---------------------|-------------------------------------|--------------|---------------|----------------|------------------|---------------|
|                     |                                     |              |               | Least<br>width | Sum of<br>widths | Rear<br>yards |
| Non-<br>residential | none                                | none         | none          | none           | none             | none*         |
| Residential         | -- same requirements as R-5 Zone -- |              |               |                |                  |               |

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\* except where a rear yard is provided, it shall not be less than fifteen (15) feet.

33.04

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 adequate off-street parking is available and if dwelling units are above a permitted non-residential use, there shall be provided, at least, two hundred fifty (250) square feet of usable open space per dwelling unit.

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. 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 from the sum of the individual requirement provided that such reduction is approved by the Planning Commission upon a finding by then that such reduction is justified on the basis of common patrons and/or overlapping peak needs.

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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 residential and commercial areas. Accordingly, the use of the land and buildings within these areas are limited to provide standards of intensity of use and standards of external effects or amenities compatible with the surrounding or abutting residential areas. This zone will provide areas for mixed commercial-industrial use with the emphasis on the industrial uses such as warehousing, building material yards, building, agricultural, and automobile sales and service, etc. to these ends development is limited to a low concentration, external effects are limited and uses permitted are limited to those wholesaling, warehousing, servicing and retailing activities which can be operated in a clear and quiet manner, plus certain public facilities which are needed to serve the uses of the area and residents adjoining residential areas.

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 thirty-five (35) feet.

35.03

LOT AREA, WIDTH AND YARD REQUIREMENTS

The following minimum requirements shall apply:

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| net lot<br>area | lot<br>width | front<br>yard | Side Yard      |                  | rear<br>yard |
|-----------------|--------------|---------------|----------------|------------------|--------------|
|                 |              |               | least<br>width | sum of<br>widths |              |
| none            | 75           | 25            | 20             | 50               | 20*          |

\*No rear yard shall be required when the rear of the lot abuts a railroad right-of-way.

35.04

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.

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.

35.06

BUFFER AREA

Whenever a lot in this zone adjoins a lot in a R-2 residential zone, there shall be a sixty (60) foot buffer area in addition to the required yard or yards and a buffer strip, as provided in subsection 12.08 of this Code.

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SECTION 36

I-2 RESTRICTED INDUSTRIAL ZONE

36.00

DESCRIPTION OF ZONE

The zone is composed of certain lands so situated as to be suitable for light industrial development, but where the modes of operations of this will directly affect nearby residential areas. Accordingly, the use of the land and buildings within these areas are limited to provide the normal operation of almost all light industries within an industrial area without the encroachment on residential areas. This zone will provide areas for industrial uses such as manufacturing, compounding, assembling or treatment of articles, products and merchandise, warehousing, trucking terminals, etc. To these ends development is limited to a low concentration, and uses permitted are limited to those industrial activities which can be operated in a clear and quiet manner, plus certain public facilities which are needed to serve the uses of the area and residents adjoining residential areas.

36.01

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-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.

36.02

HEIGHT

The maximum height shall not exceed thirty-five (35) feet.

36.03

LOT AREA, WIDTH AND YARD REQUIREMENTS

The following minimum requirements shall apply:

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| Net<br>Lot Area | Lot<br>Width | Front<br>Yard | Side Yard      |                  | Rear<br>Yard |
|-----------------|--------------|---------------|----------------|------------------|--------------|
|                 |              |               | Least<br>Width | Sum of<br>Widths |              |
| 2 acres         | 75           | 75            | 10             | 25               | 25           |

36.04 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.

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 BUFFER AREA  
 Whenever a lot in this zone adjoins a lot in a R-2 residential zone, there shall be a sixty (60) foot buffer area in addition to the required yard or yards and a buffer strip, as provided in subsection 12.08 of this Code.

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SECTION 37

I-3 RESTRICTED INDUSTRIAL ZONE

37.00

DESCRIPTION OF ZONE

The zone is composed of certain lands located next or close to a major thoroughfare and adjoining residential areas. Accordingly, the use of the land and buildings within these areas are limited to provide standards of intensity of use and standards of external effects or amenities compatible with the surrounding or adjoining residential areas. This zone will provide areas for research and laboratory facilities, manufacturing, compounding, assembling or treatment of articles, products and merchandise, etc. To these ends development is limited to a low concentration and uses permitted are limited to those industrial activities which can be operated in a clean and quiet manner and which will be least objectionable to adjoining residential zones. out?

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 thirty-five 35 feet.

37.03

LOT AREA, WIDTH AND YARD REQUIREMENTS

The following minimum requirements shall apply:

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| Net<br>Lot Area | Lot<br>Width | Front<br>Yard | Side Yards     |                  | Rear<br>Yard |
|-----------------|--------------|---------------|----------------|------------------|--------------|
|                 |              |               | Least<br>Width | Sum of<br>Widths |              |
| 5 acres         | 100          | 100           | 50             | 200              | 100          |

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.

37.06

BUFFER AREA

Whenever a lot in this zone adjoins a lot in a R-2 residential zone, there shall be a sixty (60) foot buffer area in addition to the required yard or yards and a buffer strip, as provided in subsection 12.08 of this Code.

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SECTION 38

I-4 SPECIAL INDUSTRIAL ZONE

38.00

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". To these ends development is limited to a low concentration and uses permitted are limited to those industries which keep within the limits set by the "performance standards" plus certain public facilities which are needed to serve the uses of the area and the community.

38.01

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-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.

38.02

HEIGHT

The maximum height shall not exceed fifty (50) feet.

38.03

LOT AREA, WIDTH AND YARD REQUIREMENTS

The following minimum requirements shall apply:

| Net<br>Lot Area | Lot<br>Width | Front<br>Yard | Side Yards     |                  | Rear<br>Yard |
|-----------------|--------------|---------------|----------------|------------------|--------------|
|                 |              |               | Least<br>Width | Sum of<br>Widths |              |
| 5 acres         | none         | none          | none           | none             | none         |

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38.04 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.

38.05 OFF-STREET PARKING AND OFF-STREET LOADING REQUIREMENT

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

38.06 BUFFER AREA

Whenever a lot in this zone adjoins a lot in a R-2 residential zone, there shall be a sixty (60) foot buffer area in addition to the required yard or yards and a buffer strip, as provided in subsection 12.08 of this Code.

SECTION 39

PL PUBLIC LAND

39.00

DESCRIPTION OF ZONE

This zone is composed of certain areas of land publicly owned and used for, but not limited to, parks, institutional and public service facilities. Only those sites owned or through due process reserved by public bodies shall be placed in this zone.

39.01

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 PL column of the Use Schedule, SECTION 60 of this Zoning Code and shall be subject to such provisions as referred to in that column.

39.02

HEIGHT

The maximum height shall not exceed thirty-five (35) feet.

39.03

LOT AREA, WIDTH AND YARD REQUIREMENTS

The following minimum requirements shall apply:

| Net<br>lot area<br>(sq.ft.) | Lot<br>Width | Front<br>Yard | <u>Side Yards</u> |                  |              |
|-----------------------------|--------------|---------------|-------------------|------------------|--------------|
|                             |              |               | Least<br>Width    | Sum of<br>Widths | Rear<br>Yard |
| none                        | none         | 25            | 25                | 50               | 25           |

39.04

LOT COVERAGE

Each main building or structure hereafter erected, together with its accessory buildings or structures, shall not cover more than ten (10) percent of the net lot area.

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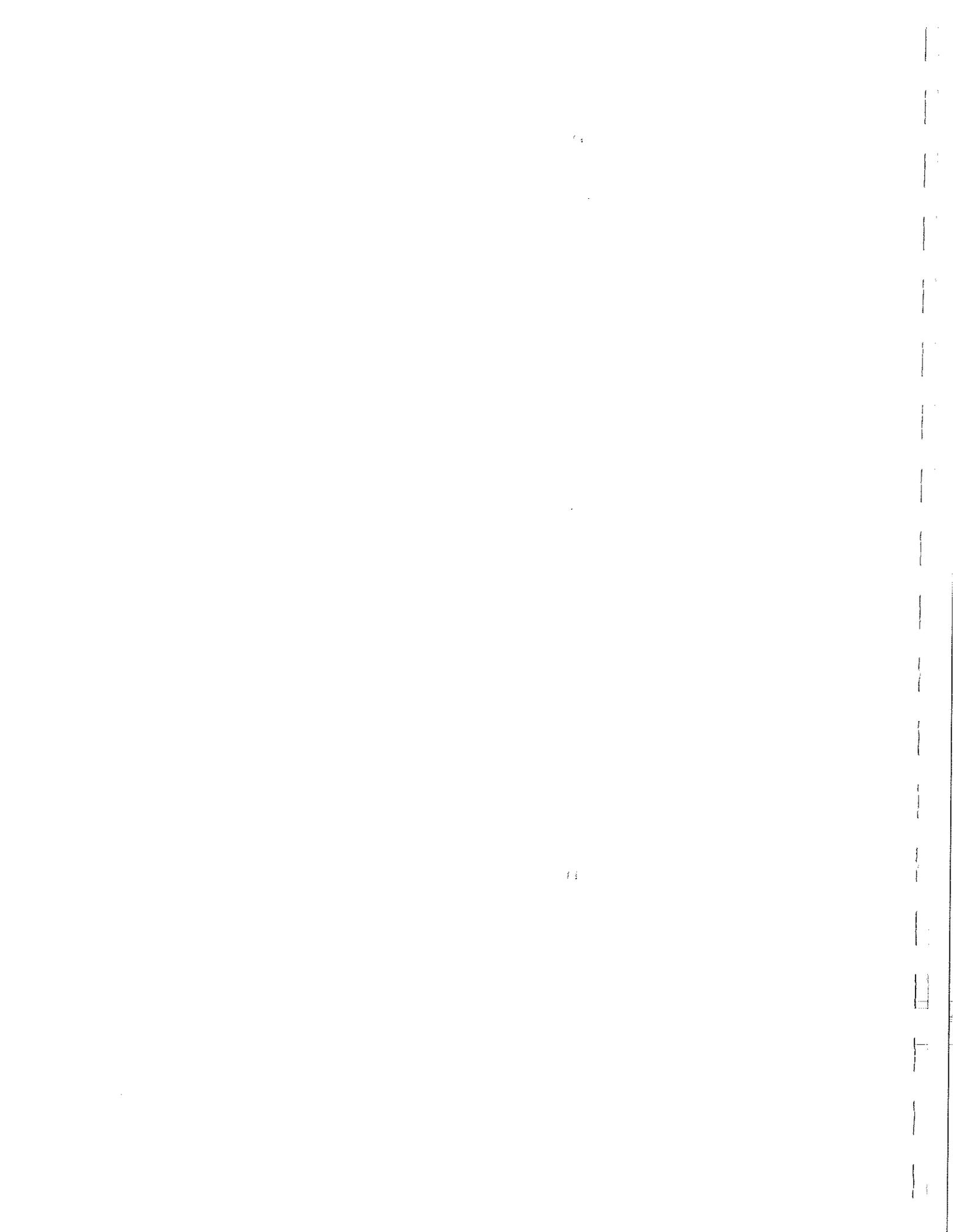
39.05

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.

ARTICLE IV

SUPPLEMENTARY REGULATIONS



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## 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 the movement of vehicular traffic; and to promote the safety and convenience of pedestrians; and to protect adjoining residential areas; 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 or 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 of the enactment of this Section unless after said 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.

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: Each automobile parking space shall be not less than one hundred and eighty (180) square feet nor less than nine (9) feet wide. 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.
- 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 streets and shall be constructed of dust free materials which will have a surface reasonably resistant to erosion.
- 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 least 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-five (25) feet wide when used with seventy (70) to ninety (90) degree angle parking. Two (2) way traffic circulation shall be permitted in twenty-five (25) 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 wide 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.
- 40.03.07 Buffering: Where property in a Commercial or Industrial Zone abuts a Residence Zone, either directly or across a street or alley, the follow-
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ing requirements shall apply to parking and/or loading areas:

- A There shall be a buffer strip of land at least five (5) feet in width within such Commercial or Industrial Zone, between the parking and/or loading areas and the residential land.
- B There shall be a suitable fence, wall or evergreen planting at least five (5) feet in height, designed to screen noise, odors, visibility and headlight glare, between the parking and/or loading area and residential land.

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 provision 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 other use.

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.

40.03.12 Visibility: Adequate sight distances shall be maintained for vehicles and pedestrians.

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, sideways, 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 largest 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.

40.04 QUANTITY OF PARKING SPACES: The quantity of parking spaces shall be in accordance with the following:

|          | <u>Use</u>                                   | <u>Requirements</u>   |
|----------|--|---|
| 40.04.01 | <u>Automobile Filling Station</u>            | 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 | <u>Automobile Repair and Service Station</u> | One (1) parking space for each one hundred (100) square feet of floor area of the shop or garage and one (1) parking space for each two (2) employees.          |
| 40.04.03 | <u>Clinics, Medical or Dental</u>            | One (1) parking space for each two hundred (200) square feet 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.  
One (1) parking space for each one hundred (100) square feet of floor area used for retail sales, trades or merchandising, and one (1) parking space for each two (2) employees.
- 40.04.05 Community Centers, Library, Museums, Civic Clubs, Private Clubs, Lodges, and Similar Uses  
One (1) parking space for each two hundred (200) square feet of gross floor area.
- 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, the percentage of students driving automobiles, and the requirements for stadium, gymnasium and auditorium use.
- 40.04.08 Eleemosynary (charitable) and Philanthropic Institutions  
One (1) parking space for each two (2) employees, plus such additional facilities for residents and visitors, as the Commission shall deem necessary.
- 40.04.09 Hospital, Nursing and Care Homes  
One (1) parking space for each one thousand (1,000) 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 or Physically Handicapped Persons One (1) parking space for each four (4) dwelling units.
- 40.04.11 Industrial or Manufacturing Establishment or Warehouse One (1) parking space for each two (2) employees plus additional parking for customers.
- 40.04.12 Mortuary or Funeral Parlors One (1) parking space for each fifty (50) square feet of assembly space and one (1) space for each two (2) employees.
- 40.04.13 Hotel, Tourist Home, Club, Hotel, Apartment Hotel One (1) parking space for each guest room, cabin or suite, and one (1) parking space for each two (2) employees.
- 40.04.14 Multiple-Family Dwellings One and one-half (1½) parking spaces for each dwelling unit. Building or Buildings, parking spaces, driveways and other vehicular ways shall not in their total area exceed more than fifty (50%) percent of the lot area.
- 40.04.15 Office Buildings, Professional Building or Similar Uses One (1) parking space for each three hundred (300) square feet of gross floor space.
- 40.04.16 One-Family and Two-Family Dwellings Two (2) parking spaces for each dwelling unit.
- 40.04.17 Medical or Dental Practitioner's Office in Private Residences Each office in private residence shall provide three (3) parking spaces for each professional person occupying or using said office.

40.04.18 Recreational Establishment;  
Commercial other than a Theater,  
Auditorium or Stadium One (1) parking space for each one hundred (100) square foot of floor area, and one (1) space for each two (2) employees.

40.04.19 Restaurant or Similar Places Dispensing Food, Drinks or Refreshments and Drive-Ins One (1) parking space for each fifty (50) square foot of floor area devoted to patron use, excluding rest rooms, within the establishment, and one (1) parking space for each eighty (80) square foot 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, Lodging Houses, and Boarding Houses One (1) parking space for each three (3) guest accommodations.

40.04.21 Theater, Auditoriums, Churches, Stadiums, Gymnasiums or Similar Places of Public Assembly One (1) parking space for each seven (7) seats, or similar measure of standard holding capacity.

40.05 QUANTITY OF LOADING SPACES: The quantity of loading spaces shall be in accordance with the following:

40.05.01 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              |

40.05.02 Uses Which Are NOT Primarily Concerned with the Handling of Goods:

| Gross Floor Areas<br>(Square feet) | Quantity of<br>Loading Space |
|------------------------------------|------------------------------|
| 2,400 to 75,000                    | 1                            |
| 75,001 to 200,000                  | 2                            |
| 200,001 to 333,000                 | 3                            |
| each additional 150,000            | 1 additional                 |

40.05.03 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 CERTIFICATE OF APPROVAL

To assure the safety and welfare of the community, an application for certificate of approval for off-street parking areas for more than ten (10) vehicles shall be submitted to the Planning Commission for review and approval before a Zoning Certificate is granted.

40.06.01 Application for certificate of approval shall be made to the Planning Commission in writing on a form prescribed by the Planning Commission seven (7) days prior to a regular meeting and shall be accompanied by plans and other data necessary to show the parking area, its relationship to the adjoining street, the proposed use of land or building, area of such use and other pertinent information required under subsection 40.03 of this Code.

40.06.02 The Planning Commission at its next regular meeting shall review the plans and other documents which may be required and render a decision to determine that no adverse traffic condition is being created and that proper parking facilities are provided for the proposed use. The Planning Commission shall also consider the location of light standards or other methods of illuminating the parking area and building, the location of traffic islands, and any planting materials within said islands, the location, height and type of screening materials which will be located along the property line and, in general, any conditions which might impair the

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welfare or safety of the general public using said facilities. The Planning Commission may require special conditions to assure the safety and welfare of the community.

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 be provided, whenever the Board 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 Zoning Board of Appeals 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.



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SECTION 41

NATURAL RESOURCES REMOVAL

The Middletown Zoning Commission may, after legal notice and Public Hearing, as provided by Statute, permit the removal of Top Soil, Peat Moss, Sand and Gravel subject to the approval of the Zoning Commission. The following regulations shall govern the removal of Top Soil, Peat Moss, Sand and Gravel:

41.01

CONDITIONS

Any such operation shall not affect the health, safety, and general welfare of the citizens of the City of Middletown.

41.02

REQUIREMENTS

The petitioner shall submit to the Zoning Commission a plan showing existing grades in area prior to the removal of top soil, peat moss, sand and gravel. The plan shall provide for adequate front, side and rear yards to control noise, dust, heavy trucking and/or other factors detrimental to the neighborhood and the operator under the permit must do everything possible to keep the dust from contaminating the air near the pit or the access highway from the pit to the public highway. At no time shall the actual removal of top soil, peat moss, sand and gravel take place nearer than thirty (30) linear feet to a property line or street line, except where the existing grade is above the existing grade of the abutting property or street. Proper drainage shall be maintained throughout the entire operation and no temporary damage shall be inflicted upon adjacent property owners.

41.03

FINAL PLAN

The petitioner shall also submit a final plan showing finished grades after completion of such operation as well as the present drainage and final drainage system for the entire area. Said area shall be restored to a condition as designed by the Zoning Commission at the time of approval. A minimum of four (4) inches of top soil, seeded, shall cover that portion of area where the actual removal

has taken place. Any excavation extending below the grade of an adjacent public street or highway shall not be nearer than one hundred (100) linear feet to such street or highway, except when provisions have been made for the reconstruction of such street or highway at a different level. An embankment of a finished grade shall not exceed thirty (30) degrees, except under extraordinary circumstances when it may be necessary to construct a retaining wall or if the reuse of the property is proposed for a pond or lake in connection with recreational purposes. Whenever an excavation extends below the existing grade of an abutting property owner, public street or highway, cross-sections at intervals of twenty-five (25) linear feet shall be submitted to the Zoning Commission. The reuse of the property shall be governed by the Zoning Regulations and such reuse shall establish the extent of such excavation.

41.04

INDUSTRIAL ZONE EXCEPTION

Except in an industrial zone, no stone crusher or other machinery not required for actual removal of material shall be used.

41.05

OTHER REQUIREMENTS

The Zoning Commission may prescribe other additional conditions and safeguards to minimize adverse effects on the character of the neighboring area, such as vehicular exits and entrances, landscaping, guard fences and other provisions as may be required by the Zoning Commission.

41.06

BOND

Prior to the approval of permits for the removal of top soil, peat moss, sand and gravel, the petitioner shall submit two copies of a performance bond to the Zoning Commission in an amount estimated at one hundred (100%) percent of the total cost of the improvements and approved by the Department of Public Works, of which one (1) copy of such bond will be filed with the Office of the Comptroller. No bond shall be released prior to the completion of the entire project.

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41.07

LENGTH OF PERMIT

Permits for the removal of top soil, peat moss, sand and gravel may be granted for any length of time not exceeding two (2) years. A maximum two (2) year extension of a previously approved permit may be granted by the Zoning Commission, but is not automatic. For additional extensions the petitioner must reapply for a new permit.

41.08

NON-CONFORMING USES

A legally established top soil, peat moss, sand and gravel pit in existence at the time of passage of these regulations may continue such operation, provided, however, that the operator of such top soil, peat moss, sand and gravel pit submits plans and receives approval by the Zoning Commission in conformance with these regulations within six (6) months after notice by the Commission of the approval of these regulations.

41.09

EXCEPTIONS

Any surplus top soil, peat moss, sand and gravel resulting from genuine agricultural, constructional or landscaping operations need not comply with the provisions set forth under this section.

41.10

OTHER EXCEPTIONS

The Zoning Commission may modify these requirements, including waiving of public hearing and bond requirement for the State of Connecticut and the City of Middletown, provided the removal of natural resources allowed herein are, in the opinion of the Commission, minor and the excavation period does not exceed three (3) months.

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SECTION 42

CONVERSION OF DWELLINGS

Under certain conditions hereinafter set forth the Zoning Board of Appeals may in a specific case, after Public Hearing, and notice permit the alteration or conversion of a single-family dwelling to a two-family dwelling and the conversion of single family and two family dwellings to a maximum of four family dwellings.

42.01 PRELIMINARY PLANS REQUIRED

The owner of the building for which conversion is sought shall include, with his petition for conversion, preliminary plans showing in reasonable detail the proposed remodeling of the building.

42.02 ZBA FINDINGS AND DECISION

The Zoning Board of Appeals shall be guided by the following standards in reviewing proposed conversion plans and in making its decision.

42.02.01 Age

The actual age of the building is twenty (20) years or more.

42.02.02 Condition

The physical condition of the building to be converted is in a reasonable state of repair.

42.02.03 Lot

The lot on which the structure stands satisfies the following minimum area requirements:

A. Two Family

When conversion to a two family dwelling is proposed, the minimum lot area is at least seven thousand five hundred (7,500) square feet.

B. Three or Four Family

When conversion to a dwelling to contain three (3) or more families is proposed, the minimum lot area

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shall be at least seven thousand five hundred (7,500) square feet for the first two (2) families plus an additional two thousand (2,000) square feet for each additional family.

- 42.02.04 Exterior  
No external structural changes whatever, except if the interior stairways are not considered adequate for fire protection, fire escapes shall be constructed in the rear of the building where practicable and in no case facing any street. Other than fire escapes, no outside stairways shall be permitted.
- 42.02.05 Parking  
Off-street parking at the ratio of at least one and one-half ( 1 1/2) parking space per family unit shall be provided. Such off-street parking shall be in form of either a garage or a properly surfaced and drained outdoor parking area in the rear of the building only.
- 42.02.06 Minimum Unit  
That each apartment shall consist of at least a dwelling room, complete private cooking facilities and a private bath, each such apartment to contain a minimum of two hundred and fifty (250) square feet of floor space, exclusive of bath, of which not less than fifty (50) square feet shall be in the kitchen and not less than one hundred (100) square feet in each bedroom.
- 42.02.07 Limit  
No building shall be converted to more than four (4) dwelling units.

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SECTION 43

PACKAGE STORE

43.01 LOCATION

43.01.01 New Store

The sale of alcoholic liquor shall be permitted in a B-1 or B-2 zone provided that no building or premises shall be used or occupied and no building shall be erected, constructed, reconstructed, altered, or used except as herein mentioned, which is arranged, intended or designed to be used either in whole or in part for the sale of alcoholic liquor at retail under a Retail Package Store Permit as the term "alcoholic liquor" and "Retail Package Store Permit" are defined in these regulations if the entrance to such building or premises shall be within a radius of fifteen hundred (1,500) feet in a direct line in any direction from the entrance of any other building or premises which are used for the sale of alcoholic liquor at retail under a Retail Package Store Permit.

43.01.02 Relocated Store

Nothing herein contained shall prevent or prohibit any established retail package permit business from moving to a location other than that presently occupied by such business when the entrance to the new location is within a radius of five hundred (500) feet in a direct line in any direction from the entrance of its previous premises provided, however, such new location is still within a B-1 or B-2 zone. Where such removal, however, is occasioned by the taking or demolition of the premises by a public body acting under the authority of eminent domain, the permissible distance of the entrance of the new location shall be within a radius of one thousand (1,000) feet in a direct line in any direction from the entrance of its previous permit business.

43.02 DISCONTINUANCE

The provisions of this regulation shall not be deemed to be retroactive or to affect any

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existent permit provided, however, that where the use of any building or premises for the sale, exchange or storage of alcoholic beverages has been discontinued or has been inoperative for a period of thirty (30) days, such use shall not be resumed except in conformity with the provisions of subsection 43.01.02 above. Discontinuance shall not include (1) bona fide vacation periods, (2) bona fide periods of sickness, (3) time required for actual repair of premises or replacement of stock or loss or injury caused by fire, hurricane or other act of God provided such repairs or replacements have commenced within sixty (60) days after such damage, and (4) the temporary loss or suspension of operation under order of the State Liquor Control Commission.

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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 their 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 therefor. 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: Four (4) copies at a scale of 1" = 40' including the following data:
- A Property Boundaries
  - B Names of Abutting Property Owners
  - C Location of Proposed Building or Use
  - D Driveway Entrances and Exits
  - E Storm Water Drainage System
  - F Location and Size of Parking Spaces

- G Location and Size of Loading Spaces
- H Diagram of Proposed Traffic Flow
- I Location, Type and Size of Signs.
- J Location and Type of Light Standards
- K Location of Traffic Islands and Barriers
- L Location, Type, Size and Species of Shrubs, Trees or other Planting and Landscaping
- M Location, Type and Height of Screening Materials along Property Lines
- N Building Elevations or Preliminary Drawings showing the General Type of Building Proposed for construction

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 pre-empt 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

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- 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 HEARINGS: The Commission shall hold a Public Hearing regarding any Special Exception application if, in its judgment, the specific circumstances require such action.
- 44.06 PLANNING COMMISSION ACTION: The Commission shall act on the final plan not later than sixty (60) days after the date of filing of such application. The Commission may approve, modify and approve, or disapprove the application. Notice of the decision of the Commission shall be communicated to the applicant in writing within three (3) days after such decision has been rendered. Notice of the action of the Commission shall be published in a newspaper having a substantial circulation in the City within ten (10) days after such action has been taken. The failure of the Commission to act thereon within sixty (60) days of the filing of such application shall be considered as approval and a permit to that effect shall be issued by the Commission on demand. The grounds for the Commission's action shall be stated in its records. In addition, the Commission shall properly record the same by use of appropriate code numbers or symbols to indicate the area of the Special Exception on the Zoning Map.
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44.07

**VIOLETION 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 restrictions 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 a Special Exception shall constitute a violation of the Zoning Code.

44.08

**STANDARDS FOR SPECIAL EXCEPTIONS:** 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 Planning Commission unless specifically specified otherwise.

44.08.01

**Ambulance Service:** Ambulance Service uses are permitted uses in all Zones, except the Park Zones, subject to the regulations of the zone in which they are located and 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

**Day Nursery and Kindergarten Uses** are permitted uses in all residence zones 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.

44.08.03 Educational Publishing organization uses are permitted uses in all residence zones subject to the regulations of the zone in which they are located and in addition to the conditions hereunder:

- A Operations are primarily editorial and administrative in 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 are permitted uses in the R-2 and R-3 zones only, subject to the regulations of the zone in which they are located and 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 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 line; 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 uses in all residence zones subject to the regulations of the zone in which they are located and 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, Nursing and Care Home, medical and dental clinic uses are permitted uses in all residence zones subject to the regulations of the zone in which they are located and in addition to the conditions hereunder:

- A That the location to be used for a hospital, nursing and care home, or medical or dental clinic building will not constitute a nuisance because of traffic, noise or number of patients or persons being cared for;
- B That the site location for Hospital, Nursing and Care Home, medical and dental clinic uses are located to conform to the following minimum 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 not less than seventy-five (75) feet; rear yard one hundred (100) feet.

Nursing and Care Home

Lot area: One thousand (1,000) square feet per person cared for in total area.  
Frontage & Yards: Same as in Residence zone in which the use is proposed to be located.

Medical or 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 person uses are permitted uses in all residence zones subject to the regulations of the zone in which they are located and 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 Medical and dental practitioner's office uses are permitted uses in all residence zones subject to the regulations of the zone in which they are located and in addition to the conditions hereunder:

- A A dwelling may only include the office or offices of one (1) medical or dental practitioner, including chiropractor, podiatrist and chiropodist or similar practitioners, including those assistants necessary to the use where such dwelling is not the residence of the practitioner, provided that the exterior of the premises is not changed or altered in appearance;
- B That no name plate or sign shall exceed one hundred (100) square inches in area.
- C That the use of the dwelling by the medical or dental practitioner shall be maintained on a full time basis.

44.08.09 Neighborhood Store Uses are permitted uses in all residence zones subject to the regulations of the zone in which they are located and 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 P. M. to 7 A. M.); 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 Offices and studio uses are permitted uses in all residence zones subject to the regulations of the zone in which they are located and in addition to the conditions hereunder:

- A An office and/or studio of doctors, dentists, architects, artists, designers, accountants, lawyers, engineers, tutors, real estate and insurance agents, brokers, and members of other recognized professions residing in the same dwelling unit, incidental to the main purpose as a residence (excluding veterinarians, dancing and music studios having more than one student at a time, barber shop, beauty parlor, and other similar uses) together with accessory uses customarily incidental thereto shall occupy no more than twenty-five (25%) percent of the net floor area of the dwelling unit, or any space outside the dwelling unit.
- B Only one employee not resident in the dwelling unit or use by any outside colleague or associate shall be permitted.

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44.08.11 Public Utility Buildings and Structure Uses are Permitted Uses in all zones subject to the regulations of the zone in which they are located in addition to the conditions hereunder:

- A The location for the public utility building or structure is necessary for public convenience and service.
- B The location for the public utility building or structure will not endanger the health and safety of workers and residents in the community and will not substantially impair or prove detrimental to neighboring properties.
- C Public utility buildings in any residence zone shall, whenever practicable, have the exterior appearance of a residential building and shall have suitable landscaping, screen planting, and fencing, whenever deemed necessary by the Commission.
- D Public utility buildings and structures permitted as Special Exception Uses under this Section are: buildings and structures for the housing of switching equipment, regulators, and stationary transformers for supplying electric service; telephone offices and exchanges; railroad, bus passenger stations (not including car barns, bus storage yards, freight yards and similar uses); radio and television transmitter towers and stations and buildings and structures of similar nature and characteristics.

44.08.12 Drive-In Establishment Uses are a Permitted Use in the B-2 zone; shall be permitted only when adjoining a highway with a minimum right-of-way of sixty (60) feet in the B-2 zone, subject to the zone regulations and in addition to the conditions hereunder:

- A The minimum distance between a Drive-In Establishment site and a school or parcel zoned for residential use shall be four hundred (400) feet.
- B The entire area, exclusive of main and accessory use and landscape use, shall be paved with a permanent surface of concrete or asphalt and a raised curb of not less than six (6) inches in height shall be constructed along the entire street property line, except for driveway openings.
- C That the site location for Drive-In Establishment use is located to conform to the following minimum requirements:

Lot area: Ten thousand (10,000) square feet  
Frontage: One hundred (100) feet  
Yards: Thirty-five (35) feet from all street  
right-of-way lines, otherwise same as  
zone regulations.  
Driveway: Ten (10) feet property lines - twenty  
(20) feet from intersection right-of-  
way

- D That the maximum width of curb cuts or driveways shall not exceed forty (40) feet.

44.08.13 Automobile Filling Station

Upon the findings, under the provisions of this Section, by the Zoning Board of Appeals, and subject to the following regulations:

A Entrance - Distance Requirements

No filling station shall have an entrance or exit for vehicles on the same side of the street within one hundred (100) feet of a residential zone; nor shall any part of such gasoline filling station have an entrance or exit for vehicles within four hundred (400) feet along the same side of a street of any school, public playground, the entrance to a public park or cemetery, church, hospital, public library or institution for dependents or for children, except where such property is in another block, or on another street which the lot in question does not abut; nor shall it be permitted unless said use adjoins a highway with a minimum right-of-way of sixty (60) feet.

B Site Development Standards

No automobile filling station shall be erected or constructed unless such station meets the following requirements and standards:

Minimum distance between any two automobile filling stations: 1,000 feet;

Minimum lot area: 10,000 square feet;

Minimum frontage: 100 feet;

Minimum distance of driveways from property lines: 10 feet;

Maximum width of curb cuts or driveway width: 40 feet;

Minimum distance of driveways from right-of-way intersections: 20 feet;

Minimum setback of service building from all street right-of-way lines: 35 feet;

Minimum setback of pump islands from all right-of-way lines: 10 feet;

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Paving and curbing: entire area shall be paved with a permanent surface of concrete or asphalt. A raised curb of not less than six (6) inches in height shall be constructed along the entire street property line except for driveway openings; sidewalks as required by city regulations shall be installed.

44.08.14 Automobile Filling Station When It Is an Integral Part of a Major Shopping Area or Major Parking Facility

Upon the findings, under the provisions of this Section, by the Zoning Board of Appeals, and subject to the following regulations:

- A Is contained in a structure limited in size to two (2) single car service bays, plus rest rooms and office or supply storage space;
- B Is limited in function to dispensing gasoline, oil, grease, anti-freeze, tires, batteries and automobile accessories directly to motor vehicles and to washing, polishing and servicing motor vehicles only to the extent of installation of the enumerated items;
- C Does not rent or sell motor vehicles, trailers or general replacement parts; does not overhaul, tune up or repair motors or bodies; does not provide brake relining service, wheel alignment, upholstery work, auto glass work, painting, welding, tire recapping or auto dismantling;
- D Parks no vehicles, being services or stored for customers, on streets, alleys, public sidewalks or public park strips;
- E Need not be enclosed except be provided with barriers of such dimensions that occupants of adjacent and facing residential structures are not unreasonably disturbed, either by day or night, by the movement of vehicles and light facilities are so arranged that they neither unreasonably disturb occupants of adjacent residential properties nor interfere with traffic;
- F When such use occupies a corner lot, the ingress or egress driveways shall be located at least thirty (30) feet from the intersection of the front and side street lines of the lot, and such driveways shall not exceed twenty-five (25) feet in width;
- G Gasoline pumps or other service appliances shall be located on the lot at least twenty (20) feet behind the building line; and all service, storage

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or similar activities in connection with such use shall be conducted entirely within the premises;

- H Shall be limited to one (1) pole sign within the property line; no signs shall be located on or over public right-of-way; all signs and displays shall be attached to the walls of the building and shall not project greater than twelve (12) inches;
- I Minimum distance between any two (2) automobile filling stations shall be one thousand (1,000) feet;
- J Shall be permitted only in zones indicated in SECTION 61 of this Code.

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 lot line;
- E 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;

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- B Business shall be limited to the dispensing of food, (non-alcoholic) beverages, and other miscellaneous goods normally associated with lunchrooms;
  - C Each lunch room, together with the principal use of the lot, shall be located in a lot having a minimum of 150 feet 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 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 on to adjacent roadways;
- C Shall park vehicles and operate entirely within said lot;
- D No servicing of taxi cabs shall be permitted on the premises such as dispensing gasoline, oil, etc.

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## SECTION 45

### PLANNED RESIDENTIAL DEVELOPMENT

45.00

#### INTENT

Ingenuity, imagination and design efforts on the part of builders, architects, site planners and developers can produce residential developments which are in keeping with over-all land use intensity and open space objectives of the Master Plan while departing from the strict application of use, setback, height and minimum lot size requirements of several zones. The intent of this Section is to permit such flexibility and provide performance criteria for Planned Residential Development which: permit a creative approach to the development of residential land; accomplish a more desirable environment than would be possible through the strict application of minimum requirements of the Zoning Code and Subdivision Code; provide for an efficient use of land, resulting in smaller networks of utilities and streets and thereby lower housing costs; enhance the appearance of neighborhoods through preservation of natural features, the provision of underground utilities where feasible and the provision of recreation areas and open space in excess of existing zoning and subdivision requirements; provide and opportunity for new approaches to living environment; and provide an environment of stable character compatible with surrounding residential areas.

45.01

#### VOLUNTARY ALTERNATE PROCEDURE

The use of the Planned Residential Development procedures contained herein is not mandatory for the development of any parcel of ground. The intent and purpose of this process is to provide a voluntary alternate procedure which maximizes the utilization of land primarily for the benefit, use, and enjoyment of the future residents of that area and the existing residents of the City of Middletown. In a Planned Residential Development open space and common recreational areas

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and facilities are the environment and livability benefits furnished to the resident and community in lieu of large individual lots.

45.02

PERMITTED USE

Pursuant to Section 8-2 of the General Statutes of Connecticut, and subject to the regulations, standards, and conditions set forth herein, Planned Residential Developments shall be permitted in Middletown upon obtaining a special exception from the Plan Commission. A special exception Certification for a Planned Residential Development or part thereof may be issued only after (1) final subdivision approval thereof by the Plan Commission, and (2) filing the approved Plan in the office of the Middletown Town Clerk.

45.03

LOCATION

Planned Residential Developments are permitted only in R-2 and R-3 Zones.

45.04

PRINCIPLES OF PLANNED RESIDENTIAL DEVELOPMENT

The Planned Residential Development is a permitted use designed to provide for small and large scale developments incorporating a single type or a variety of residential and related uses which are planned and developed as a unit. Such development may consist of individual lots or common building sites. Common land must be an essential and important element of the plan related to effecting the long-term value of the entire development.

45.05

STANDARDS AND CRITERIA

Subject to the provisions set forth herein, Planned Residential Developments are permitted uses on sites consisting of no less than five (5) contiguous acres.

**45.05.01 Uses and Requirements**

**A Residential Uses**

Permitted land use requirements of the zone within which a Planned Residential Development is located shall apply, with the following exceptions: (1) Open space reservations may be considered for population density and building intensity increases; (2) permitted types of dwelling units may include single family detached homes, town houses, garden apartments or high-rise apartments; (3) condominium, cooperative individual, municipal, or any other type of ownership hereby is permitted.

**B Non-residential Uses**

Non-residential uses, limited to those permitted by the Plan Commission, are permitted in a Planned Residential Development provided that such uses primarily are for the service and convenience of the residents of the development and further provided that:

- (1) No store shall exceed 10,000 square feet of gross floor area; and
- (2) The total mercantile and office space permitted within a Planned Residential Development shall not exceed forty (40) square feet of gross floor area under roof per dwelling unit in the development, excluding in such computation, buildings used for educational, recreational or cultural purposes.

**C Minimum Requirements**

- (1) Yard, setback, lot size, type of dwelling unit, height, frontage requirements, and use restrictions hereby are waived for the Planned Residential Development, provided that the spirit and intent of this Section are complied with in the total development plan, as determined by the Plan Commission. The Plan Commission may determine that certain setbacks be required within all or a portion of the perimeter of the site, and shall exercise ultimate discretion as to whether the total development plan does comply with the spirit and intent of this Section.

- (2) Every dwelling unit either shall have access to a public street, walkway or other area dedicated to common use.
- (3) The approximate location of structures, shown on the conceptual development plan, shall be so arranged as not to be detrimental to existing or other proposed structures or to the development of the neighborhood.

**D** Privacy

Each development shall provide reasonable visual and acoustical privacy for dwelling units. Fences, insulation, walls, barriers, and landscaping shall be used, as appropriate, for the protection and aesthetic enhancement of property and the privacy of its occupants, screening of objectionable views, or uses and reduction of noise. High-rise buildings shall be located within a Planned Residential Development in such a way as to dissipate any adverse impact on adjoining low-rise buildings and shall not invade the privacy of the occupants of such low-rise buildings.

**E** Off-Street Parking

Parking convenient to all dwelling units and other uses, shall be provided pursuant to the minimum requirements of Section 40 of this Code. Where appropriate, common driveways, parking areas, walks and steps shall be provided, maintained and lighted for night use. Screening of parking and service areas may be required through ample use of trees, shrubs, hedges and screening walls.

**F** Perimeter Requirements

If topographical or other barriers within two hundred (200) feet of the perimeter of the development do not provide reasonable privacy for existing uses adjacent to the development, the Plan Commission shall impose either of the following requirements, or both:

- (1) Structures located on the perimeter of the development must be set back in accordance with the provisions of the Zoning Code controlling the area within which the development is situated; and
- (2) Structures located on the perimeter of the development must be well screened in a manner which is approved by the Commission.

**G** Interior Streets

The minimum roadway width of interior one-way streets with parking permitted on one side shall be eighteen (18) feet. The minimum roadway width of two-way streets with parking permitted on one side shall be twenty-eight (28) feet. The minimum width of two-way streets without parking permitted shall be twenty (20) feet. Such streets shall be paved according to city specifications for residential streets and maintained in good condition and lighted at night.

**H** Sidewalks

Sidewalks shall be provided as deemed necessary by the Plan Commission.

**I** Swimming Pools

All swimming pools within a Planned Residential Development shall comply with the provisions of SECTION 47 of this Code.

**45.05.02** Density

Density (dwelling units per acre) may be increased if the character of the development and/or amenities incorporated in the development warrant such increases provided that in no case shall the density increase cause the density of the Planned Residential Development to be more than thirty-three (33%) per cent in excess of the density which would be achieved under standard zoning regulations.

The Plan Commission shall determine the density which may be constructed within the Planned Residential Development by dividing the gross project area by the required lot area per dwelling unit which is required in the zone in which the Planned Residential Development is located; or the required lot area per dwelling unit which is required in the zone in which the Planned Residential Development is located, and modified by any increases in density permitted under subsection 45.05.02B of this Code.

**A** Planned Residential Development in More Than One Zone

If the Planned Residential Development is in more than one zone, the number of allowable dwelling units must be separately calculated for each portion of the planned development that is in a separate zone, and must then be combined to determine the number of dwelling units allowable in the

entire Planned Residential Development.

**B. Density Increases**

Density increases shall be governed by the precepts listed below, which are to be treated as additive, and not compounded:

(1) Open space reservation shall be considered for density increases according to the following provisions:

**FOR UNIMPROVED COMMON OPEN SPACE**

(a) Maximum increase of six (6%) per cent

for first acre of open space per

twenty (20) acres gross of the development.

(b) Maximum increase of three (3%) per cent

for second acre of open space per

twenty (20) acres gross of development.

(c) Maximum increase of two (2%) per cent

for each additional acre of open space

per twenty (20) acres gross of develop-

ment for the total Planned Residential Development.

**FOR IMPROVED COMMON OPEN SPACE**

(a) Maximum increase of eight (8%) per cent

for first acre of improved open space

per twenty (20) acres gross of develop-

ment.

(b) Maximum increase of four (4%) per cent

for second acre of improved open space

per twenty (20) acres gross of develop-

ment.

(c) Maximum increase of three (3%) per cent

for each additional acre of improved

open space per twenty (20) acres gross

of development for the total Planned

Residential Development.

(2) Character, identity and architectural and siting variation incorporated in a development shall be considered cause for density increases not to exceed fifteen (15%) per cent, provided these factors make a substantial contribution to the objectives of a Planned Residential Development. The degree of distinctiveness and the desirable variation achieved shall govern the amount of density increase which the Plan Commission may approve. Such variations may include, but are not limited to, the following:



dwellings; formal parks; picnic areas; play-  
 grounds; and scenic open areas and communal  
 non-commercial recreational facilities.

**A** Conveyance and Maintenance of Common Open Space

All Common Open Space, shown on the final de-  
 velopment plan and recorded in the office of the  
 Town Clerk of the City of Middletown, must be  
 conveyed in accordance with one of the following  
 methods:

- (1) By dedication to the City of Middletown as  
 municipally owned and maintained as Common  
 Open Space; or
- (2) By leasing or conveying title (including  
 beneficial ownership) to a corporation,  
 association or other legal entity. The  
 terms of such lease or other instrument of  
 conveyance must include provisions, suit-  
 able to the Plan Commission for guaranteeing  
 (a) the continued use of such land for the  
 intended purposes; (b) continuity of proper  
 maintenance for those portions of the open  
 space land requiring maintenance; (c) when  
 appropriate, the availability of funds re-  
 quired for such maintenance; (d) adequate  
 insurance protection; and (e) recovery for  
 loss sustained by casualty, condemnation, or  
 otherwise.

In any event, the developer must file in the  
 Middletown Land Records, at the time the ap-  
 proved Final Subdivision map is filed, legal  
 documents which will produce the aforesaid  
 guarantees and, in particular, will provide  
 a method for restricting the use of Common  
 Open Spaces for the designated purposes.

**B** Utility and Continuity for Common Use

All Common Open Space proposed for dedication to  
 the City of Middletown must be acceptable to it  
 with regard to the size, shape, location and im-  
 provement. In addition, the applicant must show  
 that the dedication of such areas as Common Open  
 Space will be of benefit to the general public  
 of Middletown.

**45.05.04** Improvements

**A** Circulation Facilities

The arrangement of public and common ways for  
 pedestrian and vehicular circulation in relation  
 to other existing or planned streets in the area

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and to the Master Plan, together with provisions for street improvements, shall be in compliance with standards set forth in subsections 45.05.01E and 45.05.01G above and in the Subdivision Code. Upon application by the developer and good cause shown, the Plan Commission may permit changes or alterations of such standards which are consistent with the spirit and intent of this Section.

B Utilities

Whenever reasonably possible, all Planned Residential Developments shall provide for underground installation of utilities (including electricity and telephone) in both public ways and private extensions thereof. Provisions shall be made for acceptable design and construction of storm sewer facilities including grading, gutters, piping, and treatment of turf to handle storm waters, prevent erosion and the formation of dust. Utilities and maintenance of facilities shall be in accordance with the requirements and regulations of the appropriate municipal authority having jurisdiction thereof. A Planned Residential Development application shall not be approved unless adequate assurance is given that public or quasi-public water and sanitary sewer service will be available, except that upon application by the developer and good cause shown, the Plan Commission may modify or waive this requirement provided such action is consistent with the spirit and intent of this Section.

C Pedestrian Circulation

The pedestrian circulation system and its related walkways shall be insulated as completely and as reasonably as possible from the vehicular street system in order to provide separation of pedestrian and vehicular movement. This shall include, when deemed to be necessary by the Plan Commission, pedestrian underpass or overpass in the vicinity of schools, playgrounds, local shopping areas, and other neighborhood uses which generate a considerable amount of pedestrian traffic.

45.05.05 Subdivision Review

It is the intent of this Code that subdivision review under the Subdivision Code be carried out as an integral part of the review of a Planned Residential Development under this Section. The plans required under Subsection 45.06.06 of this Code must be submitted in a form which substantially will satisfy requirements of the Subdivision Code for the preliminary and final plan approvals.

However, if any provisions of this Code and the Subdivision Code are in conflict, the more restrictive or detailed requirements shall be met, unless specifically waived or altered by the Plan Commission.

It is the intent of this Section to permit the submission of subdivision applications for the whole, a part, or parts of the overall Planned Residential Development.

45.06 PROCEDURE

45.06.01 Summary of Procedure

A generalized summary of the steps for consideration and approval of Planned Residential Developments and Subdivision Plans relating thereto, is as follows:

- A Pre-application conference or conferences are held with the Director of Planning in order to obtain information and guidance in preparing Planned Residential Development Application.
- B The Planned Residential Development Application (conceptual and schematic) with plans and statements are submitted to the Plan Commission. Public Hearing is held.
- C The Planned Residential Development plan is approved. Applicant authorized to proceed with the preparation of Preliminary Subdivision Application.
- D Preliminary Subdivision Application is filed with the Plan Commission.
- E Final Subdivision plan is filed with the Plan Commission. The Commission shall approve, modify and approve, or disapprove the application within sixty (60) days after a complete application is filed.
- F Applicant is notified of Plan Commission action. Approved Subdivision plans are recorded as required herein and by statute.
- G Applicant shall commence construction for an approved Subdivision within six (6) months, and one (1) year for an approved Planned Residential Development following recordation of approved plans. Upon failure to do so, the Planned Residential Development and approvals are voidable.

**45.06.02 Applicant**

Planned Residential Development Applications shall be filed in the name or names of the record owner or owners of property included in the development, as shown in the Middletown Land Records. However, the Applications may be filed by holder(s) of an equitable interest in such property. If record title is changed for all or any portions of such property prior to issuing final Subdivision approval, the records of the Plan Commission and related documents shall be amended to reflect such changes before maps and documents are filed in the Middletown Land Records, as provided herein.

**45.06.03 Pre-application Conference**

To obtain information, each applicant shall confer with the Director of Planning in connection with the preparation of the Planned Residential Development Application. The general outlines of the proposal, evidenced schematically by sketch plans, are to be considered before submission of the Planned Residential Development Application. Thereafter the Director of Planning shall furnish the applicant with his written comments regarding such conference, including appropriate recommendations to inform and assist the applicant prior to his preparing the components of the Planned Residential Development Application. It is not required that any person requesting a pre-application conference be an owner or holder of an equitable interest in the subject property.

**45.06.04 Planned Residential Development Application**

A All Planned Residential Development plans shall be submitted to the Plan Commission with an application in the form to be prescribed by it. The Plan Commission shall charge for the processing of the application of the proposed improvements, a fee of One Hundred (\$100) Dollars for each application. This fee shall be in addition to the fee prescribed in the Subdivision Code.

B Within thirty (30) days after a complete Planned Residential Development Application has been filed with the Plan Commission, the Commission shall hold a public hearing, which shall be construed as satisfying any requirement for a subdivision hearing.

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- C The Plan Commission shall approve, modify and approve, or disapprove any such application within thirty (30) days after the public hearing.
- D The Planned Residential Development Application shall include the following:
- (1) A declaration by the developer in which there is furnished:
    - (a) An evaluation of the proposed Planned Residential Development, together with the factors considered in the evaluation;
    - (b) A general statement regarding the nature and location of Common Open Space, and the means by which the developer will guarantee its continuity and maintenance;
    - (c) The general location and purpose of all non-residential structures;
    - (d) A general statement indicating the proposed types and location of dwelling units, the anticipated population density associated with each type;
    - (e) The method by which utilities will be provided; and
    - (f) Proposed time table of development.
  - (2) Conceptual and schematic plans incorporating the following elements:
    - (a) Those listed in subsection 45.05.02 hereof;
    - (b) Conceptual Plans of the entire site showing:
      1. Existing contours accompanied by outline of grading plans.
      2. Typical cross-sections.
      3. Drainage control.
      4. Conceptual location of all main and accessory structures accompanied by an outline explaining intended heights, coverage and treatment of yards.
      5. General outline of motor vehicle parking and loading provisions.
      6. General traffic circulation features, public and private streets, width of right-of-way and roadway, location of vehicular access points thereto.

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7. Pedestrian circulation features, walks and paved areas.
  8. Landscaping and forestry features.
  9. General nature and location of public and private utilities and community facilities and services, including maintenance facilities.
  10. Recreational and other non-building areas, designated.
  11. Soils map indicating buildability.
- E Common Open Space information, including:
- (1) Percentage of acreage of Common Open Space in each part of the development.
  - (2) General nature of Common Open Space use.
  - (3) Topographical factors affecting Common Open Space.
- F A Schematic Plan summarizing:
- (1) Residential densities for each part of the development.
  - (2) Maximum square footage of gross floor area (under roof) of mercantile and office space.
  - (3) Acreage of Common Open Space in each part of the development.
- G A document describing the proposed Phasing Program for the Planned Residential Development for all dwelling units, non-dwelling structures, recreational and other common facilities, and open space improvements.

45.06.05 Approval, Notice and Authority to Proceed

- A Upon approval of the Planned Residential Development Application by the Planning Commission, the Director of Planning forthwith shall:
- (1) Furnish the developer with written notice of the approval.
  - (2) Cause the Planned Residential Development to be noted on the face of the official Zoning Map of the City of Middletown by outlining the boundaries of land affected thereby and indicating the approval date.
  - (3) Recording notice thereof in the Middletown Land Records under the name of the record owner of land affected thereby, giving:
    - (a) A legal description of the land;
    - (b) Specific reference to the approved Planned Residential Development Schematic Plan.

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- (4) Record in the Middletown Land Records a copy of the Planned Residential Development Schematic Plan.
  - B The land described in the above notice shall be used only in accordance with the uses and densities shown on the recorded Planned Residential Development Schematic Plan, except as provided in Subsection 45.07.
  - C When the above procedures have been completed, the developer may proceed with the preparation of the Preliminary Subdivision Application.

45.06.06 Subdivision Processing

A Subdivision Plans

Subdivision Plans shall be submitted in accordance with the Subdivision Code to a scale of 1 inch = 40 feet (minimum scale of not less than 1 inch = 100 feet may be accepted in special circumstances if required data can be clearly shown at such scale.) Subdivision Plans also will show the following:

- (1) Preliminary
  - (a) Boundaries
  - (b) Streets and Ways
  - (c) Easements
  - (d) Pedestrian ways for general circulation
  - (e) Outside parking areas
  - (f) Areas to be kept open for community use
  - (g) Parcels for subsequent sale (if any)
  - (h) Insert key map for overall tract when site under consideration is only a part of the Planned Residential Development.
- (2) Final
  - (a) Exact engineering data on boundaries, streets and ways, easements, parcels for sale and monuments, in accord with Subdivision Code.
  - (b) Monuments for angles and intersection points on survey line of public streets.
  - (c) Cross reference to recorded Planned Residential Development Schematic Plan.
- (3) Subdivision plans may be submitted for the whole Planned Residential Development at one time, or such plans may be submitted for a part or parts of the Planned Residential Development from time to time.

**B. Documents**

- (1) At the time the Preliminary Subdivision application is filed with the Plan Commission, the developer also shall file:
  - (a) Project cost estimates for all public improvements in the Subdivision plan;
  - (b) Other statements required by the Subdivision Code.
- (2) At the time the Final Subdivision application is filed with the Plan Commission, the developer shall file in the Middletown Land Records all documents required by this Section affecting title, occupancy, and use of the property contained in the subdivision.

45.06.07

**Final Approval**

Within six (6) months following the approval of the Preliminary Subdivision Plan, the applicant shall file with the Plan Commission a Final Subdivision Plan containing in final form all the information required. Upon written request by the applicant, the Plan Commission, for good cause, may extend for six (6) months the period for filing the Final Subdivision Plan.

Within sixty (60) days after the complete Preliminary Subdivision application is filed, with all necessary documents and exhibits, the Plan Commission must approve, approve and modify, or disapprove it.

45.06.08

**Recording**

Upon approval of the Final Subdivision application, the Plan Commission shall notify the applicant, by certified mail, and thereafter upon payment of the required fee by the applicant, the maps and other related documents shall be recorded in the office of the Middletown Town Clerk. If the Plan Commission approves the Final Subdivision application with modifications, the applicant shall cause such modifications to be made and then proceed as above.

45.06.09

**Failure to Begin Planned Residential Development**

A

If no construction has begun, in the Planned Residential Development within one (1) year from the approval of the Planned Residential Development and recording of documents, said approval shall lapse and be of no further effect. The Plan Commission, for good cause, may extend for periods of one (1) year the time for beginning construction.

If an approved Planned Residential Development application shall lapse, as provided herein, notice of such lapse shall be recorded by the Plan Commission in the Middletown Land Records, and thereafter such approval shall be considered as having been revoked.

Nothing herein shall be considered as effecting such lapse and revocation if the developer commences construction. If construction commences, the Final Planned Residential Development approval may be modified only in accordance with subsection 45.07 hereafter.

B If no construction has begun in any subdivision within a Planned Residential Development within six (6) months from the date the approved subdivision map was recorded, said subdivision approval shall lapse and be of no further effect. The Plan Commission, for good cause, may extend for periods of six (6) months the time for beginning construction. Except as provided in subsection A, above, the lapsing of subdivision approval shall not result in the lapsing of a Planned Residential Development approval.

Written notification of such lapse shall be forwarded to the developer, and the Town Clerk shall attach a copy of such notification to the recorded subdivision map.

45.07

#### REVISIONS OF APPROVED FINAL PLANNED DEVELOPMENT APPLICATION

The development shall conform to the approved Planned Residential Development Plan and the approved Final Subdivision Plan. The applicant, his successors and assigns shall make no alterations, additions or deletions to the Planned Residential Development Plan, the related documents, or to the site, except as provided herein. Upon final approval, changes may be made only pursuant to a new submission of a Planned Residential Development application which shall be processed and approved in accordance with this Section. The Plan Commission may authorize minor changes, provided that the overall density is not increased, without a new Planned Residential Development application.

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45.08

PHASING

The establishment of Common Open Spaces and construction of public or common recreational facilities shown on the recorded Planned Residential Development plan together with the construction of other non-residential structures shall proceed substantially in accordance with the Phasing Program referred to in Subsection 45.06.06.

After general construction commences, the Director of Planning shall review, at least once every four (4) months, all building permits issued and compare them to the overall development Phasing Program. If he determines that the rate of construction of residential units or non-residential structures substantially differs from the Phasing Program, he shall so notify the developer and the Plan Commission, in writing.

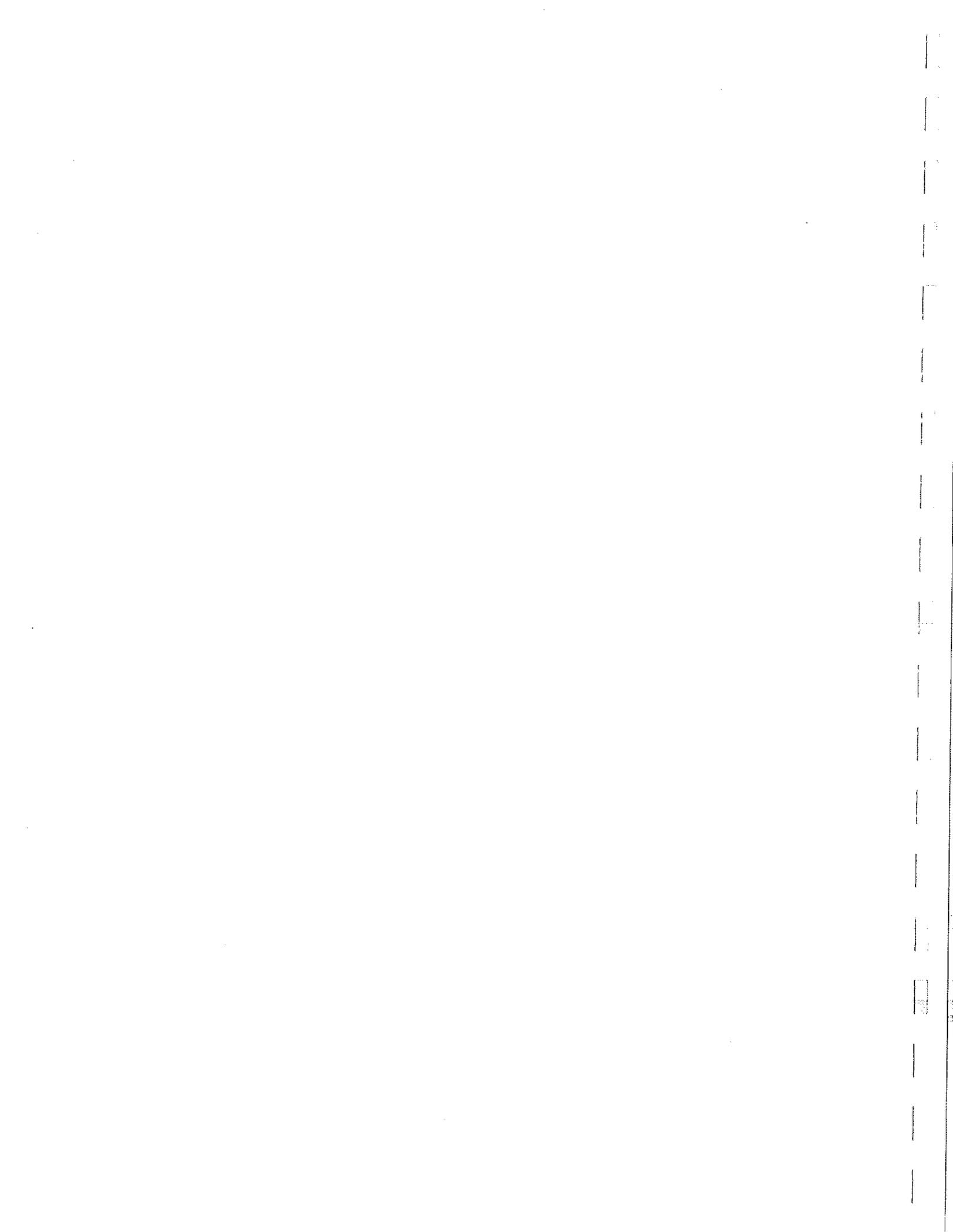
Thereafter, the Plan Commission may issue such orders to the developer as it sees fit, and upon continued violation of this subsection may suspend the developer from further construction of dwelling units or non-residential structures until compliance is achieved.

45.09

VIOLATION

Whenever the Plan Commission shall find, in the case of any approved Planned Residential Development, that any of the terms, conditions, or restrictions upon which such approval was granted are not being complied with, the Plan Commission may rescind and revoke such approval. Notice thereof shall be given in accordance with Subsection 45.06.09.

Violation of a Planned Residential Development, as approved, shall constitute a violation of the Zoning Code.



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SECTION 46

FLOOD PLAIN LAND REGULATION

- 46.00 In the Flood Plain Lands no land shall be used or occupied and no structure shall be erected, constructed, reconstructed, altered or used or filled, except in conformance with this subsection and all other requirements of the applicable zone.
- 46.01 BOUNDARY  
For the purpose of this subsection, the Flood Plain shall be all land adjacent to the Connecticut River, Mattabesset River and the Coginchaug River which fall below the August 1955 Flood Line, modified to compensate for subsequent flood control measures, as determined by the United States Army Corps of Engineers and based on elevations established by the United States Coastal and Geodetic Survey. These elevations are incorporated as part of the Zoning Code and are shown on a Flood Plain graph, on file in the office of the Commission on the City Plan and Zoning, for the easterly reaches of the Connecticut River and Mattabessett River and the easterly and westerly reaches of the Coginchaug River.
- 46.02 PERMITTED USES  
No land shall be used or occupied and no structure shall be erected, constructed, reconstructed, altered or used for any use other than is permitted in the zone in which such building, structure or land is located, except in accordance with these regulations. If safe and adequate disposal of sewage and a safe water supply can be provided without endangering the health and safety of adjoining residents, nothing in these regulations shall prevent the construction of a permitted building or the establishment of a permitted use.

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46.03

BUILDINGS

In a building or structure to be used for human occupancy, no story or floor level to be so used shall be built below the flood plain level established herein and all required principal fire exits shall have access to ground or a structure leading to ground having continuous elevation above the flood plain level. Any story or level or portion of a building used for parking, storage or mechanical equipment may be built below the flood plain elevation provided the building construction is designed to remove the hazards of flooding.

46.04

FILLING

No land within the Flood Plain shall be filled until an application for a certificate of approval to fill land in a Flood Plan has been submitted and approved by the Planning Commission.

46.04.01

Application for said certificate of approval shall be made to the Planning Commission in writing seven (7) days prior to a regular meeting and shall be accompanied by plans prepared by a registered Civil Engineer showing the existing and proposed contours; the effect upon flooding and drainage conditions on adjacent properties; and the location and elevation of all proposed buildings. Said plans shall indicate the exact elevation of any encroachment line established by the Connecticut Water Resources Commission and shall be approved by an endorsement thereon, by the Connecticut Water Resources Commissioner.

46.04.02

No application shall be approved which will retard the flow of the stream or significantly reduce the volume of the storage which alleviates flooding elsewhere.

46.05

ACTION

The Planning Commission shall act on the application not later than sixty (60) days after the date of filing a complete application, as required hereinabove. The Commission may approve, modify and

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approve, or disapprove the application. Notice of the decision shall be communicated to the applicant in writing within three (3) days after such decision has been rendered. The failure of the Commission to act thereon, within sixty (60) days of filing said application, shall be considered as approved. The grounds for the Commission's action shall be stated in its records.

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SECTION 47

SWIMMING POOLS

47.00 No swimming pool shall be constructed or operated in any zone, whether as 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 ZONE  
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 guests.

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; provided further that pump and filter installations shall be located not closer than ten (10) feet to any property line.

47.03 FENCING  
The swimming pool, or the entire property on which it is located, shall be so walled or fenced as to prevent uncontrolled access by children from the street or from adjacent properties. Gates must be self-latching with latches placed four (4) feet above the underlying ground or otherwise made inaccessible from the outside to small children.

47.05 LIGHTING  
Any lighting used to illuminate the swimming pool area shall be so arranged as to deflect the light from adjoining properties.

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47.06

ZONING CERTIFICATE REQUIRED

No person, firm or corporation shall construct or install a swimming pool or make any alteration thereon or in the appurtenances thereof without having first submitted an application and plans therefor to the Zoning Administrator.

ARTICLE V

ADMINISTRATION AND ENFORCEMENT



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SECTION 51

ENFORCEMENT

51.01

COMPLAINTS AND INSPECTION PROGRAM

Whenever a violation of this Code occurs or is alleged to have occurred, any person may file a written complaint with the Zoning Administrator stating fully the causes and basis of such complaint. The Zoning Administrator shall record such complaint, investigate and if he finds that a violation of this Code has in fact occurred, shall notify the Mayor and Common Council by a written report of his finding. The Zoning Administrator shall also carry on an ongoing or continual zoning violation inspection program throughout the city and shall file his reports as provided herein.

51.02

LEGAL PROCEDURE

The City Attorney of the City of Middletown shall, upon order of the Mayor, immediately commence action or proceedings for the abatement and removal and enjoinder of a violation in the manner prescribed by law and shall take such relief as will abate and remove such building or structure and restrain and enjoin any person, firm or corporation from erecting, constructing, reconstructing, altering or using any such building or structure or land contrary to the provisions of this Code.

51.03

PROCEDURE WHEN REGULATIONS ARE VIOLATED

If any building or structure has been erected, constructed, altered, converted or maintained, or any building, structure or land has been used, in violation of any provision of this Code and Chapter 124, General Statutes of Connecticut, any official having jurisdiction, in addition to other remedies, may institute an action or proceeding to prevent such unlawful erection, construction, alteration, conversion, maintenance or use or to restrain, correct or abate such violation or to prevent the occupancy of such building, structure or land or to prevent any illegal act, conduct, business or use in or about such

premises. This Code shall be enforced as provided in this Section by the City Attorney who shall be authorized to cause any building, structure, place or premises to be inspected and examined and to order in writing the remedying of any condition found to exist therein or thereon in violation of any provision of the regulations made under authority of the provisions of this chapter. The owner or agent of any building or premises where a violation of any provision of such regulations has been committed or exists, or the lessee or tenant of an entire building or entire premises where such violation has been committed or exists, or the owner, agent, lessee or tenant of any part of the building or premises in which such violation has been committed or exists, or the agent, architect, builder, contractor or any other person who commits, takes part or assists in any such violation or who maintains any building or premises in which any such violation exists, shall be fined not less than ten nor more than one hundred dollars for each day that such violation continues; but, if the offense is willful, the person convicted thereof shall be fined not less than one hundred dollars nor more than two hundred and fifty dollars for each day that such violation continues, or imprisoned not more than ten days for each day such violation continues or both; and the circuit court shall have jurisdiction of all such offenses, subject to appeal as in other cases. Any person who, having been served with an order to discontinue any such violation, fails to comply with such order within ten days after such service or continues to violate any provision of this Code made under authority of the provisions of Chapter 124, General Statutes of Connecticut, specified in such order, shall be subject to a civil penalty of two hundred and fifty dollars, payable to the treasurer of the City of Middletown.

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SECTION 52

ZONING BOARD OF APPEALS

52.01 ZONING BOARD OF APPEALS

52.01.01 Powers and duties of Board of Appeals

The Zoning Board of Appeals shall have the following powers and duties: (1) to hear and decide appeals where it is alleged that there is an error in any order, requirement or decision made by the official charged with the enforcement of this Code; (2) to hear and decide all matters including special exceptions upon which it is required to pass by the specific terms of this Code; and (3) to determine and vary the application of this Code in harmony with their general purpose and intent and with due consideration for conserving the public health, safety, convenience, welfare and property values solely with respect to a parcel of land where, owing to conditions especially affecting such parcel but not affecting generally the zone in which it is situated, a literal enforcement of this Code would result in exceptional difficulty or unusual hardship so that substantial justice will be done and the public safety and welfare secured.

52.01.02 Powers Limited

- A The Board shall not amend any of this Code or the Zoning Map; nor shall such power or authority be vested in the Board.
- B Nothing contained in this Code shall be deemed to authorize the Board to reverse or modify any refusal of a permit or any other order, requirement, decision, or determination which conforms to the provisions of this Code and which, therefore, is not erroneous; nor to authorize the Board to validate, ratify, or legalize any violation of law or any of the regulations of this Code.

52.02 ADMINISTRATIVE REVIEW

The concurring vote of four (4) members of the Board shall be necessary to reverse any order,

requirement or decision of the official charged with the enforcement of the zoning regulations or to decide in favor of the applicant any matter upon which it is required to pass under this Code or to vary the application of this Code. An appeal may be taken to the Zoning Board of Appeals by any person aggrieved or by an officer, department, board or bureau of any municipality aggrieved and shall be taken within such time as is prescribed by a rule adopted by said Board by filing with the Zoning Commission or the officer from whom the appeal has been taken and with said Board a notice of appeal specifying the grounds thereof. The officer from whom the appeal has been taken shall forthwith transmit to said Board all the papers constituting the record upon which the action appealed from was taken. An appeal shall stay all proceedings in the action appealed from unless the Zoning Commission or the officer from whom the appeal has been taken certifies to the Zoning Board of Appeals after the notice of appeal has been filed that by reason of facts stated in the certificate a stay would cause imminent peril to life or property, in which case proceedings shall not be stayed, except by a restraining order which may be granted by a court of record on application, on notice to the Zoning Commission or the officer from whom the appeal has been taken and on due cause shown. Said Board shall fix a reasonable time for the hearing of any appeal and give due notice thereof to the parties. Notice of the time and place of such hearing shall be published in a newspaper having a substantial circulation in such municipality at least twice at intervals of not less than two (2) days, the first not more than fifteen (15) days, nor less than ten (10) days, and the last not less than two (2) days before such hearing. Said Board shall decide such appeal within sixty (60) days after the hearing. At such hearing any party may appear in person and may be represented by agent or by attorney. Said Board may reverse or affirm wholly or partly or may modify any order, requirement or decision appealed from and shall make such order, requirement or decision as in its opinion should be made in the premises and shall have all the powers of the officer from whom the appeal has been taken but only in accordance with the provisions of this section. Whenever the Zoning

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Board of Appeals grants or denies any special exception or variance in the zoning regulations applicable to any property or sustains or reverses wholly or partly any order, requirement or decision appealed from, it shall state upon its records the reason for its decision. Notice of the decision of the Board shall be published in a newspaper having a substantial circulation in the municipality and addressed by certified mail to any person who appeals to the Board, by its secretary or clerk, under his signature in any written, printed, typewritten or stamped form, within ten (10) days after such decision has been rendered. Such exception, variance or reversal shall become effective at such time as is fixed by the Board, provided a copy thereof shall be filed in the office of the town, city or borough clerk, as the case may be, but, in the case of a district, in the offices of both the district clerk and the town clerk of the town in which such district is located.

52.03

SPECIAL EXCEPTIONS

Where provided for elsewhere in this Code, the Board may, in appropriate case, after public notice and hearing, grant a special exception.

52.03.01

Authorization

The Board shall hear and decide only such special exceptions as the Board 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.

52.03.02

Findings

A special exception shall not be granted by the Board 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.

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- B The Board shall make a finding that the granting of the special exception will not adversely affect the public interest, that such special exception is authorized under a specified 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.

52.04 VARIANCES

Where there is difficulty or unreasonable hardship in the way of carrying out the strict letter of this Code, the Board shall have power in a specific case to vary the application of any provision of this Code, except use provisions, if such variances will be in harmony with the general purpose and intent of this Code and if the public health, safety and general welfare will be served and substantial justice done.

52.04.01 Jurisdiction

Prior to establishing any hearing, the Chairman of the Board shall obtain a written opinion from the City Attorney stating that the Board has jurisdiction over each variance in question.

52.04.02 Findings

A variance from the terms of this Code shall not be granted by the Board unless and until:

- A A written application for a variance is submitted demonstrating: that special conditions and circumstances exist which are peculiar to the land, building or other structure involved and which are not applicable to other lands, buildings or other structures in the same zone; that the literal interpretation or application of the provisions of this Code would deprive the applicant of rights commonly enjoyed by other properties in the same zone under the terms of this Code; that the special conditions and circumstances do not result from the action of the applicant; and that granting the variance requested will not confer on the applicant any special privilege that is denied by this Code to other lands, buildings or other structures in the same zone. No non-conforming use of neighboring lands, buildings or other structures in the same zoning district and no

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permitted or non-conforming use of lands, buildings or other structures in other zones shall be considered grounds for issuance of a variance.

B The Board shall further make a finding that the reasons set forth in the application justify the granting of the variance and that the variance is the minimum variance that will make possible the reasonable use of land, building or other structure.

C The Board shall further make a finding that the granting of the variance will be in harmony with the general purpose of the intent of this Code and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

52.04.03 Conditions May Be Prescribed

In granting any variance, the Board may prescribe appropriate conditions and safeguards in conformity with this Code. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this Code.

52.04.04 Use Variance Not Permitted

Under no circumstances shall the Board grant a variance to allow a use not permissible under the terms of this Code in the zoning district involved or any use expressly or by implication prohibited by the terms of this Code in such zone.

52.05 MOTOR VEHICLE USES

The Board shall hear and determine application for certificate of approval of location for motor vehicle uses as provided for by the General Statutes of Connecticut. In passing upon any such application, the Board shall be strictly cognizant of the provisions of this Code and may attach appropriate conditions and safeguards. Failure to comply with any such conditions or safeguards shall constitute a violation of this ordinance.

52.06 TIME LIMITATION

52.06.01 Periods

A variance or special exception shall be valid for a period of six (6) months, during which time a zoning certificate and a building permit for such erection or alteration must be obtained and the erection or alteration started. No decision of the Board permitting the use of a building or land shall be valid for a period longer than six (6) months, unless such use is established longer than six (6) months, unless such use is established with said period, provided that, where such use is dependent upon the erection or alteration of a building, such order shall continue in force and effect if a building permit for such erection or alteration is obtained and the erection or alteration started within said period, and such erection or alteration completed and the permitted use established within a reasonable time thereafter.

52.06.02 Renewal

No variance or special exception shall be granted for a time period longer than that specified above; provided, however, that in any case, whenever the current period has more than half transpired, a renewal of said variance or special exception may be granted for an additional six (6) months, measured from the date of renewal, as often as the Board finds that all requirements continue to be met. No public hearing shall be required if the Board shall show in its record that it has reviewed an application for renewal of the specified variance or special exception and that all appropriate provisions and findings are reaffirmed.

52.07

APPEAL FROM DECISION OF BOARD

Any person or persons severally or jointly aggrieved by any decision of said Board, or any person owning land which abuts the land involved in any decision of said Board, or any officer, department, board or bureau of any municipality, charged with the enforcement of any order, requirement or decision of said Board, may, within fifteen (15) days from the date when notice of such decision was published in a newspaper pursuant to the provisions of section 8-3 or 8-7,

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as the case may be, take an appeal to the county court of common pleas, which appeal shall be made returnable to said court in the same manner as that prescribed for civil actions brought to said court. Notice of such appeal shall be given by leaving a true and attested copy thereof with, or at the usual place of abode of, the chairman or clerk of said Board. The appeal shall state the reasons upon which it has been predicated and shall not stay proceedings upon the decision appealed from, but the court to which such appeal is returnable may, on application, on notice to the Board and on cause shown, grant a restraining order.



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SECTION 53

PLANNING COMMISSION

53.01 PLANNING COMMISSION

53.01.01 Duties

The Planning 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 shall be deemed to authorize the Planning Commission to modify any requirement of this Code; except as provided in specific cases in this Code.

53.02 SPECIAL EXCEPTIONS

Where provided for elsewhere in this Code, the Planning Commission may, in appropriate cases, grant a special exception.

53.02.01 Authorization

The Planning Commission shall hear and decide only such special exceptions as the Planning 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 shall not be granted by the Planning 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.

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B The Planning Commission shall make a finding that granting of the special exception will not adversely affect the public interest; that such special exception is authorized under a specified 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 subsections 44.02, 44.03, 44.04, 44.05 and 44.06 of this Code.

53.02.04 Time Limitation

A special exception shall be valid for a period of six (6) months, during which time a building permit for such erection or alteration must be obtained and the erection or alteration started. Such exception shall continue in force and effect if a building permit for such erection or alteration is started within said period. A renewal of said exception may be granted for an additional six (6) months, measured from the date of renewal, as often as the Planning Commission finds that all requirements continue to be met. No public hearing shall be required. However, the Planning 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.

53.03 CONTINUOUS REVIEW OF CODE

The Planning Commission and its staff shall carry on a continuous review of the effectiveness and appropriateness of the Zoning Code and recommend such changes as seem fit.

53.04 ADVICE OF OTHER AGENCIES

The Planning Commission and its staff shall give such technical advice as they deem appropriate to the Zoning Administrator, the Zoning Board of Appeals and other agencies.

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53.05

NEW LOTS

The Planning Commission shall hear and decide an application for subdivision approval, as provided for by the General Statutes of Connecticut. In passing upon any such application, the Planning Commission shall be cognizant of the provisions of this Code.

53.06

MAINTENANCE OF ZONING MAP

The Planning Commission and its staff shall keep up to date the official Zoning Map and shall keep the Zoning Administrator and the Town Clerk supplied with a current copy of such map.

53.07

APPEAL FROM DECISION OF PLANNING COMMISSION

Notice of all official actions of the Planning Commission shall be published in a newspaper having a substantial circulation in the municipality within ten (10) days after such action has been taken. Any person aggrieved by an official action of the Planning Commission may appeal therefrom within fifteen (15) days from the date when notice of such decision was published in a newspaper pursuant to the provisions of Section 8-26 to the Court of Common Pleas. In those situations where the approval of the Planning Commission must be inferred because of the failure of the Commission to act on an application, any person aggrieved by such approval may appeal therefrom within twenty (20) days after the expiration of the period prescribed in this Code for action by the Commission to the Court of Common Pleas.

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SECTION 54

ZONING ADMINISTRATOR

54.01 ZONING ADMINISTRATOR

A Zoning Administrator designated by the Mayor and approved by the Common Council shall administer this Code. He may be provided with the assistance of such other persons as the Mayor may direct.

54.01.01 Duties

The Zoning Administrator shall exercise and discharge the duties provided for it by this Code and are necessary to carry out the provisions of this Code. He shall issue Zoning Certificates, maintain permanent and current records, prescribe such forms as he deems necessary, refer appropriate cases to the Board of Zoning Appeals, investigate complaints and carry on an inspection program throughout the city. He shall also maintain a current register of non-conforming uses and regulate the registration of non-conforming uses.

54.01.02 Powers Limited

Nothing contained in this Code shall be deemed to authorize the Zoning Administrator to modify any requirements of this Code.

54.02 ZONING CERTIFICATE

54.02.01 Authorization

A Zoning Certificate shall not be issued by the Zoning Administrator except in conformance with the provisions of this Code, unless he receives a written order from the Zoning Board of Appeals pursuant to an administrative review or pursuant to the granting of a special exception or variance, as provided by this Code. Said Zoning Certificate shall show that the structure, building or premises, or a part thereof, and the proposed use thereof are in conformity with the provisions of this Code.

54.02.02 Findings

A Zoning Certificate shall not be granted by the Zoning Administrator unless and until he is satis-

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fied that the structure, building or premises and proposed use thereof conforms with all applicable requirements of this Code.

54.02.03 Procedures

Every application for a Zoning Certificate shall be accompanied by plans in duplicate, drawn to scale in black line or blue print, showing the actual shape and dimensions of the lot to be built upon or to be changed in its use, in whole or in part; the exact location, size and height of any building or structure to be erected or altered; the existing and intended use of each building or structure or part thereof; the number of families or housekeeping units the building is designed to accommodate; and when no buildings are involved, the location of the present use and proposed use to be made on the lot; and such other information with regard to the lot and neighboring lots as may be necessary to determine and provide for the enforcement of this Code. One copy of such plans shall be returned to the owner when such plans shall have been approved by the Zoning Administrator together with such Zoning Certificate as may be granted. All dimensions shown on these plans shall be based on actual survey. The lot and the location of the building thereon shall be staked out on the ground before construction is started.

54.02.04 Decision

The Zoning Administrator shall act upon all such applications on which he is authorized to act by the provisions of this Code within thirty (30) days after they are filed in full compliance with all the applicable requirements. He shall either issue a Zoning Certificate within said thirty (30) days or shall notify the applicant in writing of his refusal of such certificate and the reasons therefor. Failure to notify the applicant in case of such refusal within said thirty (30) days shall entitle the applicant to a Zoning Certificate, unless the applicant consents to an extension of time.

54.02.05 Time Limit

A Zoning Certificate shall be valid for a period of six (6) months, during which time a building permit for such erection or alteration must be obtained

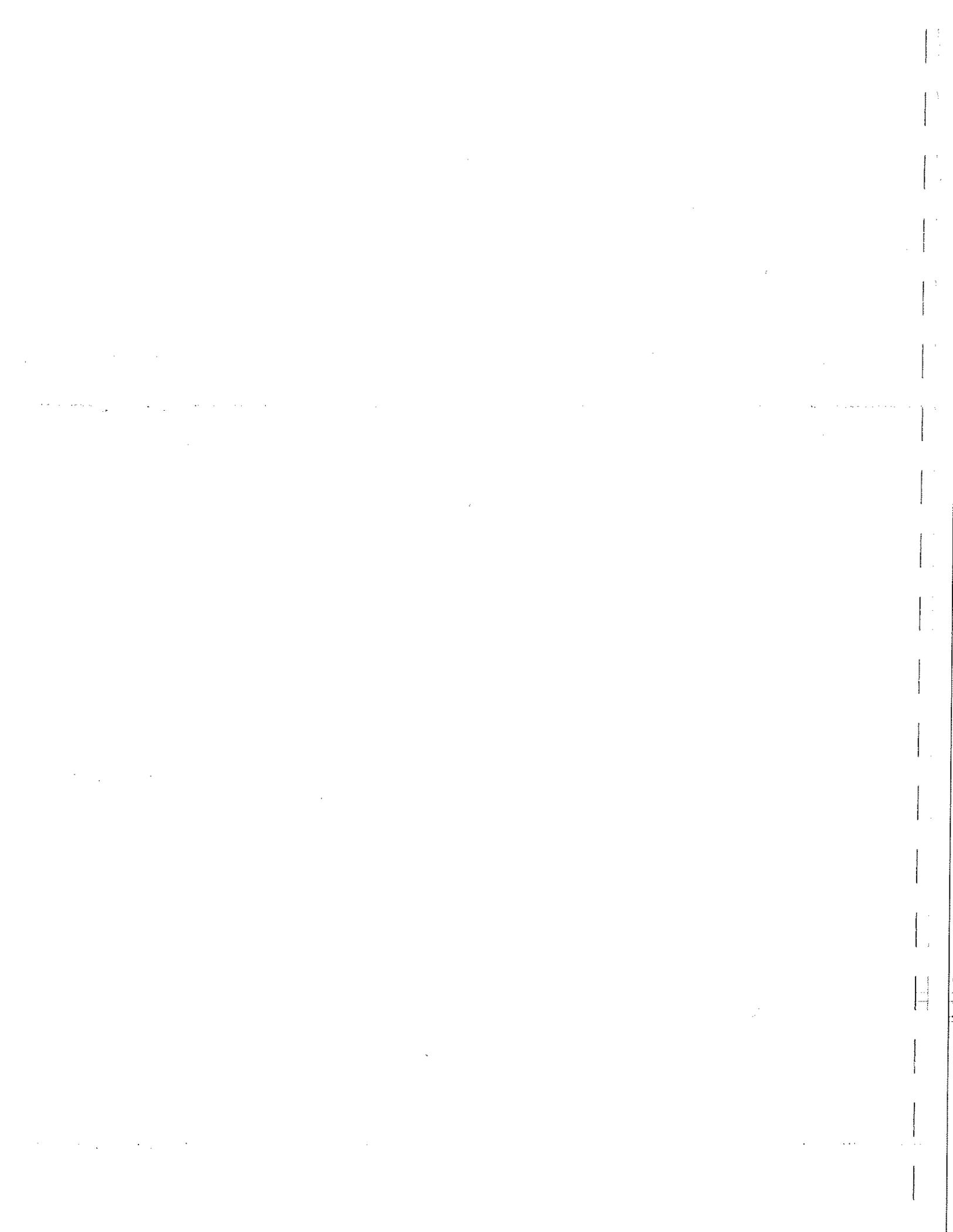
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and the erection or alteration started. Such certificate shall continue in force and effect if a building permit for such erection or alteration is started within said period. A renewal of said certificate may be granted for an additional six (6) months, measured from the date of renewal, as often as the Zoning Administrator finds that all requirements continue to be met. The Zoning Administrator shall show in his record that he has reviewed an application for renewal of the specified Zoning Certificate and that all appropriate provisions and findings are reaffirmed.

54.03

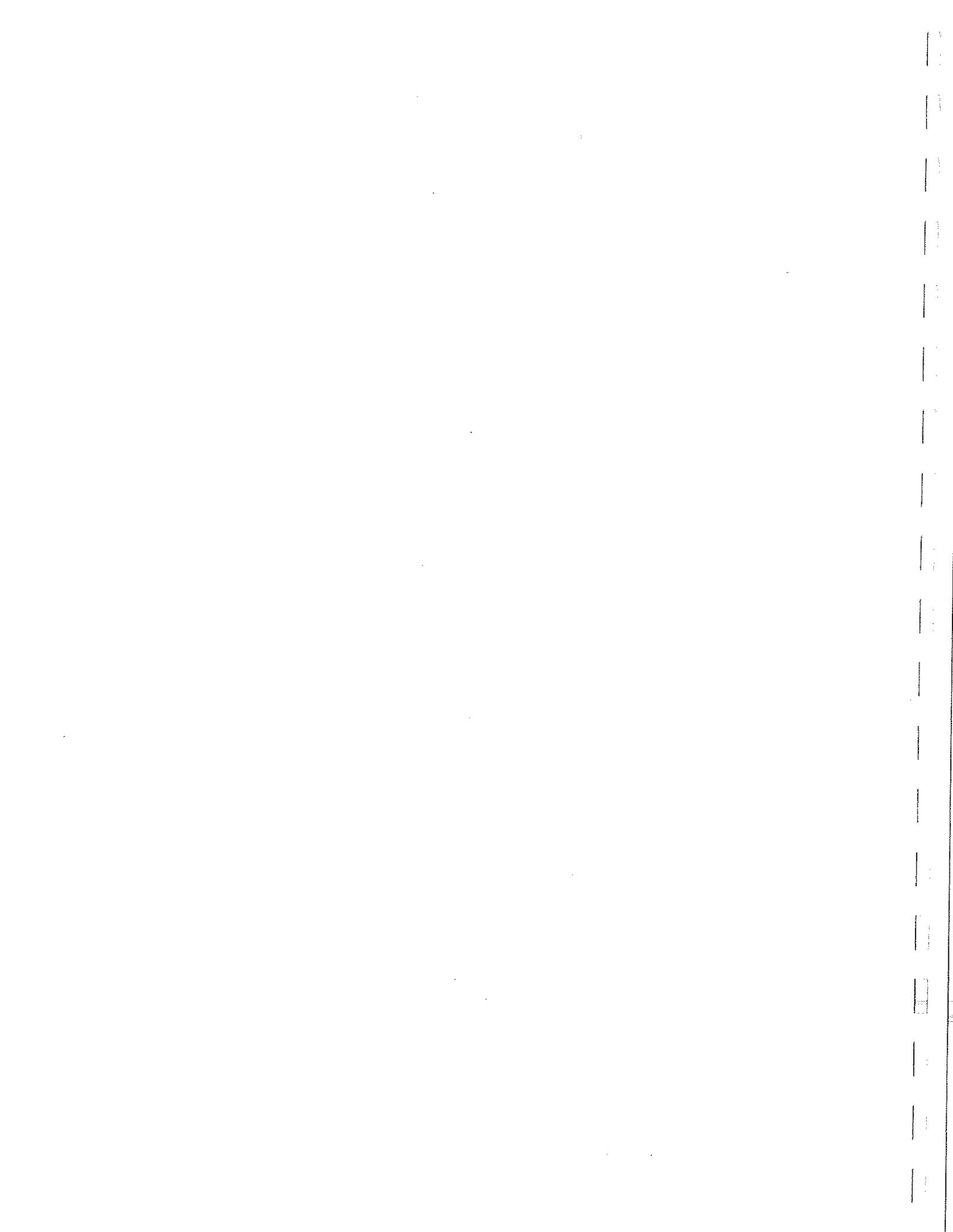
APPEAL FROM DECISION OF ZONING ADMINISTRATOR

An appeal may be taken to the Zoning Board of Appeals by any person aggrieved or by any officer, department, board or bureau of the city concerning a decision of the Zoning Administrator, as provided in subsection 52.06 of this Code. Such appeal shall be taken within thirty (30) days after the decision, by filing with the Board a notice of appeal specifying the ground thereof. A copy of such appeal shall be forwarded by the Secretary of the Board to the Zoning Administrator. Upon receipt thereof, the Zoning Administrator shall forthwith transmit to the Secretary of the Board all files constituting the record upon which the action appealed from was taken.



ARTICLE VI

USE SCHEDULES



SECTION 60

RESIDENTIAL ZONES AND PARK ZONE USE SCHEDULE

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 uses, permitted home occupation uses, or uses by temporary uses.

In any case 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 Planning 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.

The uses listed in this schedule are also listed in alphabetical order in the Index at the end of this Code, for the convenience of those using this Code. Whenever there is any difference in meaning or implication between this schedule and the Index, this schedule shall prevail.

|          |  | ZONES |    |    |    |    |
|----------|--|-------|----|----|----|----|
|          |  | R2    | R3 | R4 | R5 | PL |
| 60.01    | <u>PERMITTED USES</u><br>The following uses may be operated as Permitted Uses: |       |    |    |    |    |
| 60.01.01 | Single family dwellings, detached  | R2    | R3 | R4 | R5 |    |
| 60.01.02 | Two family dwellings   |       | R3 | R4 | R5 |    |
| 60.01.03 | Garden apartments and town houses  |       | R3 | R4 | R5 |    |
| 60.01.04 | Multi-family dwellings   |       |    | R4 | R5 |    |

|  | ZONES |    |    |    |    |
|--|-------|----|----|----|----|
|  | R2    | R3 | R4 | R5 | PL |
| 60.01.05<br>Cemeteries and other places of<br>burial of the human dead   | R2    | R3 | R4 | R5 |    |
| 60.01.06<br>Churches and other places of<br>worship, including parish houses   | R2    | R3 | R4 | R5 |    |
| 60.01.07<br>Convents, monasteries and similar<br>uses  | R2    | R3 | R4 | R5 |    |
| 60.01.08 Dormitories   |       |    | R4 | R5 |    |
| 60.01.09<br>Educational institutions   | R2    | R3 | R4 | R5 |    |
| 60.01.10<br>Farming or other agriculture uses  | R2    | R3 | R4 |    |    |
| 60.01.11<br>Fraternity and sorority houses   |       |    | R4 | R5 |    |
| 60.01.12<br>Libraries, museums and similar<br>institutions of a non-commercial<br>nature   | R2    | R3 | R4 | R5 |    |
| 60.01.13<br>Medical and dental practitioner's<br>office  |       |    | R4 | R5 |    |
| 60.01.14<br>Publicly owned or operated buildings<br>and uses including schools, parks,<br>playgrounds and recreational areas           | R2    | R3 | R4 | R5 | PL |
| 60.01.15<br>Housing for the elderly or physically<br>handicapped persons   |       |    | R4 | R5 |    |
| 60.01.16<br>Outdoor public recreational uses<br>such as: parks, playgrounds, play-<br>fields, golf courses, boating areas<br>and parks |       |    |    |    | PL |

| ZONES |    |    |    |    |
|-------|----|----|----|----|
| R2    | R3 | R4 | R5 | PL |

60.01.17  
 Natural open spaces, such as  
 conservation lands, wild life  
 and forest preserves PL

60.01.18  
 Developed open space, such as  
 arboreta, botanical and zoological  
 gardens PL

60.01.19  
 Educational services, such as public  
 primary and secondary schools and  
 institutions of higher education PL

60.01.20  
 Public facilities, such as hospitals,  
 public housing, children's homes,  
 correctional institutions, fire  
 houses, civic center R4 R5 PL

60.01.21  
 Mortuaries and funeral homes,  
 not including ambulance service R4 R5

60.02 SPECIAL EXCEPTION USES  
 The following uses by Special  
 Exception may be permitted in  
 accordance with the provisions  
 of SECTION 44:

60.02.01  
 Ambulance service R2 R3 R4 R5

60.02.02  
 Day nursery and kindergarten R2 R3 R4 R5

60.02.03  
 Education publishing organizations R2 R3 R4

60.02.04  
 Fraternity and sorority houses R2 R3

60.02.05  
 Golf courses, country clubs, private  
 clubs, service organizations, including  
 community buildings and similar recrea-  
 tional uses privately owned and/or  
 operated R2 R3

|          |  | ZONES |    |    |    |    |
|----------|--|-------|----|----|----|----|
|          |  | R2    | R3 | R4 | R5 | PL |
| 60.02.06 | Hospital, nursing and care homes,<br>medical and dental clinics  | R2    | R3 |    |    |    |
| 60.02.07 | Housing for elderly or physically<br>handicapped persons   | R2    | R3 |    |    |    |
| 60.02.08 | Medical and dental practitioner's<br>office  | R2    | R3 |    |    |    |
| 60.02.09 | Neighborhood store   | R2    | R3 | R4 | R5 |    |
| 60.02.10 | Office and studio  | R2    | R3 | R4 | R5 |    |
| 60.02.11 | Public utility buildings and<br>structures   | R2    | R3 | R4 | R5 |    |
| 60.03    | <u>ACCESSORY USES</u><br>The following accessory uses<br>shall be permitted in accord-<br>ance with the provisions of<br>subsection of this Code:                        |       |    |    |    |    |
| 60.03.01 | Uses customarily incidental to the<br>main or principal building or land<br>use  | R2    | R3 | R4 | R5 | PL |
| 60.03.02 | Required off-street parking and<br>loading space   | R2    | R3 | R4 | R5 | PL |
| 60.03.03 | Business office, provided that there<br>is conducted in said office only<br>business incidental to the rental,<br>operation, service and maintenance of<br>the dwellings |       | R3 | R4 | R5 |    |

60.02.06 - 60.03.03

| ZONES |    |    |    |    |
|-------|----|----|----|----|
| R2    | R3 | R4 | R5 | PL |

60.03.04  
 Incidental services for the convenience of occupants, such as news stands, snack bars, personal service shops, provided that not more than five (5) percent of the total floor area of the building is used

R3 R4 R5

60.04 PERMITTED HOME OCCUPATION USES  
 The following Home Occupation Uses shall be permitted in accordance with the provisions of subsection of this Code:

60.04.01  
 Custom dressmaking, millinery, tailoring, sewing of fabric for custom apparel and custom home furnishings

R2 R3 R4 R5

60.04.02  
 Fine Arts studio in which are created only individual works of art

R2 R3 R4 R5

60.04.03  
 Office, any office in which chattels or goods, wares or merchandise are not commercially created, exchanged or sold

R2 R3 R4 R5

60.04.04  
 Rooming or boarding houses of not more than two (2) persons

R2 R3 R4 R5

60.04.05  
 Tutoring--not more than four (4) students simultaneously

R2 R3 R4 R5

| ZONES |    |    |    |    |
|-------|----|----|----|----|
| R2    | R3 | R4 | R5 | PL |

60.05 USES BY TEMPORARY PERMIT  
 Upon application to and issuance by the Zoning Administrator of a permit therefor, the following uses may be operated as Uses by Temporary Permit:

60.05.01  
 Temporary building or yard for construction material of equipment both incidental and necessary 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 (4) successive periods at the same location

|  |    |    |    |    |    |
|--|----|----|----|----|----|
|  | R2 | R3 | R4 | R5 | PL |
|--|----|----|----|----|----|

60.05.02  
 Temporary office or model house, both incidental and necessary for the sale of 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 location

|  |    |    |    |    |
|--|----|----|----|----|
|  | R2 | R3 | R4 | R5 |
|--|----|----|----|----|

60.06 PROHIBITED USES  
 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

|  |    |    |    |    |    |
|--|----|----|----|----|----|
|  | R2 | R3 | R4 | R5 | PL |
|--|----|----|----|----|----|

SECTION 61

BUSINESS ZONES AND INDUSTRIAL 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.

In any case 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 Planning Commission by reference to the most clearly similar use or uses that are specifically referred to in the use schedule or declare 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.

The uses listed in this schedule are also listed in alphabetical order in the Index at the end of this Code, for the convenience of those using this Code. Whenever there is any difference in meaning or implication between this schedule and the Index, this schedule shall prevail.

| ZONES |    |    |    |    |    |    |
|-------|----|----|----|----|----|----|
| B1    | B2 | B3 | I1 | I2 | I3 | I4 |

61.01 PERMITTED USES  
The following uses may be operated as permitted uses:

61.01.01  
Agriculture, including nurseries and farms

I1 I2 I3 I4

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

| ZONES |    |    |    |    |    |    |
|-------|----|----|----|----|----|----|
| B1    | B2 | B3 | I1 | I2 | I3 | I4 |

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 B3 zone, and exercise runs shall be enclosed on four (4) sides by a sight-obscuring unpiered fence of wall at least five (5) feet in height

I1

61.01.03

Automobile, trucks, repair garages to provide services such as rebuilding, body and paint work, overhauling, tire retreading 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

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

I1

61.01.05

Banks--savings and loan companies, finance companies and similar services

B2 B3

61.01.06

Blacksmith shop, welding or other metal working shop and machine shops - (excluding punch presses over twenty (20) tons rated capacity, drop hammers and automatic screw machines

I1 I2

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ZONES

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B1 B2 B3 I1 I2 I3 I4

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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

I1 I2

61.01.08

Commercial schools and art studios --including automobile driving schools, business colleges, trade schools, dancing studios, photographic studios, radio and tele-casting studios

B2 B3

61.01.09

Commercial Parking lots, need not be enclosed

B1 B2 B3

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, live stock feed or fuel; carting, express or hauling establishments, including storage of vehicles; dump when operated by a duly authorized public agency;

provided such 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

| ZONES |    |    |    |    |    |    |
|-------|----|----|----|----|----|----|
| B1    | B2 | B3 | I1 | I2 | I3 | I4 |

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

I1

61.01.11

Eating and drinking establishments --including eating and drinking places, summer gardens and road-houses (excluding drive-in restaurants); provided that such use is not within two hundred (200) feet of any residential zone

B2

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

B1 B2 B3

61.01.13

Entertainment--drive-in theaters, provided the screen shall be so located as not to be visible from adjacent streets or highways and said screen shall be set back not less than two hundred (200) feet from the established right-of-way line of any such street or highway

I1

61.01.14

Entertainment--including theaters, radio and television studios, bowling alleys, assembly halls, or similar places of assembly or entertainment

B1 B2 B3

| ZONES |    |    |    |    |    |    |  |
|-------|----|----|----|----|----|----|--|
| B1    | B2 | B3 | I1 | I2 | I3 | I4 |  |

61.01.15  
 Fuel and feed yards--including  
 bulk fuel oil storage

I1

61.01.16  
 Hotels and inns--but not including  
 motels

B1

B3

61.01.17  
 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 con-  
 ditions

I1 I2 I3 I4

61.01.18  
 Manufacturing--except for uses and  
 processes prohibited by this Code,  
 the manufacturing, compounding, pro-  
 cessing, packaging, and assembling  
 of: bakery goods, candy, cosmetics,  
 pharmaceutical, toiletries, and food  
 products (except fish or meat pro-  
 ducts, sauerkraut, vinegar, yeast  
 and the rendering of fats and oils);  
 products from the following previous-  
 ly prepared material: bones, canvas,  
 cellophane, cloth, cork, feathers,  
 fiber, fur, glass, hair, horn, leather,  
 paper, plastics, precious or semi-  
 precious metals or stones, sheet  
 metal (except where presses over  
 twenty (20) tons rated capacity are  
 employed), shell, textiles, tobacco,  
 wax and yarns; pottery and figurines,  
 using previously pulverized clay, and  
 kilns fired only with gas or electric-  
 ity; musical instruments, toys, novel-  
 ties, rubber or metal stamps and other  
 small rubber products; electrical  
 and electric appliances, instruments  
 and devices, television sets, radios,  
 phonographs, refrigerators, stoves;  
 electric and neon signs, light sheet  
 metal products including heating and  
 ventilating equipment, cornices, eaves  
 and the like

I1 I2 I3 I4

| ZONES |    |    |    |    |    |    |
|-------|----|----|----|----|----|----|
| B1    | B2 | B3 | I1 | I2 | I3 | I4 |

61.01.19  
Mortuaries or funeral homes--  
including ambulance service

B2 B3

61.01.20  
Newspaper and job printing

B3 I1

61.01.21  
Non-commercial uses--including the  
following types: churches and  
other places of worship; libraries,  
museums and similar institutions of  
a non-commercial nature; clinics,  
medical or dental; library or read-  
ing room; private clubs or lodges;  
housing for the elderly or physical-  
ly handicapped persons, provided  
that such use shall be permitted  
only on land located within one  
thousand (1,000) feet of a public  
transportation stop and of a gen-  
eral commercial or convenience  
goods shopping center, offering  
food, drugs, sundries and personal  
services and provided further that  
no more than fifty (50) dwelling  
units per acre, shall be permitted;  
single family dwellings, detached,  
two family dwellings, garden apart-  
ments or town houses, and multi-  
family dwellings

B1 B2 B3

61.01.22  
Office buildings--including general  
and professional tenants, as well  
as banking, savings and loan and  
other financial institutions

B2 B3

61.01.23  
Printing and related trades--  
including publishing, job printing,  
lithographing, blueprinting, etc.,  
but not within one hundred (100)  
feet of any residential zone

B2 I1 I2

| ZONES |    |    |    |    |    |    |
|-------|----|----|----|----|----|----|
| B1    | B2 | B3 | I1 | I2 | I3 | I4 |

|   |    |    |    |    |    |       |
|---|----|----|----|----|----|-------|
| 61.01.24<br>Public building--including post office; fire and police stations; bus passenger terminal, telephone exchange or office or other public utility office; and governmental buildings   |    | B2 | B3 |    |    |       |
| 61.01.25<br>Public utilities buildings and structures--including storage yards and vehicle parking area   |    |    |    | I1 | I2 | I3 I4 |
| 61.01.26<br>Recreation (commercial)--including baseball fields, 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 | B2 |    | I1 |    |    |       |
| 61.01.27<br>Recreation (commercial)--including billiard parlors and pool halls; bowling alleys; night clubs; 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  |    | B2 | B3 |    |    |       |
| 61.01.28<br>Restaurants--where customers are served only when seated at tables or counters within an enclosed building or structure, provided there is no sale of alcoholic beverages   | B1 | B2 | B3 | I1 |    |       |
| 61.01.29<br>Restaurant--serving alcoholic beverages   | B1 | B2 | B3 |    |    |       |

| ZONES |    |    |    |    |    |    |
|-------|----|----|----|----|----|----|
| B1    | B2 | B3 | I1 | I2 | I3 | I4 |

61.01.30

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

B2 B3

61.01.31

Retail sales or rental--including lumber, paints, hardware and other building supplies; automobiles, trucks, trailers, boats, motorcycles, new or used; construction equipment, agricultural equipment, power tools, new or used; scientific and laboratory supplies

I1

61.01.32

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

B2 B3

61.01.33

Retail and services--including grocery stores; supermarkets; fruit, meat and vegetable stores; drug stores; garden stores; barber shops; beauty parlors; clothes cleaning and laundry pick-up; package liquor stores; art and antique shops, artists supplies stores; interior decorating shops; furniture and appliance stores; repair shops, self-service laundries; department stores including discount houses; variety and dime stores; dry goods and apparel stores; mail-order houses; and similar uses

B2 B3

61.01.30 - 61.01.33

ZONES

| B1 | B2 | B3 | I1 | I2 | I3 | I4 |
|----|----|----|----|----|----|----|
|----|----|----|----|----|----|----|

61.01.34

Service establishment--(except automobile service and repair) including barber shops and beauty parlors; dry cleaning and laundry pick-up 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 shop; tailoring, dress-making and pressing, newspaper stand; and similar uses

B1 B2 B3

61.01.35

Studios--motion picture, recording, television and radio production studios, transmitters and related equipment

I1 I2

61.01.36

Waterfront Business activities--including marina, boatyard for building, storage or repair of boats not over one hundred (100) feet in length, a dock, wharf or slip, a store selling primarily supplies, provisions and equipment for boats, the sale or rental of boats

B1

61.01.37

Wholesale and warehousing--including wholesale or storage, or sale of items manufactured on the premises, or the warehousing of commodities such as hardware, packaged or fresh foods, clothing, drugs, lumber (except live fowl or animal, commercial explosives, or above or below ground bulk storage of flammable liquids or gasses unless and only to the extent that such storage of liquids or gasses is directly connected to energy or heating on the premises)

I1 I2

61.02 SPECIAL EXCEPTION USES  
 The following uses by special exception may be permitted in accordance with the provisions of SECTION 44:

| ZONES |    |    |    |    |    |    |
|-------|----|----|----|----|----|----|
| B1    | B2 | B3 | I1 | I2 | I3 | I4 |

|          |   |    |    |    |    |          |
|----------|---|----|----|----|----|----------|
| 61.02.01 | Automobile filling station  | B2 | I1 |    |    |          |
| 61.02.02 | Automobile filling station when it is an integral part of a major parking facility                                    |    |    | B3 |    |          |
| 61.02.03 | Automobile filling station when it is an integral part of a major shopping area                                       | B2 | B3 |    |    |          |
| 61.02.04 | Drive-in establishment, such as a drive-in restaurant, drive-in bank, car wash, etc.                                  | B2 |    |    |    |          |
| 61.02.05 | Eleemosynary or philanthropic institutions--need not be enclosed  | B2 | B3 |    |    |          |
| 61.02.06 | General retail use not expressly prohibited by this Code  | B2 | B3 |    |    |          |
| 61.02.07 | Junkyards and building material salvage yards   |    |    | I1 |    |          |
| 61.02.08 | Light manufacturing of light industrial use not expressly prohibited by this Code                                     |    |    |    | I1 | I2 I3 I4 |
| 61.02.09 | Motel, tourist courts, tourist home, auto lodges--not including a trailer camp or trailer court--need not be enclosed | B2 | B3 |    |    |          |

|          |   | ZONES |    |    |    |    |    |    |
|----------|---|-------|----|----|----|----|----|----|
|          |   | B1    | B2 | B3 | I1 | I2 | I3 | I4 |
| 61.02.10 | Public utility structures   |       | B2 | B3 |    |    |    |    |
| 61.02.11 | Ready-mix concrete plant  |       |    |    | I1 |    |    |    |
| 61.02.12 | Restaurant or lunch room  |       |    |    |    | I2 | I3 | I4 |
| 61.02.13 | Taxi cab stand--need not be enclosed  | B1    | B2 | B3 |    |    |    |    |
| 61.03    | <u>ACCESSORY USES</u><br>The following Accessory uses shall be permitted in accordance with the provisions of subsection of this Code:  |       |    |    |    |    |    |    |
| 61.03.01 | Uses customarily incidental to the main or principal building or land use   | B1    | B2 | B3 | I1 | I2 | I3 | I4 |
| 61.03.02 | Required off-street parking and loading space   | B1    | B2 | B3 | I1 | I2 | I3 | I4 |
| 61.03.03 | Business office, provided that there is conducted in said office only business incidental to the rental, operation, service and maintenance of the dwellings  | B1    | B2 | B3 |    |    |    |    |
| 61.03.04 | Incidental services for the convenience of occupants, such as news stands, snack bars, personal service shops, provided that not more than five (5) percent of the total floor area of the building is used | B1    | B2 | B3 |    |    |    |    |

| ZONES |    |    |    |    |    |    |
|-------|----|----|----|----|----|----|
| B1    | B2 | B3 | I1 | I2 | I3 | I4 |

61.04 USES BY TEMPORARY PERMIT  
 Upon application to and issuance by the Zoning Administrator of a permit therefor, the following uses may be operated as Uses by Temporary Permit:

61.04.01  
 Temporary building or yard for construction material of equipment both incidental and necessary to construction within the immediate area; provided, however, that each permit shall be valid for a period of not more than six months and shall not be renewed for more than four successive periods at the same location

B1 B2 B3 I1 I2 I3 I4

61.04.02  
 Temporary office, or model house, both incidental and necessary for the 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 location

B1 B2 B3

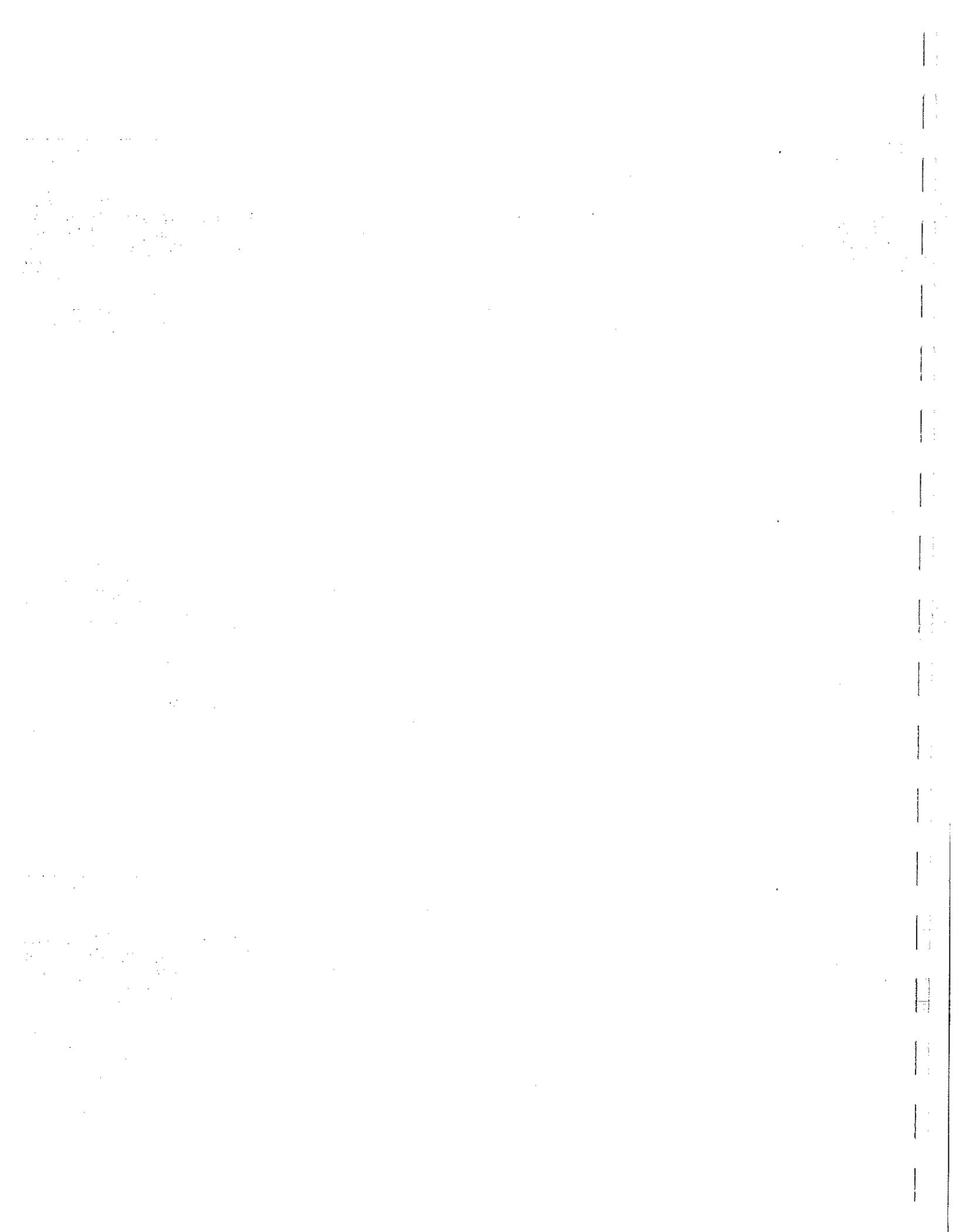
61.05 PROHIBITED USES  
 The following uses are expressly prohibited.

61.05.01 Offensive Uses - Not to be Authorized  
 No use shall be permitted or authorized to be established or maintained, which, when conducted under adequate conditions and safeguards in compliance with the provisions of this Code, and any additional conditions or requirements, is or may become hazardous, noxious, or offensive due to emission of odor, dust, smoke, cinders, gas fumes, radiation, noise, vibration, heat frequency, refuse matter or water-carried waste.

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61.05.02 General Uses Not to be Authorized

The following uses shall be prohibited:  
acetylene gas manufacture and storage; acid  
manufacture; alcohol manufacture; ammonia,  
bleaching powder or chlorine manufacture;  
arsenal; asphalt manufacture or refining;  
blast furnace; bag cleaning; boiler works;  
cement, lime, gypsum; or plaster of paris  
manufacture; coke ovens; creosote manu-  
facture or treatment; disinfectants manu-  
facture; distillation of bones, coal or wood;  
dyestuff manufacture; explosives or fireworks  
manufacture or storage; fat rendering; fertil-  
izer manufacture, excepting dry blending and  
packaging of chemical salts; offal or dead  
animals reduction; gas manufacture or storage;  
glue, size or gelatin manufacture; oilcloth  
or linoleum manufacture; oiled rubber goods  
manufacture; ore reduction; paint, oil,  
shellac, turpentine or varnish manufacture;  
paper and pulp manufacture; petroleum or its  
products, refining or wholesale storage of;  
rock crusher; rolling mill; ~~rubber or gutta-  
percha manufacture or treatment~~; shoe-polish  
manufacture; smelting of tin, copper, zinc  
or iron ores; stockyard or slaughter of  
animals or fowls; stone mill or quarry;  
tanning, curing or storage of raw hides or  
skins; tar distillations or manufacture; tar  
roofing or waterproofing manufacture; yeast  
plant; ~~extraction of minerals.~~



ARTICLE VII

LEGISLATIVE

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SECTION 70

REFERENCE

This Code shall be known and cited as the  
"Zoning Code of the City of Middletown,  
Connecticut".



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SECTION 71

AMENDMENTS

71.01      GENERAL

71.01.01   Such regulations, restrictions and boundaries established by this Code may from time to time be amended, supplemented, changed, modified or repealed by the Zoning Commission of the City of Middletown.

71.01.01   Applications for amendment of this Code may be either proposed for amendment of the Code text or proposals for amendment of the Zoning Map. A proposed map amendment may be for a more or less intensive use and shall cover a single tract, all portions of which are proposed to be classified in one of two alternative zones.

71.02      FILING

71.02.01   Petition for amendment of this Code text and/or map may be made by any interested person or government agency by submitting for filing an application for the proposed amendment with the executive officer of the Zoning Commission; or may be submitted by the Zoning Commission by filing such an application on their own motion. An application shall not be accepted for filing by the executive officer if the application fails to conform to any of the applicable requirements of this Section, including the payment of any fee as shall be established by the Commission nor if the application is for the reclassification of the whole or any part of land, the reclassification of which has been approved or denied by the Commission on the merits within twelve (12) months prior to the date of submission of the application for filing. After acceptance for filing, an application for a map amendment shall not be modified or amended as to the area proposed to be reclassified or as to the class of zone requested. All applications shall be subscribed by the applicant. In case of a text amendment, the application shall set forth new text

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to be added and existing text to be deleted.

- 71.02.02 In the case of an application for amendment to the Zoning Map, the application shall be in duplicate and in such form as the Commission shall prescribe and shall include:
- A. A written statement specifying the following:
    - (1) the street number, if any, or if none, the location with respect to nearby public roads in common use of the land which is proposed to be reclassified; (2) a description by metes and bounds, courses and distances of the land, or if the boundaries conform to lot boundaries within a subdivision for which a plat is recorded in the Land Records of the City of Middletown, then a lot, block, and subdivision designation with appropriate plat reference; (3) the present classification and the classification proposed for such land; (4) the name and address of the owner of the land; (5) the area of the land proposed to be reclassified, stated in square feet if less than one (1) acre and in acres if one (1) acre or more; and (6) all owners of assessment record of real property within a radius of two hundred (200) feet of the lot boundary of the property proposed to be reclassified.
  - B. An identification plat prepared by a civil engineer, land surveyor, or other competent person, and certified thereon by him to be correct and in conformity with this Section, showing by metes and bounds, courses and distances the land proposed to be reclassified, or if the boundaries conform to lot boundaries within a subdivision for which a plat is recorded among the Land Records of the City of Middletown, then a copy of such plat, the land proposed to be reclassified appearing in a color distinctive from that of other lands shown on the plat.
  - C. A vicinity map shall be furnished by the petitioner covering the area within at least one thousand (1,000) feet of the boundaries of the land proposed to be reclassified showing the existing classification of all land appearing on the map as shown by the official Zoning Map on file in the office of the Zoning Commission.
  - D. On the plat and maps required under the above paragraphs, the land proposed to be reclassified shall appear in a color distinctive from that of other land shown thereon. The scale of the plat

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and map required by the above paragraphs shall be noted thereon and shall be not less than one hundred (100) feet to the inch of the land proposed to be reclassified if in an area of ten (10) acres or less; and not less than two hundred (200) feet to the inch if of an area of more than ten (10) acres. A north direction arrow shall appear on such plat and map. All maps shall be on a good quality of transparent paper, plastic, or cloth, and shall be not more than thirty-seven (37) inches long by twenty-five (25) inches wide, nor less than eight and one-half (8½) inches long by eleven (11) inches wide, and shall have an area of three (3) inches long by four (4) inches wide in the upper right hand corner of the map clear for an endorsement of the Zoning Commission.

- E A check payable to the treasurer of the City of Middletown or a cash payment of fifty (\$50.00) dollars to cover the cost of publishing, posting and for mailing notices of hearing and decisions and stenographic service. An amendment initiated by the Zoning Commission shall be exempt from this fee.

## 71.03

### HEARINGS

Before making its decision, the Commission shall hold a public hearing thereon and called in the manner provided in the General Statutes of Connecticut. In addition, at least ten (10) days notice of the time and place of such hearing shall be sent to the appellant or petitioner and to the owners of all properties within a radius of two hundred (200) feet of the lot boundaries of the petitioner. The Commission may, in its discretion, send notice of hearing to other interested parties, organizations, or agencies.

### 71.03.01

#### Hearing Procedure

Upon accepting any application for filing, the executive officer shall set the application for a hearing by the Zoning Commission at a specified date, time and place, and shall cause to be published twice, at the expense of the applicant, in a paper of general circulation in the City of Middletown, a notice of the public hearing on such

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application stating the date, time, place of hearing and application number, and containing:

- A A summary of the amendment if a Text amendment;
- B The location of the property, its area, name of owner, and change of classification.

71.03.02 The executive officer shall notify by mail the applicant and all owners of assessment record of real property within a radius of two hundred (200) feet of the lot boundary of the property proposed to be reclassified of the time, date and place of hearing. Failure of any property owner to receive such mailing shall not be construed to nullify said hearing. The first date of hearing shall not be less than ten (10) days following the newspaper publication of the notice. All application files in the custody of the executive officer shall be open to public inspection during regular office hours. They shall not be removed from such office or inspected therein at other times by any person, except that such files may be removed from such office or inspected therein at other times by any person pursuant to court order or by the City Attorney or by the Commission.

71.03.03 Any interested person shall have the right to submit oral or written testimony at the hearing. There shall be a complete stenographic report of the testimony at the hearing, including the application, which shall promptly be incorporated by the executive officer in the application file and shall be considered a part of the record on the application. The hearing may be adjourned from time to time on a date certain or public announcement at the hearing of the earliest practicable date, time and place of resumption of the hearing.

71.03.04 An application for a Map or Text amendment shall be decided on the basis of the evidence on record. Such application shall be either approved or denied on the merits, or dismissed, or allowed to be withdrawn. The Zoning Commission may dismiss any such application if it finds that:

- A The application does not conform to any stated procedure requirement of this Section;

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- B The application is not acceptable for filing because filed within twelve (12) months, as hereinabove provided; or
  - C The application is frivolous or filed for purposes of harassment.

If the application is not dismissed or allowed to be withdrawn as herein provided, it shall be either approved or denied on the merits, in which case no application for the reclassification of all or any part of the land which is the subject of the application shall be accepted for filing for twelve (12) months following the date of such approval or denial on merits. No application for a Map amendment shall be approved conditionally for the erection on the land of a structure at a particular location, or within a particular time, or by a particular person, or of a particular type, or for the subdivision of the land in a particular manner, or on any other condition. No application for a Map amendment shall be approved for a class of zone other than that applied for. No application for a Map amendment shall be approved for a greater or smaller area than that applied for.

71.03.05 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 and 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 Code is more appropriate; and
- C In case of a map change, the size of the area involved. As a general policy, the Commission shall not consider favorably any petition which would result in a total contiguous zone (separated only by streets and excluding the area of streets) of less than twenty (20) acres.

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71.03.06 The decision of the Zoning Commission on any application for a Map or Text amendment shall be rendered within sixty (60) days of the original hearing and shall be adopted by the Zoning Commission by four (4) votes of the five (5) commissioners sitting as the Zoning Commission. If the decision of the Zoning Commission is to approve the application, such decision shall be in the form of a resolution amending this Code, indicating thereon the reason for such action. If the decision of the Zoning Commission is to deny or dismiss the application, such decision shall be in the form of a motion, indicating therein the reason for such action.

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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, are 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.



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SECTION 73

CONTROLLING REGULATION

If this Code requires 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 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.



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SECTION 74

EFFECTIVE DATE

The effective date of this revision shall  
be 1969.

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