

*Supplemental to  
the zoning code  
effective September 1969*

THE ZONING CODE  
OF THE  
CITY OF MIDDLETOWN, CONNECTICUT

## PREFACE

The first codification of the Zoning Ordinances of the City of Middletown, Connecticut, was published on November 22, 1967 on order of the Zoning Commission. The Zoning Code, as now supplemented, contains all zoning legislation adopted through March 19, 1968.

Historical citations, indicated in brackets, will aid the user of this Code to ascertain the origin from which the present sections have been derived. The citation indicates the date that the legislation was adopted and where it is recorded, i.e. (2-7-27, C. C.) indicates that the zoning legislation was adopted on February 7, 1927 and is recorded in the minutes of the Common Council (C. C.) of that date. More recent legislation is adopted by the Zoning Commission (Z. C.) and where the legislation has been assigned a file number (#67-6), the following citation is used: (#67-6, 3-19-68, Z. C.).

The titles and section designations, in some cases, may have been added or modified when edited to conform with the style of this Code, but no changes have been made in the text of the zoning legislation except to refer to the proper codified section number when different from the original zoning legislation.

COMMISSION ON THE CITY PLAN AND ZONING  
April 1, 1968

### ZONING AUTHORITY

February 7, 1927 to June 30, 1953 - - - Common Council  
July 1, 1953 to September 30, 1964 - - - Zoning Commission  
October 1, 1964 to June 17, 1965 - - - Common Council  
June 18, 1965 to present - - - - - Zoning Commission

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**ARTICLE I**

**ZONING PROVISIONS**

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## SECTION 10

### 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 Ordinance. 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, when conducted under proper and adequate conditions and safeguards, will produce corrosive, toxic or noisome 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 Ordinance 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.  
(2-7-27, C. C.)

SECTION 11

ESTABLISHMENT OF ZONES

11.01

LIST OF ZONES

For the purpose of the Zoning Code, the City of Middletown is divided into the following zones:

Residential Zones

- R-1 Medium Density Residence Zone
- R-2 Restricted Residence Zone
- R-3 General Residence Zone

Non-Residential Zones

- B-1 Transitional Business Zone
  - B-2 Commercial Zone
  - B-3 Neighborhood Business District Zone
  - I-1 Industrial Zone
  - I-2 Industrial I Zone
  - I-3 Industrial II Zone
  - P-1 Park Zone
- (#67, 3-19-68, 2. C.)

11.02

BOUNDARIES

The limits or boundaries of such districts or zones are shown on the building zone maps which accompany this Ordinance and are hereby further designated as follows: (2-7-27, C. C.)

11.03

VARIATIONS IN BOUNDARIES

In case the description of any of the above zones or the boundaries thereof shall be deemed to be at variance with the boundaries of zones as shown on the maps accompanying this Ordinance, the Common Council of the City of Middletown shall decide which of the two varying designations shall be taken as correct. (2-7-27, C. C.)

11.04

CONFORMITY WITH ZONE

No building or structures shall hereafter be erected or used nor shall any premises be devoted to any purposes except in conformity with the regulations prescribed by this Ordinance for the district or zone in which each building, structure or premises are located. (2-7-27, C. C.)

SECTION 12

BUILDINGS IN REAR

It shall be unlawful to erect a dwelling house, apartment or tenement house in the rear of a building which is situated on the same lot; nor shall any building be constructed in front of or moved to the same front of a dwelling house, apartment or tenement situated on the same lot unless said buildings conform to Restricted Residence Zones --Section 21.03 and 21.04 or General Residence Zones--Section 22.03 and 22.04. (2-7-27, C. C.)

SECTION 13  
UNBUILT AREAS

In the case of areas included in the City of Middletown but which have not as yet been laid out or otherwise prepared for the occupation or buildings purposes, all plots, plans or schemes for the laying out, subdividing or development of same shall be filed with the official charged with the enforcement of this Ordinance and he shall make such proposed layouts or developments as will, in his judgment, best enable this area or subdivision in question to conform to the provisions of this Ordinance. (2-7-27, C. C.)

## SECTION 14

### NON-CONFORMING BUILDINGS AND USES

In recognition of the fact that to the time of passage of this Ordinance there exist many buildings and premises, the use, height and proportions of which do not conform to the regulations of the several classes of zones as noted in this Ordinance, it is hereby provided as follows:

- 14.01      CONTINUATION  
Any non-conforming building or premises existing at the time of passage of this Ordinance shall be exempted from the provisions of this Ordinance unless and until the cost of structural additions or extensions made in the same shall exceed fifty (50%) percent of its present assessed evaluation. (2-7-27, C. C.)
- 14.02      ALTERATIONS  
If such non-conforming buildings or premises are enlarged or extended to an extent exceeding fifty (50%) percent of its present assessed evaluation, then its use must be changed from a non-conforming use to a conforming use. (2-7-27, C. C.)
- 14.03      LIMITS  
In no case shall a building or premises devoted to a non-conforming use be enlarged or extended at the expense of a use conforming to the provisions of this Ordinance. (2-7-27, C. C.)
- 14.04      CONFORMING USES  
In any district or zone no building or premises devoted to a use conforming to the regulations of a less restricted district or zone shall be devoted to a purpose which is excluded from said less restricted zone or district. (2-7-27, C. C.)

## SECTION 15

### DEFINITIONS

Certain words used in this Ordinance are for the purpose thereof defined as follows:

Words used in the present tense include the future, the singular number includes the plural and the plural the singular; the word "lot" includes the word "plot", the word "building" includes the word "structure". (2-7-27, C. C.)

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. (167-6, 3-19-68, Z. C.)

A "building" shall be regarded for the purpose of this Ordinance as each of the independent units into which it is divided by party walls. (2-7-27, C. C.)

The "curb level" is the permanently established grade of the street in front of the lot. Where a lot faces upon two or more streets of different levels, the curb level of the higher street may be taken as the base for measuring the height of a building. (2-7-27, C. C.)

A "front yard" is an open unoccupied space on the same lot with a building situated between the front or street wall of the building and the street line of the street lot. (2-7-27, C. C.)

A "gasoline station" is a location at which only gasoline, oils, lubricants and other automobile accessories are sold. (Jan. 34, C. C.)

The "height of a building" is the vertical distance measured in the case of flat roofs from the curb level to the highest point of the roof beams adjacent to the street wall and in the case of pitched roofs from the curb level to the average height of the gable. In either case, the measurement shall be made at the center of the street facade. Where the walls of a building do not adjoin the street, the average level of the ground along the front wall may be taken in measuring the height instead of the curb level. (2-7-27, C. C.)

SECTION 20

R-1, MEDIUM DENSITY RESIDENCE ZONES

20.01

USES

Medium Density Residence Zones shall provide that uses of this Medium Density Residence Zone be the same as in a Restricted Residence Zone except that it shall be limited to one family detached dwellings. (6-3-57, Z. C.)

20.02

HEIGHT

That all other provisions of Restricted Residence Zones shall be applicable to the Medium Density Residence Zones (6-3-57, Z. C.)

20.03

AREA REQUIREMENTS

That the minimum lot size shall be a width of one hundred (100) feet at the lot line and an area of 20,000 square feet. That any lot recorded and appearing in the Middletown Land Records prior to the effective date of this amendment and if within a subdivision or resubdivision as those words are defined in Special Act 135 of the General Assembly, or as they may hereafter be amended within an approved subdivision or resubdivision, as so defined, shall be exempt from the minimum lot size herein required. (6-3-57, Z. C.)

20.04

YARDS

That the aggregate side yard width must be at least twenty-five (25%) percent of the lot width and no side yard shall be less than ten (10) feet in width. (6-3-57, Z. C.)

20.05

OFF-STREET PARKING AND OFF-STREET LOADING REGULATIONS: 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. (#67-6, 3-19-68, Z. C.)

## SECTION 21

### R-2, RESTRICTED RESIDENCE ZONES

#### 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 column of the Schedule of Permitted Uses, SECTION 60 of the Zoning Code, and shall be subject to such provisions as referred to in that column (#67-6, 3-19-68, Z. C.)

#### 21.01.01

##### Accessory Uses

Uses customarily incident or accessory uses to the foregoing uses are permitted in Restricted Residential Zones, provided that such accessories use is located on the same lot with the building to which it is accessory. A garage accommodating not more than four (4) passenger motor vehicles shall be considered an accessory use; commercial trucks shall not be permitted in garages located in Restricted Residence Zones. (2-7-27, C. C.; 11-4-42, C. C.)

#### 21.01.02

##### Other Uses

In the case of dwellings occupied by professional physicians and surgeons, these may include the office of such physician or surgeon. (2-7-27, C. C.)

#### 21.02

##### HEIGHT

#### 21.02.01

In all Restricted Residence Zones no buildings shall hereinafter be erected to a height greater than two-thirds (2/3rds) of the width of the street on which it faces or forty (40) feet, whichever is the lesser figure except that projections of buildings occupying less than twenty-five (25%) percent of the area of the last constructed story may be erected to any reasonable height. In the case of Educational Publishing Organizations the height of buildings will be subject to Planning Commission approval. (2-7-27, C. C.; 10-20-66, Z. C.)

21.02.02 In the case of buildings erected on land not as yet subdivided in lots, the provisions of Park Zones relative to the height of buildings in Park Zones shall apply. (2-7-27, C. C.)

21.03 AREA REQUIREMENTS

21.03.01 Lot Coverage  
In all Restricted Residence Zones no buildings including its accessory building shall occupy more than twenty-five (25%) percent of the lot on which it stands. (2-7-27, C. C.; 4-6-55, Z. C.)

21.03.02 Lot Area  
Any structure to be altered or erected for the use in whole or in part for dwelling purposes shall be located on a lot having a width of not less than one hundred (100) feet at the lot line and an area as follows:  
Not less than 15,000 square feet if served by both a public sanitary sewer system and a public water system.  
Not less than 17,500 square feet if served by either a public sanitary sewer system or a public water system.  
Not less than 20,000 square feet if served by neither a public sanitary sewer system nor a public water system.  
Any lot recorded and appearing in the Middletown Land Records prior to the effective date hereof shall be exempted from the provisions of this amendment. The minimum lot size requirement in the case of Educational Publishing Organizations shall be five (5) acres. (3-21-57, Z. C.; 10-20-66, Z. C.)

21.03.03 Living Space  
Any structure to be used in whole or in part for dwelling purposes shall provide within the structure above ground level, exclusive of open porches, open or closed breezeways, entrance platforms not enclosed or garages, the following square footage of living space per family:  
A 750 square feet in one (1) story structures.  
B 1,300 square feet in two (2) story structures of which not less than 650 square feet shall be on the first floor. (12-3-59, Z. C.)

21.04

YARDS

21.04.01

Front

A front yard at least twenty (20) feet in depth shall be required in the case of all buildings hereafter erected in Restricted Residence Zones except that where a majority of the existing buildings in any block within such a zone are setback a greater distance than twenty (20) feet from the inner sidewalk line, new buildings shall conform in this respect to the setback line of the majority of such existing buildings. Provided, however, that in any case where a building line is established by the Common Council of the City of Middletown, all buildings shall conform thereto. In the case of Educational Publishing Organizations the minimum front yard depth shall be one hundred (100) linear feet. (2-7-27, C. C.; 6-30-59, Z. C.; 10-20-66, Z. C.)

21.04.02

Side and Rear

In the case of all buildings hereafter erected in Restricted Residence Zones there shall be required two (2) side yards not less than four (4) feet in width and a rear yard at least twenty-five (25) feet in depth. However, in the case of Educational Publishing Organizations, the minimum side yard requirement shall be seventy-five (75) linear feet and the minimum rear yard requirement shall be one hundred (100) linear feet. (2-7-27, C. C.; 10-20-66, Z. C.)

21.05

OFF-STREET PARKING AND OFF-STREET LOADING REGULATIONS

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. (#67-6, 3-19-68, Z. C.)

21.06

SIGNS

Billboards, Signboards and advertising signs except "For Sale" or "For Rent" signs exceeding five (5) square feet in size, shall not be permitted in Restricted Residence Zones. (2-7-27, C. C.)

## SECTION 22

### R-3, GENERAL RESIDENCE ZONES

#### 22.01 USES

##### 22.01.01 Permitted Uses

In all General Residence Zones as shown on the maps accompanying the Ordinance and as described in SECTION 11, Establishment of Zones, foregoing, it shall be lawful to erect any building or structure permitted in Park and Restricted Residence Zones or which is designed or intended to be used for the following specific purposes: Group and multiple dwellings, lodging and boarding houses, apartments, and tenements, social, fraternal and club buildings, hotels except when their facilities are intended primarily for the accommodation of transients. A trailer or trailers used for the purpose of a dwelling whether mounted on wheels or otherwise and located less than three hundred (300) feet from any permanent structure or less than one hundred (100) feet from the traveled portion of any highway shall not be permitted in any General Residence Zone. Office buildings to be used only for such occupations and professions enumerated in section 22.01.02 upon the findings of the Zoning Board of Appeals that the following requirements will be met:

- A Parking: Three (3) parking spaces are required for each office unit, plus one (1) parking space for each 250 square feet of first floor area and for each 500 square feet of floor above the first with a net area for each space of not less than 136 square feet per space. Each parking space shall have a stabilized dustless surface and shall be graded and drained so as to dispose of surface water accumulation within the lot area or into a public storm sewerage system where such system is available. No parking space shall be closer than twenty (20) feet from the abutting property lines or streets nor shall any exterior parking space be closer than ten (10) feet from buildings located on the premises.
- B The passage of vehicles to and from such premises shall create no traffic hazard.

- C The outward appearance of such building substantially shall be in conformity to the general characteristics of the surrounding neighborhood. (2-7-27; C. C.; 3-1-43, C. C.; 11-9-55, Z. C.)

**22.01.02** Accessory Uses

Uses customarily incident or accessory to the above uses are permitted in General Residence Zones, provided that they are located on the same lot with the building to which they are accessory. A garage accommodating not more than five (5) passenger cars or motor vehicles shall be considered an accessory use; garages for commercial trucks or more than five (5) motor vehicles shall not be permitted in General Residence Zones unless by special permit after a Public Hearing as provided for in Part V of Public Hearings, Amendments, Variations and Appeals, Violations and Penalties of this Ordinance. A professional pharmacy and located in an office building containing not less than five (5) doctor's offices shall be considered an accessory use, provided that there shall be no advertising signs on the exterior of the office building promoting the business of such pharmacy and that no merchandise be sold therein other than drugs and pharmaceuticals for the treatment of bodily ills. (2-7-27), C. C.; 9-20-56, Z. C.)

**22.01.03** Other Uses

A dwelling, apartment or tenement occupied by a professional architect, artist, engineer, lawyer, musician, dressmaker, dentist or teacher, physician and surgeon may include the office or studio of the occupant of such dwelling, apartment or tenement. (2-7-27, C. C.; 11-9-55, Z. C.)

**22.01.04** Special Exception Uses

The following Special Exception Uses may be permitted in accordance with the provisions of SECTION 44 of this Ordinance:

- A Ambulance Services (#67-6, 3-19-68, Z. C.)

**22.02**

HEIGHT

In all General Residence Zones no buildings shall hereafter be erected to a height greater than the width of the street on which it faces, or eighty (80) feet, whichever is the lesser figure, except that projections of the buildings occupying less than twenty-five (25%) percent of the last

constructed story may be erected to any reasonable height. (2-7-27, C. C.)

**22.03** AREA REQUIREMENTS

**22.03.01** Lot Coverage

In all General Residence Zones no buildings including its accessory buildings shall occupy more than twenty-five (25%) percent of the lot on which it stands. (2-7-27, C. C.; 4-6-55, Z. C.)

**22.03.02** Lot Area

Any structure to be altered or erected for the use in whole or in part for dwelling purposes shall be located on a lot having a width of not less than seventy-five (75) feet at the building line and an area as follows:

Not less than 10,000 square feet if served by both a public sanitary sewer and a public water system.

Not less than 15,000 square feet if served by either a public sanitary sewer system or a public water system.

Not less than 20,000 square feet if served by neither a public sanitary sewer system or a public water system.

Any lot recorded and appearing in the Middletown Land Records prior to the passage of this amendment shall be exempted from the provisions of this paragraph. (4-6-55, Z. C.)

**22.03.03** Living Space

Any structure to be used in whole or in part for dwelling purposes shall provide within the structure above ground level, exclusive of open porches, terraces, open or closed breezeways, entrance platforms not enclosed, or garages, common hallways, elevators, air shafts, common and general storage areas, the following minimum square footage of living space per family:

**A** Single family structures, the requirements of SECTION 21, Restricted Residence Zones Section 21.03.05 shall be applicable.

**B** Two family structures - 750 square feet minimum.

- C Multiple family (three or more families) or apartment structures within each apartment -
- |                                   |                       |
|-----------------------------------|-----------------------|
| one room apartment . . . . .      | 400 sq. ft. minimum   |
| one bedroom apartment . . . . .   | 450 sq. ft. minimum   |
| two bedroom apartment . . . . .   | 700 sq. ft. minimum   |
| three bedroom apartment . . . . . | 900 sq. ft. minimum   |
| four bedroom apartment . . . . .  | 1,100 sq. ft. minimum |
| five bedroom apartment . . . . .  | 1,300 sq. ft. minimum |
- and for each additional bedroom 150 sq. ft.  
(3-21-63, Z. C.)

22.04 YARDS

22.04.01 Front

A front yard at least ten (10) feet in depth shall be required in case of all buildings hereafter erected in General Residence Zones except that where a majority of the existing buildings in any block within such a zone are setback a greater distance than ten (10) feet from the inner sidewalk line, all new buildings shall conform in this respect to the setback line of the majority of such existing buildings. (2-7-27, C. C.)

22.04.02 Side and Rear

In the case of all buildings erected in General Residence Zones there shall be required two (2) side yards not less than four (4) feet wide and a rear yard not less than eleven (11) feet in depth. (2-7-27, C. C.)

22.04.03 Courts

The provisions of the State Tenement House Law (Chapters 133 and 134, Laws of 1918) are hereby declared to be a part of the Ordinance and to govern the size dimensions of all courts and other open spaces to be provided in all buildings erected in General Residence Zones. (2-7-27, C. C.)

22.05 OFF-STREET PARKING AND OFF-STREET LOADING REGULATIONS

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. (#67-6, 3-19-68, Z. C.)

22.06

SIGNS

Billboards, signboards and advertising signs, except "For Sale" or "For Rent" signs and the personal signs of a professional architect, artist, engineer, lawyer, musician, physician, real estate agent, dressmaker, dentist or teacher, shall not be permitted in General Residence Districts or Zones. (2-7-27, C. C.)

**SECTION III**  
**NON-RESIDENCE ZONES**

- |                   |   |
|-------------------|---|
| <b>SECTION 30</b> | <b>B-1, Transitional Business Zone</b>          |
| <b>SECTION 31</b> | <b>B-2, Commercial Zone</b>                     |
| <b>SECTION 32</b> | <b>B-3, Neighborhood Business District Zone</b> |
| <b>SECTION 33</b> |   |
| <b>SECTION 34</b> | <b>I-1, Industrial Zone</b>                     |
| <b>SECTION 35</b> | <b>I-2, Industrial I Zone</b>                   |
| <b>SECTION 36</b> | <b>I-3, Industrial II Zone</b>                  |
| <b>SECTION 37</b> | <b>P, Park Zone</b>                             |

**SUMMARY SCHEDULE OF BUSINESS ZONE REQUIREMENTS**  
**CITY OF MIDDLETOWN, CONNECTICUT**

		ZONE		
		Transitional (B-1)	Commercial (B-2)	Neighborhood (B-3)
<b>USES:</b>	See	Section 30	Section 31	Section 32
<b>HEIGHT:</b>		100 ft. or 1½ street width	100 ft. or 1½ street width	15 ft. or 1 story
<b>AREA REQUIREMENTS:</b>				
a. Lot Area		None	None	43,560 ft.
b. Lot Coverage				
Business Uses:				
all except				
corner lot	90%	90%	100%	
corner lot	100%	100%	100%	
Residence Use:	25%	25%	---	
c. Frontage		None	None	20 ft.
d. Living Space				- NOTE -
Single Family (1 story)	750	750	750	"R" Zone
Single Family (2 story)	1,300	1,300	1,300	Uses Pro-
Two Family	750	750	750	hibited
Multi-Family (eff. apt.)	400	400	400	
(1 BR apt.)	450	450	450	
(2 BR apt.)	700	700	700	
(3 BR apt.)	900	900	900	
(4 BR apt.)	1,100	1,100	1,100	
(5 BR apt.)	1,300	1,300	1,300	
<b>YARDS:</b>				
Front	None	None	None	20 ft.
Side	None	None	None	20 ft.
Rear	None	None	None	20 ft.

**NOTE:** This Summary Schedule is for convenience in using this Code. In case of conflict, the text shall prevail.

**SUMMARY SCHEDULE OF INDUSTRIAL ZONE REQUIREMENTS**

**CITY OF MIDDLETOWN, CONNECTICUT**

ZONE			
Industrial (I-1)	Industrial I (I-2)	Industrial II (I-3)	
Section 34	Section 35	Section 36	USES: See
100 ft. or street width	50 ft.	Unlimited	HEIGHT:
None  90% 100%	87,120  35% 35%	435,600  20% 20%	AREA REQUIREMENTS:
None  - NOTE - "R" Zone Uses Prohibited	20 ft.  - NOTE - "R" Zone Uses Prohibited	600 ft.  - NOTE - "R" Zone Uses Prohibited	a. Lot Area  b. Lot Coverage Non-residence use all lots except corner lot corner lot  c. Frontage  d. Living Space Single Family (1 story) Single Family (2 story)  Two Family Multi-Family (eff. apt.) (1 BR apt.) (2 BR apt.) (3 BR apt.) (4 BR apt.) (5 BR apt.)
None None None	75 ft. 25 ft. 25 ft.	150 ft. 100 ft. 100 ft.	YARDS: Front Side Rear

**NOTE:** This Summary Schedule is for convenience in using this Code. In case of conflict, the text shall prevail.

SECTION 30

B-1, TRANSITIONAL BUSINESS ZONE<sup>1</sup>

30.01 USES  
In all Transitional Business Zones, the following uses shall be permitted:

30.01.01 Uses  
All uses permitted in Park Zones, Restricted Residence Zones and General Residence Zones;

30.01.02 Other Uses  
And, in addition thereto, the following uses:  
Agencies: Real Estate, Insurance, Employment and Communications. Offices: Business and Professional. Banks and other financial institutions. Art and Antique shops. Books or Stationery stores. Restaurants: excluding entertainment and sale of liquors. Clubs and Lodges, and extensions of existing uses on adjacent land.

30.01.04 Special Exception Uses  
The following Special Exception Uses may be permitted in accordance with the provisions of SECTION 44 of this Ordinance:

A Ambulance Services  
(#67-6, 3-19-68, Z. C.)

30.02 HEIGHT, AREA REQUIREMENTS AND YARDS  
In all Transitional Business Zones, the same shall be as provided in Commercial Zones.

30.03 NON-CONFORMING USES  
In recognition of the fact that at the time of passage of this Amendment, there exist many buildings and premises the uses and heights and proportions of which conform to the regulations of other classes of zones, it is hereby provided as follows: Any building or premises conforming to the regulations of other classes of zones existing at the time of passage of this amendment shall be exempted from the provisions of this amendment.

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<sup>1/</sup> enacted June 1, 1953, C. C.

SECTION 31

B-2, COMMERCIAL ZONES

31.01 USES

31.01.01 Permitted Uses

In all Commercial Zones as shown on the maps accompanying this Ordinance and on file in the Town Clerk's office, it shall be lawful to erect any building which is designed or intended to be used for a purpose permitted in Park Zones, Restricted Residence and General Residence Zones or for Commercial purposes. (2-7-27, C. C.; 9-21-67, Z. C.)

31.01.02 Residence Uses

All residential structures, with their accessory structures, shall be subject to the building requirements and all other regulations of the General Residence Zone. Such regulations shall apply even though the building contains another use or uses in addition to a dwelling unit or units. (9-21-67; Z. C.)

31.01.03 Prohibited Uses

All kinds of manufacturing or industry other than as incidental to the conduct of a retail business are excluded from Commercial Zones.

The following uses shall, for the purpose of this Ordinance, be considered as Industrial Uses and therefore excluded from Commercial Zones:

Bottling Works, cleaning establishments of all descriptions, coke, coal, lumber, wood or stone yards, ice plants and storage buildings, laundries, milk distributing or pasturizing plants, monument works, storage yards of all descriptions, including materials of building contractors and their supplies and equipment, scrap paper, iron or junk, chemical, oil, gaseous products, noxious or hazardous products, etc. (2-7-27, C. C.; 9-21-67, Z. C.)

31.01.04 Special Exception Uses

The following Special Exception Uses may be permitted in accordance with the provisions of SECTION 44 of this Ordinance:

- A Drive-In Establishments
  - B Ambulance Services
- (#67-6, 3-19-68, Z. C.)

31.02 HEIGHT

31.02.01 Relationship

In all Commercial Zones no buildings shall be erected to a height exceeding one hundred (100) feet or one and one-half (1½) times the width of the street on which it faces, whichever is the lesser figure. (2-7-27, C. C.; 9-21-67, Z. C.)

31.02.02 Perimeter

In all Commercial Zones no buildings within or adjacent to zones which are primarily residential in character shall exceed in height the allowable height prescribed for the zone to which it is adjacent or within which it is located, whichever shall be the lesser figure. (2-7-27, C. C.; 9-21-67, Z. C.)

31.03 AREA REQUIREMENTS

31.03.01 Commercial Structures

All principal commercial structures with their accessory structures shall occupy not more than a total of ninety (90%) percent of the lot unless it be a corner lot, in which case the entire lot area may be occupied. (2-7-27, C. C.; 9-21-67, Z. C.)

31.03.02 Residential Structures

All principal residential structures, with their accessory structures, shall not occupy more than twenty-five (25%) percent of the lot. (9-21-67, Z. C.)

31.03.03 Tenement Structures

The proportion of lot area above the ground floor which may be built upon shall be provided in accordance with the requirements of the State Tenement House Law as prescribed for tenement buildings. (2-7-27, C. C.; 5-28-42, C. C.)

31.05

OFF-STREET PARKING AND OFF-STREET LOADING REGULATIONS

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. (#67-6, 3-19-68, Z. C.)

SECTION 32

B-3, NEIGHBORHOOD BUSINESS DISTRICT ZONE<sup>2</sup>

32.01 USES

In all Neighborhood Business District Zones, land, buildings and other structures may be used, constructed, or altered for the following purposes and subject to the following conditions:

32.01.01 Retail Uses

The following retail store uses only shall be permitted in any Neighborhood Business District Zone: Barber or beauty shop, Drugstore, dry goods or notion store, Offices, business and professional, Food Shops, retail bakery, delicatessen, grocery, meats and fish, Shoe repair shop, General Store.

32.01.02 Performance Requirements

Any such retail use shall:

- A Transmit beyond the property lines of the property from which it originates: No dust, dirt, smoke or fly ash. No objectionable or offensive odors. No objectionable, offensive, noxious, toxic or corrosive fumes or gases. No noise which is objectionable or offensive due to volume, intermittence, beat frequency or shrillness.
- B Be conducted and maintained wholly within a completely enclosed structure built upon a permanent foundation.
- C Not to be located within one-half (1/2) mile of any other Neighborhood Business District Zone, except that the Zoning Board of Appeals may permit a closer location if it is determined that such distance requirement is impractical by reason of topography or geographical features or transportation difficulties.
- D Keep rubbish, empty boxes and cartons and similar materials screened from public view.
- E Maintain or operate no outdoor electric or neon signs.
- F Sell goods consisting primarily of new merchandise.

32.01.04 Special Exception Uses

The following Special Exception Uses may be permitted in accordance with the provisions of SECTION 44 of this Ordinance:

- A Ambulance Services  
(#67-6, 3-19-68, Z. C.)

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Z/ enacted August 25, 1955, Z. C.

32.02 HEIGHT  
No building or structure shall exceed one (1) story or fifteen (15) feet in height.

32.03 AREA REQUIREMENTS  
Each property shall contain a minimum of one (1) acre.

32.04 YARDS

32.04.01 Visibility  
Each property shall have a clear and unobstructed easement, right-of-way or access not less than twenty (20) feet in width to a public street.

32.04.02 Front, Side and Rear  
Front, side and rear yards of minimum depths of twenty (20) feet shall be maintained free of any building or structure nor shall such yard space be used for parking purposes or for access drives to the rear portion of the property.

32.05 OFF-STREET PARKING AND OFF-STREET LOADING REGULATIONS  
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. (#67-6, 3-19-68, 2. C.)

32.06 SIGNS  
Signs may be permitted subject to the following requirements:

32.06.01 Placement  
No sign shall be permitted within ten (10) feet of any street line.

32.06.02 Area  
No sign shall exceed one (1) square foot for each one (1) foot distance from the nearest street line.

32.07

USE PERMIT

No land, building or structure of Neighborhood Business District Zones meeting the requirements of Section 32.01.02 of this Ordinance shall be used or occupied in the whole or in part, until the issuance of a Certificate by the Commission on the City Plan or by such person as may be authorized and designated by said Commission certifying that such land, building or structures conform in all respects to the above requirements.

SECTION 33

NOTE: There are no paragraphs in SECTION 33.  
This section has been established to  
provide a place for future legislation.

SECTION 34

I-1, INDUSTRIAL ZONE

34.01

USES

No land shall be used or occupied and no structure shall be erected, constructed, reconstructed, altered or used, except for Industrial purposes.

No uses which have been declared a nuisance in any court of record or which are noxious or offensive by reason of odor, dust, smoke, gas or noise shall be permitted in any portion of the Industrial Zone except by special permit after a Public Hearing by the Zoning Board of Appeals.

The manufacture of fertilizer, soap, tallow, grease and lard, glue sizing or gelatine and the distillation, incineration, reduction, storage or dumping of animal or vegetable waste, except by the municipality under conditions prescribed by the local health authority is prohibited in Industrial Zones, unless specially permitted by the Board of Zoning Appeals after a Public Hearing. (2-7-27, C. C.; #67-6, 3-19-68, Z. C.)

34.01.04

Special Exception Uses

The following Special Exception Uses may be permitted in accordance with the provisions of SECTION 44 of this Ordinance:

- A Ambulance Services  
(#67-6, 3-19-68, Z. C.)

34.02

HEIGHT

In all Industrial Zones no buildings shall hereafter be erected to a height exceeding the width of the street on which it faces or one hundred (100) feet, whichever is the lesser figure, except that projections occupying less than twenty-five (25%) percent of the floor area of the last constructed story may extend to any reasonable height. (2-7-27, C. C.)

34.03

AREA REQUIREMENTS

**34.03.01** Lot Coverage

In all Industrial Zones no building shall on its ground floor occupy more than ninety (90%) percent of the lot on which it stands unless it be a corner lot, in which case the entire lot area may be occupied. (2-7-27, C. C.)

**34.03.02** Tenement Structures

The proportion of the lot area above the ground floor may be built upon shall be provided in accordance with the requirements of the State Tenement House Law as prescribed for tenement buildings. (2-7-27, C. C.)

SECTION 35

I-2, INDUSTRIAL I ZONE<sup>3</sup>

35.01 USES

35.01.01 In all Industrial I Zones, land, buildings and other structures may be constructed, used or altered for manufacturing, industrial, research laboratory or warehousing uses, purpose or processes or for uses as may be incidental and necessary thereto subject to the following provisions: Any such manufacturing, industrial, research laboratory or warehousing uses, purposes or process or such accessory uses shall: Transmit beyond the property lines of the lot from where it originated: No dust, dirt, smoke or fly ash. No objectionable, offensive, noxious, toxic or corrosive fumes or gases. No objectionable or offensive odors. No noise which is objectionable or offensive due to volume, intermittence, beat frequency or shrillness. Maintain open storage of materials, products, fuel, machinery and equipment incidental to the operation of any industrial, manufacturing, research laboratory or warehousing use not less than fifty (50) feet from any property line except that no junk yard or storage of used cars shall be maintained in any Industrial I Zone, nor shall the storage of any explosive materials be maintained in any Industrial I Zone except such combustible materials as may be incidental and necessary to the operation of any manufacturing industrial warehousing use.

35.01.04 Special Exception Uses

The following Special Exception Uses may be permitted in accordance with the provisions of SECTION 44 of this Ordinance:

- A Ambulance Services  
(#67-6, 3-19-68, Z. C.)

35.03 AREA REQUIREMENTS

35.03.01 Minimum Lot

Each property shall contain a minimum of two (2) acres.

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3/ enacted August 6, 1954, Z. C.

35.03.02

Lot Coverage

The aggregate floor area, as measured by the exterior dimensions of all buildings or structures, shall not exceed thirty-five (35%) percent of the total lot area.

35.04

YARDS

35.04.01

Visibility

Each property shall have a clear and unobstructed easement, right-of-way or access not less than twenty (20) feet in width to a public street.

35.04.02

Front, Side and Rear

A front yard of a minimum depth of seventy-five (75) feet and side yards of a minimum depth of twenty-five (25) feet each shall be maintained free of any building or structure except as hereinafter provided and except that a structure solely for purposes of entrance or exit checking or of entrance or exit guarding may be permitted not less than twenty-five (25) feet from the nearest street property line of a public street and a rear yard of a minimum of twenty-five (25) feet shall be maintained where a railroad line adjoins a rear or side yard the setback requirements for each rear or side yard may be waived in order to make available access to such railroad line.

35.04.03

Perimeter

Where side yard adjoins a Restricted Residence Zone or a General Residence Zone, the minimum depth shall be fifty (50) feet.

35.04.04

Other Setback

A further setback from front and side property lines shall be maintained of one-half ( $\frac{1}{2}$ ) foot for each one (1) foot in height that any structure shall exceed fifty (50) feet in height except that this requirement may be waived in regard to enclosures for elevators or mechanical appurtenances providing that such enclosures shall not exceed in coverage twenty (20%) percent of the roof area.

35.04.05 Buffer  
Side yards may be used for access drive purposes provided that adequate planted screening material is maintained between such drive and any adjoining Restricted Residence Zone or General Residence Zone.

35.05 OFF-STREET PARKING AND OFF-STREET LOADING REGULATIONS  
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. (#67-6, 3-19-68, Z. C.)

35.06 SIGNS  
Signs may be permitted subject to the following requirements:

35.06.01 Placement  
No sign shall be permitted within ten (10) feet of any street line.

35.06.02 Area  
No sign shall exceed one (1) square foot for each one (1) foot of distance, from the nearest street line.

35.07 USE PERMIT  
No land, building or structure meeting the requirements of Industrial I Zones, Section 35.01 of this Ordinance shall be used or occupied, in whole or in part, until the issuance of a certificate by the Commission on the City Plan or by such person as may be authorized and designed by said Commission that such land, buildings or structures conform in all respects to the above requirements.

SECTION 36

I-3, INDUSTRIAL II ZONE<sup>4</sup>

36.01 USES

36.01.01 Permitted Principal Uses

Industrial buildings or structures only regulated by the following provisions: All uses of land, buildings, structures or industrial processes that by reason of the production may be noxious or injurious or emission of dust, fumes, gas, noise, odor, refuse matter, smoke vibration or other similar substances or conditions are prohibited provided however any use may be permitted if approved by the Middletown City Plan and Zoning Commission and the Middletown Public Health Department and subject to conditions, restrictions, and safeguards as may be deemed necessary by said Boards for the purpose of protecting the health, safety, morals and general welfare of the community.

36.01.02 Prohibited Uses

Crematories and Glue, Cellulose and Fertilizer manufactures.

36.01.03 Special Permitted Uses

Churches, places of worship, parsonage or rectory, parks and recreational facilities, golf courses and helicopter landing fields.

36.01.04 Special Exception Uses

The following Special Exception Uses may be permitted in accordance with the provisions of SECTION 44 of this Ordinance:

- A Ambulance Services  
(#67-6, 3-19-68, Z. C.)

36.02 HEIGHT

The building height is unlimited, but all buildings and structures shall be constructed in accordance with the City of Middletown Building Code.

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<sup>4</sup>/ enacted July 28, 1960, Z. C.

36.03 AREA REQUIREMENTS

36.03.01 Lot Area

The minimum lot area per industry unit shall be ten (10) acres and the minimum frontage shall be six hundred (600) linear feet.

36.03.02 Lot Coverage

All principal or accessory buildings or structures shall not exceed the following maximum percent of lot coverage:

- A Corner lot - maximum twenty (20%) percent.
- B Interior lot - maximum twenty (20%) percent
- C For industrial expansion an additional ten (10%) percent of lot coverage is allowed.

36.04 YARDS

Each corner lot shall consist of two (2) front yards, two (2) side yards and one (1) rear yard, each corner through lot shall consist of three (3) front yards and one (1) side yard, each interior lot shall consist of one (1) front yard, two (2) side yards and one (1) rear yard, each interior through lot shall consist of two (2) front yards and two (2) side yards and the following widths and depths shall regulate.

36.04.01 Front

Each front yard depth - one hundred fifty (150) lineal feet minimum.

36.04.02 Side

Each side yard width - one hundred (100) lineal feet minimum.

36.04.03 Rear

Rear yard depth - one hundred (100) lineal feet minimum.

36.04.04 Perimeter

The minimum front, side or rear yard widths and depths for lots bordering any other zone or a town line shall be three hundred (300) lineal feet.

**36.04.05** Building Grouping  
The distance between buildings or parts thereof, such as wings, inner and outer courts, the minimum shall be forty (40) feet for buildings of four (4) stories or less and an additional ten (10) feet between buildings shall be added for each story over four (4) until the distance totals eighty (80) feet for eight (8) stories.

**35.05** OFF-STREET PARKING AND OFF-STREET LOADING REGULATIONS  
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. (167-6, 3-19-68, Z. C.)

**36.06** SIGNS  
No sign or part thereof shall be nearer than ten (10) lineal feet to a street line nor nearer than twenty (20) lineal feet to any lot line, and no sign shall be larger than fifty (50) square feet in size nor closer to the ground than three (3) lineal feet.

**36.07** NON-CONFORMING USES  
The lawful use of any building, structure or land area existing at the time of passage of Industrial II Zones may be continued although such use does not conform with the provisions set forth in said Industrial II Zones.

**36.07.01** Unsafe structures  
Any building or structure or portion thereof declared unsafe by a proper authority may be restored to a safe condition.

**36.07.02** Alterations  
A non-conforming use of any building or structure may not be reconstructed or structurally altered during its life to an extent exceeding in aggregate cost fifty (50%) percent of the present assessed value of the building or structure unless said building is changed to a conforming use.

**36.07.03** Construction approved prior enactment of Industrial II Zones

Nothing contained within Industrial II Zones shall require any change in plans, construction or designated use of a building or structure for which a building permit has been heretofore issued, however, the entire building or structure shall be completed according to such plans filed within eighteen (18) months from the date of enactment of said Industrial II Zone.

**36.07.04** Abandonment

Whenever a non-conforming use has been discontinued for a period of one (1) year or more, such use shall not thereafter be reestablished and any future use shall be in conformity with the provisions of said Industrial II Zone.

SECTION 37

P, PARK ZONE

37.01

USES

All lands within the City of Middletown which are now or may in the future be used, dedicated or appropriated by said City for purposes of a public park, square, memorial, boulevard, playground, camp, or other recreational area are hereby declared to be Park Zones. (2-7-27, C. C.)

37.01.01

Permitted Uses

In all Park Zones, no buildings or structure shall be erected or used except for purposes of a public memorial, museum or library or for recreational use or for purposes customarily accessory to these uses. The question whether or not a proposed building or structure is or is not suitable to be erected in a Park Zone shall be decided in each instance by the Common Council of the City of Middletown. (2-7-27, C. C.)

37.02

HEIGHT

No buildings or structure erected in any Park Zone shall exceed in height its distance from the building line of the street on which it faces except that towers or other projections occupying less than twenty-five (25%) percent of the area of the building may be erected to any reasonable height. (2-7-27, C. C.)

37.03

AREA REQUIREMENTS

No building or structure erected in a Park Zone shall either singly or taken together, occupy more than two (2%) percent of the park, square or other Park Zone on which it is located. (2-7-27, C. C.)

37.04

THE RULES OF THE PARK COMMISSION OF MIDDLETOWN  
are hereby declared to be part of this Ordinance.  
(2-7-27, C. C.)

37.05

ON-STREET PARKING AND OFF-STREET LOADING  
REGULATIONS

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. (#67-6, 9-19-68, 2. C.)

**ARTICLE IV**

**SUPPLEMENTARY REGULATIONS**

- |                   |   |
|-------------------|---|
| <b>SECTION 40</b> | <b>Off-Street Parking and Loading</b>       |
| <b>SECTION 41</b> | <b>Top Soil, Peat Moss, Sand and Gravel</b> |
| <b>SECTION 42</b> | <b>Conversion of Dwellings</b>              |
| <b>SECTION 43</b> | <b>Accessory Uses</b>                       |
| <b>SECTION 44</b> | <b>Special Exceptions</b>                   |
| <b>SECTION 46</b> | <b>Permitted Home Occupation Uses</b>       |

## SECTION 40

### OFF-STREET PARKING AND OFF-STREET LOADING REGULATIONS<sup>5</sup>

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:

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<sup>5/</sup> enacted March 19, 1968 (#67-6) Z. C.

- 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, sideways, streets or alleys by curbing.
- 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-

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, sidewalks, streets or alleys.

- 40.03.14 Right-of-Ways: No land within any public right-of-way shall be used in computing the parking or loading areas for a specific use.
- 40.03.15 Covered Areas: All garages or other spaces allocated for parking of vehicles within buildings or in basements or open spaces on the roofs of buildings shall be considered part of the required parking or loading area and may be included as such in computing the quantity of space outlined in this section.
- 40.03.16 Computation of Employees: For the purpose of this section, the number of employees for a use, shall be computed on the basis of the employees on the 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 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.
- 40.04.07 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.
- 40.04.08 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.

- 40.04.09 Housing for Elderly or Physically Handicapped Persons One (1) parking space for each four (4) dwelling units.
- 40.04.10 Industrial or Manufacturing Establishment or Warehouse One (1) parking space for each two (2) employees plus additional parking for customers.
- 40.04.11 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.
- 40.04.12 Motel, Tourist Home, Cabin, Hotel, Apartment Hotel One (1) parking space for each guest room, cabin or suite, and one (1) parking space for each two (2) employees.
- 40.04.13 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.
- 40.03.14 Office Buildings, Professional Building or Similar Uses One (1) parking space for each three hundred (300) square feet of gross floor space.
- 40.04.15 One-Family and Two-Family Dwellings Two (2) parking spaces for each dwelling unit.
- 40.04.16 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.

- 40.04.17 Recreational Establishment, Commercial other than a Theater, Auditorium or Stadium One (1) parking space for each one hundred (100) square feet of floor area, and one (1) space for each two (2) employees.
- 40.04.18 Restaurant or Similar Places Dispensing Food, Drinks or Refreshments and Drive-Ins One (1) parking space for each fifty (50) square feet of floor area devoted to patron use, excluding rest rooms, within the establishment, and one (1) parking space for each eighty (80) square feet of ground area devoted to patron use on the property outside the establishment and one (1) space for each two (2) employees.
- 40.04.19 Rooming Houses, Lodging Houses, and Boarding Houses One (1) parking space for each three (3) guest accommodations.
- 40.04.20 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 (Square feet)	Quantity of 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 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.

40.07 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 on the intent or purpose of this section.

SECTION 41

TOP SOIL, PEAT MOSS, SAND AND GRAVEL<sup>6</sup>

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.

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

OTHER 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.

SECTION 42

CONVERSION OF DWELLINGS

In all Restricted Residence Zones, the Zoning Board of Appeals may in a specific case, after Public Hearing, and notice and subject to appropriate conditions and safeguards, permit the alteration or conversion of a dwelling house into an apartment or tenement house for not more than four (4) families. (5-1-39, C. C.; 11-2-42, C. C.)

SECTION 43  
ACCESSORY USES<sup>7</sup>

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:

- 43.01 RELATIONSHIP: Is clearly incidental and customary to and commonly associated with the operation of the Permitted Uses.
- 43.02 OWNERSHIP: Is operated and maintained under the same ownership and on the same lot as the Permitted Uses.
- 43.03 CONSISTENCY: Does not include structures or structural features inconsistent with Permitted Uses.
- 43.04 RESIDENTIAL OCCUPANCY: Does not include residential occupancy.
- 43.05 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.
- 43.06 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.

## SECTION 44

### SPECIAL EXCEPTIONS<sup>8</sup>

**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

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.

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 and any other Commission, Board or Agency stipulated in this Section.

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.

- 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, Commercial Zone; however, automobile filling stations shall be permitted only when adjoining a highway with a minimum Right-of-Way of sixty (60) feet in the B-2, Commercial 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 where the Drive-In Establishment is an automobile filling station the minimum setback of all buildings from all street right-of-way lines shall

be thirty-five (35) feet; openly stored motor vehicles or trailers, except those temporarily awaiting service during the business hours of the establishment shall not be permitted from 9 A. M. to 5 P. M. Monday through Friday; and the Zoning Board of Appeals shall hear and determine applications for certificate of approval of location of automobile filling stations will not imperil the safety of the public as provided for by Chapter 250, Section 14-321 of the General Statutes of Connecticut heretofore in effect.

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

44.08.13 Non-profit Radio Transmission Facilities,  
subject to the following regulations:

- A In Residential zones only single poles or towers shall be permitted;
- B Poles or towers in Residential zones shall not exceed forty (40) feet in height;
- C Any such land in a Residential zone shall be landscaped in accordance with a previously approved plan by the Zoning Commission;
- D Facilities for broadcasting or housing radio transmission equipment or components shall be permitted by Special Exception only in Commercial zones;
- E No advertising or identification signs shall be permitted in a Residential zone.

6/13/69

## 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 an 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

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-1, 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 ten (10) 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, walks, 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 development 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 development.
- (b) Maximum increase of four (4%) per cent for second acre of improved open space per twenty (20) acres gross of development.
- (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:

- (a) Landscaping (a maximum increase of five (5%) per cent): streetscape; open spaces and plazas; use of existing landscape; pedestrian way treatment; and recreational areas.
- (b) Siting (a maximum increase of five (5%) per cent): visual focal points; use of existing physical features such as topography; view; sun and wind orientation; circulation pattern; physical environment; variation in building setbacks; and building groups (such as clustering).
- (c) Design features (a maximum increase of five (5%) per cent): street sections; architectural styles; harmonious use of materials; parking areas broken by landscape features; and varied use of house types.

**C** When Density Increase is not Permitted

If the Plan Commission finds that any of the following conditions would be created by an increase in density permitted in subsection 45.05.02B, it may either deny any application for increase in density, or, limit the increase in density by an amount sufficient to avoid the creation of any of the following conditions:

- (1) Inconvenient or unsafe access to the development.
- (2) Traffic congestion in streets adjoining the development.
- (3) An excessive burden imposed on parks, recreational areas, schools, and other public facilities which serve or are proposed to serve the development.

**45.05.03** Open Spaces

"Common Open Space" is defined as a parcel or parcels of land or an area of water, or a combination of land and water, designed and intended for the use or enjoyment of residents of the Planned Residential Development, or of the general public. Common Open Spaces may contain accessory structures and improvements necessary or desirable for religious, educational, non-commercial, recreational, or cultural uses. A variety of open space and recreational areas is encouraged, such as children's informal play in close proximity to individual dwelling units, according to the concentration of

dwellings; formal parks; picnic areas; playgrounds; 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 development 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, suitable 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 required 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 approved 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 improvement. 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

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.

C The Plan Commission shall approve, modify and approve, or disapprove any such application within thirty (30) days after the public hearing.

B 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; and
- (e) The method by which utilities will be provided.

(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.

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.

(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 shall 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.

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 six (6) 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.

SECTION 46

HOME OCCUPATION USES<sup>9</sup>

- 46.01 LIMITATIONS: Any Home Occupation in a single dwelling unit, may be operated only if it complies with all of the following conditions:
- 46.01.01 Occupant: Is operated in its entirety within the single unit dwelling and only by the person or persons maintaining a dwelling therein.
- 46.01.02 Entrance: Does not have a separate entrance from outside the building; except for offices of doctors, dentists and other similar practitioners.
- 46.01.03 Appearance: Does not display or create outside the building any external evidence of the operation of the Home Occupation.
- 46.01.04 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.
- 46.01.05 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.
- 46.01.06 Power: Is limited to the use of electric motors for power, with a total limitation of three (3) horsepower.
- 46.01.07 Signs: No signs shall be permitted.
- 46.02 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.

46.03

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.

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.

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.

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Definition:

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.

SWIMMING POOL, SPECIFICATIONS FOR are regulated by State of Connecticut Basic Code; Article IV Section 429.0 - Swimming Pools.

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SECTION 48

PACKAGE STORE

48.01 LOCATION

48.01.01 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.

48.01.02 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.

48.02 DISCONTINUANCE

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

ARTICLE V

ADMINISTRATION AND ENFORCEMENT

SECTION 50	Amendments
SECTION 51	Protests
SECTION 52	Board of Appeals
SECTION 53	Violations
SECTION 54	Penalties
SECTION 55	Private Restrictions
SECTION 56	Zoning Amendments, Effect

## SECTION 50

### AMENDMENTS

The regulations or boundaries established by this Ordinance may from time to time be amended or changed or repealed by the Common Council of the City of Middletown either on its own motion or on petition. Whenever the owners of fifty (50%) percent or more of the street frontage in any zone or in any portion thereof shall present a petition duly signed to the Common Council requesting the amendment change or repeal of the regulations or boundaries prescribed by this Ordinance, it shall be the duty of the Common Council to vote upon said petition sixty (60) days after the filing of the same with the Town Clerk. A vote of two-thirds (2/3rds) of the members of the Common Council shall be sufficient to amend, modify or repeal any provisions of this Ordinance. (2-7-27, C. C.; 10-7-54, Z. C.)

## SECTION 51

### PROTESTS

If a protest is filed in opposition to such petition or proposed amendment change or repeal of any of the provisions of this Ordinance by twenty (20%) percent or more of the owners of the street frontage in any zone or portion thereof affected by the proposed change, then a public hearing shall be held at which all parties at interest shall be heard. After such hearing, it shall be required the vote of three-fourths (3/4ths) of the Common Council to effect the proposed amendment, modifications or repeal. (2-7-27, C. C.)

## SECTION 52

### BOARD OF APPEALS

The Mayor shall appoint a Board of Appeals, consisting of five (5) members, whose duties, term of office and powers shall be as provided by General Statutes. (2-7-27, C. C.)

## SECTION 53

### VIOLATIONS

If any building, structure or premises be erected, extended, altered or used in violation of the provisions of this Ordinance, the Superintendent of Public Works, as the Building Inspector of the City of Middletown, acting by himself or through his assistants, may institute an action or proceeding to abate, restrain, or correct such violation as provided in Section 17 of "An Act Concerning Zoning" already referred to as amended. Or he may in writing order the owner or agent of such building, structure or premises to remedy the condition which exists as a violation of this Ordinance as provided in Section 17 of said Act, as amended. (2-24-30, C. C.; 10-7-54, Z. C.)

## SECTION 54

### PENALTIES

If the owner or agent of any building, structure or premises where a violation of this Ordinance exists shall, after being served with an order to discontinue such violation, fail to comply with such order within ten (10) days after service of same, he shall be subject to fines and penalties as are provided by Sections 17 and 18 of an "Act Concerning Zoning" already referred to. (2-7-27, C. C.)

## SECTION 55

### EFFECT OF PRIVATE RESTRICTIONS ON THE USE OF PROPERTY

Nothing in this Ordinance shall be constructed so as to interfere with the application of private restrictions upon the use of property within any zone or district established by this Ordinance unless the restriction so imposed shall require a smaller width or size of yards, courts or other open spaces or a higher height of buildings or a smaller percentage of lot area to be left unoccupied than is required by this Ordinance, in which case the provisions of this Ordinance shall govern. (2-7-27, C. C.)

SECTION 56

ZONING AMENDMENTS, EFFECT

Any and all portions, areas, or sections of the City of Middletown such as have been or are now or that may be at any future time transferred to, changed into or appropriated to any other zone or district or into any new zone by any amendment or change of the said Ordinance, passed and adopted February 7, 1927 and of its amendments, shall not be subject to any of the rules, regulations, use, restrictions, limitations and any qualifications of the zone or district from which such area or portion was changed or transferred but shall be subject to everything concerning the zone or district or new zone, into which it is incorporated, changed or appropriated. (2-24-30, C. C.)

**ARTICLE VI**

**SECTION 60**

**Residential Use Schedule**

SECTION 60  
RESIDENCE USE SCHEDULE<sup>10</sup>

60.01 GENERAL PROVISIONS:

60.01.01 Uses: In any case where a use is not specifically referred to in the Use 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 by the Use Schedule. When the status of a use has been so determined, such determination shall thereafter have general applicability to all uses of the same type.

60.01.02 Accessory Uses: Accessory uses shall be in conformance to the provisions of Section 43 of the Zoning Code.

60.01.03 Permitted Home Occupation Uses: In residence zones Permitted Home Occupation Uses shall be in accordance with the provisions of Section 46 of the Zoning Code.

60.01.04 Special Exception Uses: Special Exception Uses shall be in accordance with the provisions of Section 44 of the Zoning Code.

60.01.05 (Established for future legislation - Uses by Temporary Permit.)

60.01.06 Prohibited Uses: Any use not specified as a Permitted Use, Accessory Use, Permitted Home Occupation Use or Special Exception Use are prohibited uses.

60.02 INTERPRETATION OF USE SCHEDULES:

- R: Permitted as of right.
- A: Permitted as an Accessory Use.
- H: Permitted as a Home Occupation Use.
- E: Permitted as of right, subject to granting of a Special Exception Certificate.

Blank Space: Not permitted.

60.03

RESIDENCE USE SCHEDULE: The following schedule indicates the use or uses permitted in each Residence Zone and such provisions subject thereto.

	SEC. 20	SEC. 21
U S B S	R1	R2
<u>RESIDENCE USES:</u>		
One family dwellings detached	R	R
Two family dwellings		
Garden apartments and town houses		
Multi-family dwellings		
<u>NON-RESIDENCE USES:</u>		
Ambulance Service	H	H
Cemeteries and other places of burial of the human dead	R	R
Churches and other places of worship, parish houses	R	R
Convents, monasteries, and similar uses	R	R
Custom dressmaking, millinery, tailoring, sewing of fabric for custom apparel and custom home furnishings	H	H
Day nursery and kindergarten	H	H
Educational institutions, private	R	R
Educational Publishing Organizations	H	H
Farming or other agricultural uses	R	R

	R1	R2
Fraternity and Sorority		E
Fine Arts Studio in which are created only individual works of arts	H	H
Golf courses, country clubs, private clubs, service organizations, including community buildings and similar recreational uses privately owned and/or privately operated	E	E
Hospitals, Nursing and Care Homes, medical and dental clinics	E	E
Housing for elderly or physically handicapped persons	E	E
Libraries, museums and similar institutions of a non-commercial nature	R	R
Medical and dental practitioner's office	E	E
Neighborhood store	E	E
Office, any office in which chattels or goods, wares or merchandise are not commercially created, exchanged or sold	H	H
Off-street parking, in accordance with provisions of Section 40	A	A
Office and Studio	E	E
Public utility buildings and structures	E	E
Publicly owned or operated buildings and uses including schools, parks, playgrounds and recreational areas	R	R
Rooming or boarding houses of not more than two (2) persons	H	H
Signs	R	R
Tutoring (not more than four (4) students simultaneously)	H	H

CHRONOLOGICAL LISTING OF TEXT  
AMENDMENTS TO THE ZONING CODE

.NO.	TOPIC	SPECIFIC SECTIONS	EFFECTIVE DATE
1.	Max. height of building in B-3 Zone	Section 33 Items 33.02 & .03	2/2/70
2.	Time limitation for Special Exception	Items 53.02.04 & 44.06.01	4/22/70
3.	Time limitation for Site Plan Approval	Item 55.09	4/22/70
4.	Environmental Responsibility	Section 10 Item 10.09	4/22/70
5.	Planned Residential Development Zones where permitted	Section 45 Item 45.03	5/1/70
6.	PRD-Site Plan Approval	Section 45 Item 45.06.01H Section 55: Item 55.02	7/1/70
7.	PRD-Interior Streets	Item 45.05.01G	9/16/70
8.	R-2 General Residence Zone Side Yard	Section 22 Item 22.03	5/10/71
9.	R-3 General Residence Zone Side Yard	Section 23 Item 23.03	5/10/71
10.	R-4 General Residence Zone Side Yard	Section 24 Item 24.03	5/10/71
11.	I-2 Restricted Industrial Zone Interior Buffer Area	Section 36 Item 36.06 Item 36.07	5/10/71
12.	Flood Plain Land Regulation	Section 46 Item 12.07	12/30/71

TEXT AMENDMENT TO THE ZONING CODE OF THE CITY OF MIDDLETOWN

ADOPTED AT THE CITY PLAN AND ZONING COMMISSION MEETING HELD  
DECEMBER 22, 1971, WITH EFFECTIVE DATE OF DECEMBER 30, 1971.

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SECTION 12                    SUPPLEMENTARY PROVISIONS

Item 12.07                    BUILDING IN FLOOD PLAIN

DELETE:    Item 12.07

INSERT:    DELETE

A Public Hearing concerning the Amendment was held December 8, 1971. Legal notices of the hearing appeared in The Middletown Press on November 27 and December 4, 1971.

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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  
The Flood Plain shall be all land which falls below the Intermediate Regional Flood level as established by the U.S. Army Corps of Engineers as measured from datum established by the U.S. Coastal and Geodetic Survey.
- 46.02 PERMITTED USES  
No land shall be used or occupied other than as permitted in the zone in which such use is proposed except that no buildings, other than utilitarian structures including parking facilities, shall be erected in the Flood Plain.
- 46.03 BUILDINGS  
Any structure for human use shall have the lowest floor at an elevation of not less than one foot (1') above the Flood Plain.
- 46.04 FILLING  
No land within the Flood Plain shall be filled unless the Planning Commission has granted its approval.
- 46.04.01 Application for 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 in accordance with the General Statutes.

CHRONOLOGICAL LISTING OF TEXT  
AMENDMENTS TO THE ZONING CODE

.NO.	TOPIC	SPECIFIC SECTIONS	EFFECTIVE DATE
1.	Max. height of building in B-3 Zone	Section 33 Items 33.02 & .03	2/2/70
2.	Time limitation for Special Exception	Items 53.02.04 & 44.06.01	4/22/70
3.	Time limitation for Site Plan Approval	Item 55.09	4/22/70
4.	Environmental Responsibility	Section 10 Item 10.09	4/22/70
5.	Planned Residential Development Zones where permitted	Section 45 Item 45.03	5/1/70
6.	PRD-Site Plan Approval	Section 45 Item 45.06.01H Section 55: Item 55.02	7/1/70
7.	PRD-Interior Streets	Item 45.05.01G	9/16/70
8.	R-2 General Residence Zone Side Yard	Section 22 Item 22.03	5/10/71
9.	R-3 General Residence Zone Side Yard	Section 23 Item 23.03	5/10/71
10.	R-4 General Residence Zone Side Yard	Section 24 Item 24.03	5/10/71
11.	I-2 Restricted Industrial Zone Interior Buffer Area	Section 36 Item 36.06 Item 36.07	5/10/71
12.	Flood Plain Land Regulation	Section 46 Item 12.07	12/30/71

TEXT AMENDMENT TO THE ZONING CODE OF THE CITY OF MIDDLETOWN

ADOPTED AT THE CITY PLAN AND ZONING COMMISSION MEETING HELD  
DECEMBER 22, 1971, WITH EFFECTIVE DATE OF DECEMBER 30, 1971.

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SECTION 12                    SUPPLEMENTARY PROVISIONS .

Item 12.07                    BUILDING IN FLOOD PLAIN

DELETE:    Item 12.07

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