

SECTION 4: USE AND AREA REGULATIONS AND REQUIREMENTS FOR ZONING DISTRICTS

4.A. Statement of Intent: Residential Generally

- (1) The Town's intent within the standard residential zoning (R-1A, R-1B, R-2, R-3) is to create a variety of residential environments that offer housing choices and that complement the Town's historic character and development patterns and promote the objectives of the Middletown Comprehensive Plan.
- (2) It is intended that residential neighborhoods be connected, by a network of roads, sidewalks, interior pedestrian way and bike facilities, to adjacent neighborhoods, commercial and retail uses and public facilities, such as schools and libraries.
- (3) The Town encourages the location of limited neighborhood retail and service establishments within residential developments through the conditional use process, in support of the mobility friendly policies of the Middletown Comprehensive Plan.

4.B. R-1B District: Single Family Residential (lower density)

In an R-1B district, no building or premises shall be used and no building shall be erected or altered which is arranged, intended or designed to be used, except for one or more of the following uses and complying with the requirement so indicated.

(1) Permitted Uses:

- (a) A single family detached residential dwelling.
- (b) Public and private elementary, junior or senior high schools.
- (c) Park, playground, athletic field, recreation buildings, swimming pool and community center, operated on a non-commercial basis for recreation purposes.
- (d) Church and other places of worship, cemeteries.
- (e) Municipal and public services and facilities to include Town Hall, water storage tower, water reservoir, water pumping station, water treatment plant, sewage pumping station, sewers (storm and sanitary), street right-of-way, utility transmission and distribution lines, public transportation bus or transit stops, police and fire stations, substations for electric, gas and telephone facilities.
- (f) Cultural facilities including library, museum or art gallery.

- (g) Country club, regulation golf course, including customary accessory uses provided that all buildings have a minimum setback of one hundred twenty (120) feet from all street and property lines.
- (h) Temporary buildings, temporary real estate or construction office and temporary storage of materials provided that such use is located on the lot where construction is taking place or on a lot adjacent or part of a development site and that such temporary use is to be terminated upon completion of construction and not to exceed two (2) years.
- (i) Housing for shared residential living.
- (j) Daycare home.
- (k) Detached garages, as an accessory use. (See Exhibit 12)

(2) Conditional Uses Subject to Special Requirements:

- (a) The taking of non-transient boarders, maximum of three (3). Subject to conformance with the following requirements:

The granting of a conditional use permit by the Town Council as provided in Section 10.

- (b) Customary home occupation or a studio for artists, designers, photographers, musicians, sculptors and other similar persons that conform to the following requirements:
 - (i) The granting of a conditional use permit by the Town Council as provided in Section 10.
 - (ii) The area used for the practice of the home occupation or studio shall occupy no more than thirty (30) percent of the total floor area of the dwelling unit in which it is located.
 - (iii) No storage of materials or products outside the dwelling shall be permitted unless completely housed.
 - (iv) The home occupation or studio shall be clearly incidental to the residential use of the dwelling and shall not change the essential residential character of the dwelling.
 - (v) No external alternations inconsistent with the primary residential use of the dwelling shall be allowed.
 - (vi) No display of products shall be visible from outside the building.

- (vii) One display sign affixed to the building not exceeding a total area of two (2) square feet and not illuminated.
 - (viii) A maximum of two (2) employees shall be permitted in the operation of the home occupation or studio.
- (c) Professional occupation restricted to the owner/occupant subject to conformance with the following requirements:
- (i) The granting of a conditional use permit by the Town Council as provided in Section 10.
 - (ii) Three (3) off-street parking spaces in addition to those otherwise required.
 - (iii) No more than two (2) persons shall be employed by the practitioner of the professional occupation to provide secretarial, clerical, technical or similar assistance.
 - (iv) No storage of materials or products outside the dwelling shall be permitted unless completely housed.
 - (v) The area used for the practice of a professional occupation shall occupy no more than thirty (30) percent of the total floor area, including garages or other accessory buildings.
 - (vi) The professional use shall be incidental to the residential use of the dwelling and shall not change the essential residential character of the dwelling.
 - (vii) No external alterations inconsistent with the primary residential use of the dwelling shall be allowed.
 - (viii) No display of products shall be visible from outside the building.
 - (ix) No more than one (1) display sign affixed to the building shall not exceed two (2) square feet and not illuminated.
- (d) Neighborhood retail and services used to support the surrounding residential community. The site and architectural design shall be compatible with the residential scale, massing and architectural articulation of the surrounding community and shall be easily accessible by pedestrians, bicycles and transit.
- (i) Permitted Uses
 - (a) Offices for professional and administrative services
 - (b) Financial institutions and banks
 - (c) Barbershops and beauty shops
 - (d) Medical clinics

- (e) Studios for art, music and dance, workshop and sales
- (f) Retail food stores such as bakeries, candy and convenience stores, grocery and meat markets
- (g) Restaurants, excluding “drive thru” fast food service restaurants
- (h) Retail sales and specialty stores
- (i) Indoor repair and service, with no outdoor storage
- (j) Antique shop
- (k) Bookstore
- (l) Laundromats
- (m) Resident apartments located above any non-residential use

(ii) Area Regulations

- (a) Maximum lot size for the grouping of stores shall be one and one-half (1 1/2) acres.
- (b) Maximum floor area for any single permitted establishment within the neighborhood center shall be ten thousand (10,000) square feet.
- (c) Minimum lot width shall be at least sixty-five (65) feet.
- (d) Maximum percentage of impervious surface shall be seventy (70) percent.
- (e) Minimum distance between any access driveway (including ingress or egress points) and residential districts shall be twenty-five (25) feet.
- (f) Height of buildings shall not exceed three (3) stories or thirty-five (35) feet.
- (g) Minimum front yard building and parking setback shall be ten (10) feet.
- (h) Side yards shall be required equal to the minimum side yard required for the residential district and subject to the landscape screening provisions as specified in Section 6 of this code.
- (i) Parking shall comply with the requirements provided in Section 5 of this code.

(e) Bed and Breakfast establishments are permitted subject to the following conditions:

- (i) The granting of a conditional use permit by the Town Council as provided in Section 10 of this code.
- (ii) Bed and Breakfast establishments shall be owner-occupied and operated.
- (iii) No sleeping accommodations shall be provided other than in designated guest rooms. No more than four (4) guest rooms may be provided and no more than two (2) adults may occupy one guest room.

- (iv) No guest or family may stay longer than seven (7) consecutive nights.
- (v) There shall be no separate kitchen, cooking facilities or any cooking appliances used in guest rooms.
- (vi) Smoke detectors powered from house current shall be required in all guests' rooms and shall meet Delaware State Fire Marshal standards applicable to Bed and Breakfast establishments.
- (vii) A minimum of two (2) full bathrooms, including sink, toilet and bathtub and/or shower, shall be provided in each Bed and Breakfast establishment.
- (viii) A minimum of one (1) parking space must be conveniently available for each guest room either on-street or off-street.

(3) Area Regulations:

- (a) Minimum lot area shall be twelve thousand five hundred (12,500) square feet.
- (b) Maximum lot coverage shall be thirty (30) percent, exclusive of accessory buildings.
- (c) Minimum lot width shall be sixty-five (65) feet.
- (d) Height of building shall not exceed three (3) stories or thirty-five (35) feet, whichever is less.
- (e) Minimum building setback line shall be ten (10) feet for residential structures and twenty (20) feet for detached garages. (See Exhibit 13)
- (f) Minimum rear yard shall be twenty-five (25) feet for residential structures and five (5) feet for accessory structures and detached garages. For corner lots, the rear yard may be reduced twenty (20) percent in depth to allow the "skewing" of a residential dwelling on the lot.
- (g) Side yards shall be provided as follows: for residential structures, each lot shall have two (2) side yards a minimum of ten (10) feet wide with a minimum aggregate width of two (2) side yards of twenty-five (25) feet. The minimum side yard for accessory structures and detached garages shall be five (5) feet. (See Exhibit 12)
- (h) Parking shall comply with the requirements provided in Section 5 of this code.

- (i) Landscape screening shall comply with the requirements provided in Section 6 of this code.
- (j) Signs shall comply with the requirements provided in Section 7 of this code.
- (k) Open space set asides and dedications shall comply with Section 7.G. Open Space, Planting and Landscape Conservation of the Middletown Subdivision Ordinance.

4.C. R-1A District: Single Family Residential (low density)

In an R-1A district, no building or premises shall be used and no building shall be erected or altered which is arranged, intended or designed to be used, except for one or more of the following uses and complying with the requirements so indicated.

(1) Permitted Uses:

- (a) A single family detached residential dwelling.
- (b) Public and private elementary, junior or senior high schools.
- (c) Park, playground, athletic field, recreation buildings, swimming pool and community center, operated on a non-commercial basis for recreational purposes.
- (d) Church and other places of worship, cemeteries.
- (e) Municipal and public services and facilities including Town Hall, water storage tower, water reservoir, water pumping station, water treatment plant, sewage pumping station, sewers (storm and sanitary), street right-of-way, utility transmission and distribution lines, public transportation bus or transit stops, police and fire stations, substations for electric gas and telephone facilities.
- (f) Cultural facilities, including library museums or art galleries.
- (g) Country club, regulation golf course, including customary accessory uses provided that all buildings have a minimum setback of one hundred twenty (120) feet from all street and property lines.
- (h) Temporary buildings, temporary real estate or construction office and temporary storage of materials provided that such use is located on the lot where construction is taking place or on a lot adjacent or part of a development site and that such temporary use is to be terminated upon completion of construction and not to exceed two (2) years.
- (i) Housing for shared residential living.
- (j) Daycare homes.
- (k) Detached garage, as an accessory use. (See Exhibit 12)

(2) Conditional Uses Subject to Special Requirements:

- (a) The taking of non-transient boarders (maximum of three (3)). Subject to conformance with the following requirements:

- (i) The granting of a conditional use permit by the Town Council as provided in Section 10 of this code.
- (b) Customary home occupation of a studio for artists, designers, photographers, musicians, sculptors and other similar persons subject to conformance with the following requirements:
 - (i) The granting of a conditional use permit by the Town Council as provided in Section 10.
 - (ii) The area used for the practice of the home occupation or studio shall occupy no more than thirty (30) percent of the total floor area of the dwelling unit in which it is located.
 - (iii) No storage of material or products outside the dwelling shall be permitted unless completely housed.
 - (iv) The home occupation or studio shall be clearly incidental to the residential use of the dwelling and shall not change the essential residential character of the dwelling.
 - (v) No external alterations inconsistent with the primary residential use of the dwelling shall be allowed.
 - (vi) No display of products shall be visible from outside the building.
 - (vii) One (1) display sign affixed to the building not exceeding a total area of two (2) square feet and not illuminated.
 - (viii) A maximum of two (2) employees shall be permitted in the operation of the home occupation or studio.
- (c) Professional occupation restricted to the owner/occupant subject to conformance with the following requirements:
 - (i) The granting of a conditional use permit by the Town Council as provided in Section 10.
 - (ii) Three (3) off-street parking spaces in addition to those otherwise required.
 - (iii) No more than two (2) persons shall be employed by the practitioner of the professional occupation to provide secretarial, clerical, technical or similar assistance.
 - (iv) No storage of materials or products outside the dwelling shall be permitted unless completely housed.

- (v) The area used for the practice of a professional occupation shall occupy no more than thirty (30) percent of the total floor area, including garages or other accessory buildings.
 - (vi) The professional use shall be clearly incidental to the residential use of the dwelling and shall not change the essential residential character of the dwelling.
 - (vii) No external alterations inconsistent with the primary residential use of the dwelling shall be allowed.
 - (viii) No display of products shall be visible from outside the building.
 - (ix) No more than one (1) display sign affixed to the building shall not exceed two (2) square feet and not illuminated
- (d) Neighborhood retail and services used to support the surrounding residential community. The site and architectural design shall be compatible with the residential scale, massing and architectural articulation of the surrounding community and shall be easily accessible by pedestrians, bicycles and transit.

(i) Permitted Uses

- (a) Offices for professional and administrative services
- (b) Financial institutions and banks
- (c) Barbershops and beauty shops
- (d) Medical clinics
- (e) Studios for art, music and dance, workshop and sales
- (f) Retail food stores such as bakeries, candy and convenience stores, grocery and meat markets
- (g) Restaurants, excluding “drive thru” fast food service restaurants
- (h) Retail sales and specialty stores
- (i) Indoor repair and services, with no outdoor storage
- (j) Antique shop
- (k) Bookstore
- (l) Laundromats
- (m) Resident apartments located above any non-residential use

(ii) Area Regulations

- (a) Maximum lot size for the grouping of stores shall be one and one-half (1 1/2) acres.
- (b) Maximum floor area for any single permitted establishment within the neighborhood center shall be ten thousand (10,000) square feet.
- (c) Minimum lot width shall be at least sixty-five (65) feet.

- (d) Maximum percentage of impervious surface shall be seventy (70) percent.
- (e) Minimum distance between any access driveways (including ingress or egress points) and residential district shall be thirty-five (35) feet.
- (f) Height of buildings shall not exceed three (3) stories or thirty-five (35) feet.
- (g) Minimum front yard building and parking setback shall be ten (10) feet.
- (h) Side yards shall be required to equal the minimum side yard required for the residential district and subject to the landscaping screening provisions as specified in Section 6 of this ordinance.
- (i) Parking shall comply with the requirements provided in Section 5 of this code.

(e) Bed and Breakfast Establishments are permitted subject to the following conditions:

- (i) The granting of a conditional use permit by the Town Council in Section 10 of this code.
- (ii) Bed and Breakfast establishments shall be owner occupied and operated.
- (iii) No sleeping accommodations shall be provided other than in designated guest rooms. No more than four (4) guest rooms may be provided and no more than two (2) adults may occupy one guest room.
- (iv) No guest or family may stay longer than seven (7) consecutive nights.
- (v) There shall be no separate kitchen cooking facilities of any cooking appliances used in guests' rooms.
- (vi) Smoke detectors powered from house current shall be required in all guests' rooms and shall meet Delaware State Fire Marshal standards applicable to Bed and Breakfast establishments.
- (vii) A minimum of two (2) full bathrooms, including sink, toilet and bathtub and/or shower, shall be provided in each Bed and Breakfast establishment.
- (viii) A minimum of one (1) parking space must be conveniently available for each guest room either on-street or off-street.

(3) Area Regulations:

- (a) Minimum lot area shall be nine thousand seven hundred fifty (9,750) square feet.
- (b) Maximum lot coverage shall be thirty (30) percent, exclusive of accessory buildings.
- (c) Minimum lot width shall be sixty-five (65) feet.
- (d) Height of buildings shall not exceed three (3) stories or thirty-five (35) feet, whichever is less.
- (e) Minimum building setback line shall be ten (10) feet for residential structures and twenty (20) feet for garages. (See Exhibit 13)
- (f) Minimum rear yard shall be twenty-five (25) feet for residential structures and five (5) feet for accessory structures and detached garages. For corner lots, the rear yard may be reduced twenty (20) percent in depth to allow the “skewing” of a residential dwelling on the lot.
- (g) Side yards shall be provided as follows: for residential structures, each lot shall have two (2) side yards a minimum of ten (10) feet wide with a minimum aggregate width of two (2) side yards of twenty-five (25) feet. The minimum side yard for accessory structures and detached garages shall be five (5) feet. (See Exhibit 12)
- (h) Parking shall comply with the requirements provided in Section 5 of this code.
- (i) Landscape screening shall comply with the requirements provided in Section 6 of this code.
- (j) Signs shall comply with requirements provided in Section 7 of this code.
- (k) Open space set asides and dedications shall comply with Section 7.G. Open Space, Planting and Landscape Conservation of the Middletown Subdivision Ordinance.

4.D. R-2 District: Single Family Residential (medium density)

In an R-2 district, no building or premises shall be used and no building shall be erected or altered which is arranged, intended or designed to be used, except for one or more of the following uses and complying with the requirements so indicated.

(1) Permitted Uses:

- (a) All uses permitted in an R-1 district.
- (b) A single family semi-detached dwelling.
- (c) Social club, fraternal, social service, union or civic organization.

(2) Conditional Uses Subject to Special Requirements:

- (a) Conversion of a one family dwelling into multiple dwelling units, if such dwelling is structurally sound, but too large to be in demand for one family use and that conversion would not impair the character of the neighborhood, subject to conformance with the following requirements:
 - (i) There shall be a lot area of at least two thousand (2,000) square feet for each unit to be accommodated.
 - (ii) There shall be a gross leasable floor area, computed as the sum of the area enclosed by the outside faces of all exterior walls surrounding each story used for residence, exclusive of any area for an accessory private garage, of at least six hundred (600) square feet per family to be accommodated.
 - (iii) No dwelling shall be so converted unless it is placed in a reasonable state of repair and modernization.
 - (iv) No addition shall extend within the front yard, side yards or rear yard required for the district within which it is located.
 - (v) Fire escapes and outside stairways leading to a second or higher story shall, where practicable, be located on the rear of the buildings and shall not be located on any building wall facing a street.
 - (vi) Two (2) off-street parking spaces shall be provided for each additional dwelling unit created.
 - (vii) The granting of a conditional use permit by the Town Council.

- (b) Nursing homes, rest homes or home for the aged, subject to the following special requirements:
 - (i) The minimum lot area required for each four (4) or remainder over a multiple of four (4) resident patients or resident guests shall be the same as the minimum lot area required for each dwelling unit in this district provided, however, that no lot contains less than ten thousand (10,000) square feet.
 - (ii) The minimum lot width shall be one hundred (100) feet.
 - (iii) No more than fifty (50) patients or resident guests shall be accommodated at one time in any one building.
 - (iv) The granting of a conditional use permit by the Town Council.

- (c) Day care centers, kindergarten, preschools, day nursery schools and orphanages, subject to the following special requirements:
 - (i) At least one hundred (100) square feet of outdoor play space per child shall be provided.
 - (ii) Outdoor play space shall be fenced or otherwise enclosed on all sides and shall not include driveways, parking areas or land unsuited by other usage or natural features for the children's active play space. Fencing or other enclosures shall be a minimum of four (4) feet in height.
 - (iii) The minimum lot area for each six (6) or remainder over the multiple of six (6) children shall be the same as the minimum lot area requirements for each dwelling unit in this district provided, however, that not less than ten thousand (10,000) square feet in area shall be used for such purposes and provided further that not more than fifty (50) children shall be accommodated at any one time on a lot.
 - (iv) The granting of a conditional use permit by the Town Council.

- (d) Physicians, dentists and related medical offices subject to the following special requirements:
 - (i) The maximum allowable number of professional practitioners shall be four (4) with a minimum of four thousand five hundred (4,500) square feet of lot area per practitioner.
 - (ii) The granting of a conditional use permit by the Town Council.

- (e) Tourist home, rooming house and lodging house, a boarding house provided there be one bathroom facility for each living unit.
 - (i) The granting of a conditional use permit by the Town Council.
- (f) Bed and Breakfast establishments are permitted subject to the following conditions:
 - (i) The granting of a conditional use permit by the Town of Middletown Council as provided in Section 10 of this code.
 - (ii) Bed and Breakfast establishments shall be owner-occupied and operated.
 - (iii) No sleeping accommodations shall be provided other than in designated guest rooms. No more than four (4) guest rooms may be provided and no more than two (2) adults may occupy one guest room.
 - (iv) No guest or family may stay longer than seven (7) consecutive nights.
 - (v) There shall be no separate kitchen, cooking facility or any cooking appliances used in guest rooms.
 - (vi) Smoke detectors powered from house current shall be required in all guest rooms and shall meet Delaware State Fire Marshal standards applicable to Bed and Breakfast establishments.
 - (vii) A minimum of two (2) full bathrooms, including sink, toilet and bathtub and/or shower, shall be provided in each Bed and Breakfast establishment.
 - (viii) A minimum of one (1) parking space must be conveniently available for each guest room either on-street or off-street.

(3) Area Regulations:

- (a) The minimum lot area shall be as follows:
 - (i) Single family detached residential, five thousand (5,000) square feet.
 - (ii) Single family semi-detached residential, four thousand five hundred (4,500) square feet.
- (b) Maximum lot coverage shall be sixty (60) percent.
- (c) Minimum lot width shall be as follows:

- (i) Single family detached residential, fifty (50) feet.
 - (ii) Single family semi-detached residential, forty (40) feet.
- (d) Height of buildings shall not exceed three (3) stories or thirty-five (35) feet.
- (e) Minimum building setback line shall be ten (10) feet for residential structures and twenty (20) feet for detached garages (See Exhibit 13).
- (f) Minimum rear yard shall be twenty (20) feet for residential structures and five (5) feet for accessory structures and detached garages. For corner lots, the rear yard may be reduced twenty (20) percent in depth to allow the “skewing” of a residential dwelling on the lot.
- (g) Side yards shall be provided as follows: for residential structures, each lot shall have two (2) side yards a minimum of ten (10) feet on each side, except for a semi-detached residential dwelling, which shall have one side yard a minimum of ten (10) feet. The minimum side yard for accessory structures and detached garages shall be five (5) feet. (See Exhibit 12).

For residential subdivisions designed using a Traditional Neighborhood Design:

- (i) The side yards for single family homes that are not also served by an alley shall be a minimum of six (6) feet with an aggregate side yard of fourteen (14) feet.
 - (ii) For single family homes that are served by an alley, the minimum side yard shall be six (6) feet with an aggregate side yard of twelve (12) feet.
 - (iii) For semi-detached residential dwellings the minimum side yard shall be six (6) feet.
 - (iv) No permitted projection shall be closer than five (5) feet to a side yard property line.
- (h) Parking shall comply with the requirements provided in Section 5 of this code.
- (i) Landscape screening shall comply with the requirements provided in Section 6 of this code.
- (j) Signs shall comply with the requirements provided in Section 7 of this code.

- (k) Open space set asides and dedications shall comply with Section 7.G. Open Space, Planting and Landscape Conservation of the Middletown Subdivision Ordinance.
- (l) Notwithstanding the foregoing requirements in this Section 4 D(3), for residential subdivisions designed using a Traditional Neighborhood Design:
 - (i) The minimum lot area for single family detached residential and single family semi-detached residential shall be three thousand (3,000) square feet.
 - (ii) Section 4.D.(3)(b) above shall not apply.
 - (iii) The minimum lot width for single family detached residential and single family semi-detached residential shall be thirty (30) feet.

4.E. R-3 District: Multi-Family Residential

In an R-3 district, no building or premises shall be used and no building shall be erected or altered which is arranged, intended or designed to be used, except for one or more of the following uses and complying with the requirements so indicated.

(1) Permitted Uses:

- (a) All uses permitted in an R-2 district.
- (b) Garden apartments subject to the following special requirements:
 - (i) The number of dwelling units per acre shall not exceed sixteen (16).
 - (ii) Lot coverage shall not exceed forty (40) percent for any lot developed for garden apartments.
 - (iii) The maximum number of dwelling units per building shall be twenty-four (24).
 - (iv) Distance between buildings or groups of buildings shall be as follows: each building or group of buildings shall be at least twenty-five (25) feet from any other building or group of buildings.
 - (v) Minimum lot width on any public street shall be at least fifty (50) feet.
 - (vi) Minimum lot size shall be one (1) acre for garden apartment properties or complexes with a minimum of two thousand five hundred (2,500) square feet of lot area for each dwelling unit.
 - (vii) A minimum of forty (40) percent of the total area developed for garden apartments shall be designed as open space. The Mayor and Council shall have the option to require all or a portion of the open space to be "public open space" or "dedicated open space", with appropriate conditions for maintenance and use.
 - (viii) Parking shall comply with the requirements provided in Section 5 of this code.
 - (ix) Landscape screening shall comply with the requirements provided in Section 6 of this code.
 - (x) Sidewalks and internal pedestrian ways shall conform to Section 7.B.(5) of the Middletown Subdivision Regulations.

- (xi) The building height of any building shall not exceed three (3) stories or forty (40) feet.
- (c) One family dwellings such as townhouses or row dwellings subject to the following special requirements:
- (i) The number of dwelling units per group shall not exceed eight (8).
 - (ii) The number of dwelling units per acre shall not exceed twelve (12).
 - (iii) Maximum lot coverage shall be forty (40) percent of the total area to be developed for townhouses, and sixty (60) percent of the individual lot area where each building is constructed.
 - (iv) Distance between buildings or groups of buildings shall be as follows: each building or group of buildings shall be at least twenty-five (25) feet from any other building or group of buildings. The developer may elect, upon approval from the Town of Middletown, to reduce the minimum distance between each building or group of buildings to eighteen (18) feet provided the following:
 - (a) Minimum building width of twenty-four (24) feet for all end units.
 - (b) Construction and drainage complies with all current BOCA code requirements and Delaware State Fire Marshal regulations.
 - (c) Building elevations shall include enhanced architectural features such as brick, stone, addition of garages, varying setbacks, etc. subject to review and approval by the Town of Middletown.

The intent of the reduced distance is to avoid monotony and add character to the design and construction of the townhouse units.

- (v) Minimum lot size shall be one (1) acre for townhouse projects or complexes with a minimum of two thousand (2,000) square feet of lot area for each dwelling unit.
- (vi) A minimum of forty (40) percent of the total area developed for townhouses shall be designated as open space. The Mayor and Council shall have the option to require all or a portion of the open space to be “public open space” or “dedicated open space”, with appropriate conditions for maintenance and use.

- (vii) Notwithstanding the foregoing, for townhouses which are part of a Traditional Neighborhood Design residential subdivision, the requirements of subsections (iii), (v) and (vi) above shall not apply, and, instead, the open space formula set forth in Section 8.G.(2)(a) (Middletown Subdivision Regulations) shall apply and the minimum lot size shall be 1,800 square feet.
- (viii) The building height of any building shall not exceed three (3) stories or forty (40) feet.

(2) Conditional Uses Subject to Special Requirements:

- (a) In order to encourage superior designed projects, and in order to better promote the goals of good planning, the Town Council may grant conditional use approval for a “Planned Neighborhood Design” of garden apartments, row dwellings, single-family dwellings, and/or townhouses subject to the following conditions:
 - (i) The minimum site area for the overall project shall not be less than ten (10) acres.
 - (ii) The maximum building height shall be four (4) stories or fifty (50) feet.
 - (iii) For projects which will be “age-restricted” by appropriate deed restrictions which comply with applicable federal law, a density bonus of up to twenty-five (25%) percent may be granted.
 - (iv) Other applicable setback requirements, area limitations, open space requirements, or other restrictions applicable to garden apartments, row dwellings, single-family dwellings and townhouses may be lessened or waived by Town Council as part of the conditional use approval, provided that Town Council determines that such lessening or waiver will result in a superior project, better aesthetics, or an overall enhanced project, all in accordance with the goals and policies of the Town’s comprehensive plan.

4.F. R-MH District: Mobile Home Residential

In an R-MH district, no building or premises shall be used and no building shall be erected or altered which is arranged, intended or designed to be used, except of one or more of the following uses and complying with the requirements indicated.

(1) Permitted Uses:

- (a) Mobile home parks, subject to the following requirements:
 - (i) Mobile home parks shall be developed upon property served by water and sewer systems approved by the Town Engineer.
 - (ii) Mobile home parks shall be developed on a tract of land encompassing not less than ten (10) acres in area.
 - (iii) All mobile homes not on a permanent foundation shall be provided with skirting, which effectively encloses from view the space between the ground and the floor of the mobile home and also shall be provided with tie downs or anchors.
- (b) Park, playground, athletic field, recreation buildings, swimming pool and community center operated on a non-commercial basis for recreational purposes.
- (c) Municipal and public service facilities including water storage tower, water reservoir, water pumping station, water treatment plant, sewage pumping station, sewers (storm and sanitary), street right-of-way, utility transmission and distribution lines, public transportation bus or transit stops, police and fire stations, substations for electric, gas and telephone facilities.
- (d) Farming and agricultural activities.
- (e) Public and private elementary, junior or senior high schools.
- (f) Church and other places of worship, cemeteries.
- (g) Cultural facilities including library, museum or art gallery.
- (h) Temporary buildings, temporary real estate or construction office and temporary storage of materials provided that such use is located on the lot where construction is taking place or on a lot adjacent or part of a developed site and that such temporary use is to be terminated upon completion of construction.
- (i) Uses and structures, which are customarily accessory and clearly incidental and subordinate to principal uses and structures.

(2) Area Regulations:

- (a) Each mobile home site or lot shall not be less than four thousand (4,000) square feet in area. All other permitted uses shall have a minimum lot area of nine thousand (9,000) square feet.
- (b) At least fifteen (15) percent of the total area of a mobile home park shall be devoted to open space or recreation areas. Road right-of-way and park buffer strips required by the landscape screening provision in Section 6 (c) of this code may not be included in the calculation of the required open space and recreation areas.
- (c) Maximum density shall not exceed ten (10) mobile home units or sites per acre.
- (d) Minimum lot width shall be thirty (30) feet.
- (e) No mobile home and accessory building may occupy more than twenty-five (25) percent of the area on which the lot is situated.
- (f) Minimum setback line shall be fifteen (15) feet, except that no part of any mobile home or other structure shall be located within twenty-five (25) feet of any public road with a right-of-way width of ninety (90) feet or more.
- (g) No part of any mobile home stand shall be located within eight (8) feet of any common driveway, walk, parking area or other common area within the mobile home development.
- (h) Minimum rear yard shall be fifteen (15) feet.
- (i) Access shall be such as to permit fire protection apparatus to approach to within one hundred (100) feet of each mobile home.
- (j) Fences and walls located within five (5) feet of lot lines shall not exceed a height of six (6) feet, except that such fences or walls shall not exceed a height of four (4) feet when located in a required front yard.
- (k) Parking shall comply with the requirements provided in Section 5 of this code.
- (l) Landscape screening shall comply with the requirements provided in Section 6 of this code.
- (m) Signs shall comply with the requirements provided in Section 7 of this code.

SECTION 10: CONDITIONAL USE PERMITS

10.A. General Provisions

- (1) **The following procedures shall apply to the granting of conditional use permits as required in this code:**
 - (a) Conditional use permits may be issued for any of the conditional uses for which a use permit is required by the provisions of this code provided, that the Town Council shall find the application is in accordance with the provisions of this zoning code, and that, after duly advertised hearing, held in accordance with the provisions of Section 12, the use will not:
 - (i) Affect adversely the health or safety of persons residing or working in the neighborhood of the proposed use;
 - (ii) Be detrimental to the public welfare or injurious to property or improvements in the neighborhood; and
 - (iii) Be in conflict with the general purposes of the Comprehensive Plan or related Town planning or development policies.
 - (b) Conditional use permits as specified in Section 4 of this code shall be issued after consultation and review by the Planning Commission.
 - (c) In granting any conditional use permit the Town Council may designate such conditions as will, in its opinion, assure that the use will conform to the foregoing requirements and that such use will continue to do so.
 - (d) Construction or operation shall be commenced within one year of date of issuance or the use permit becomes invalid.
 - (e) A re-application for a use permit for the same lot or use shall not be considered by the Town Council within a period of 360 days from its last consideration. This provision, however, shall not impair the right of the Council to propose a use permit on its own motion.
 - (f) Written request for a use permit shall be filed with the Town Clerk. Every request shall be accompanied by a fee of one hundred fifty dollars (\$150). The time of hearing before Town Council shall be scheduled within one month of the use permit request filing date.
 - (g) If a Conditional Use Permit is granted under the provisions of this Section, the Town Council shall direct the Town Clerk to officially notify the applicant in writing of all conditions approved by the Council.

(2) Tower, broadcasting and telecommunications, subject to the following special requirements:

- (a) Tower applications shall be accompanied by a professional engineer's report containing the following:
 - (i) A technical evaluation of the utilization of existing towers for telecommunications or other equipment intended for the installation on the proposed tower.
 - (ii) Written certification of compliance with Federal Communications Commission Safety Standards for exposure to nonionizing electromagnetic radiation.
 - (iii) Copies of all applicable state and federal permits.
- (b) Any principal part of the tower, excluding guy cables, shall be set back from the nearest property line or lot zoned residential not less than three times the height of the tower or 350 feet, whichever is greater. The setback shall be measured from the nearest point of the base of the tower to the nearest point of the property line of the protected use.
- (c) No artificial light shall be installed upon any such tower unless required by the Federal Aviation Administration. If such light is required, it shall be screened so as not to project its light below the horizontal plane in which it is located.
- (d) Towers over 200 feet in height shall be guyed and not self-supporting nor consisting of lattice type structures, unless the applicant demonstrates that a guyed tower shall have a greater negative visual impact than a self-supporting tower.
- (e) Towers located on existing buildings or structures shall not extend beyond 22 feet above the highest point of the building or structure. Accessory buildings or facilities for towers located on existing buildings or structures shall be located either in or on top of such buildings or structures.
- (f) Landscaping shall be provided around the base of the tower and adjacent to a required security fence that shall be at least 10 feet high. The landscaping shall consist of a minimum 25 foot wide planting strip with ground cover and/or grass, including at least one row of six foot high evergreen trees providing a solid screen adjacent or proximate to the fence, and 15 foot high, two-inch caliper deciduous trees, interspersed within the buffer area and no more than 20 feet apart. Applicants may substitute alternative landscape

plans that meet the purposes of this subsection to limit the visual impact of the lower portion of the tower and adjoining accessory facilities. Camouflaged towers designed to look like trees may be exempt from this subsection, subject to Council approval. Towers located on top of buildings three stories or more in height and telecommunication antennas located on existing buildings shall be exempt from this subsection, except that a six foot high solid evergreen screen, shall be required between any telecommunications antenna or tower accessory building and adjoining properties. A 10 foot high security fence and an adjoining six foot high solid evergreen screen adjacent or proximate to the fence shall be provided around the anchoring facilities for guy wires for guyed towers.

- (g) No outdoor storage shall be permitted at the tower site.
- (h) Unless otherwise required by the Federal Communications Commission or the Federal Aviation Administration, towers shall be light gray in color. Camouflaged towers designed to look like trees may be exempt from this subsection, subject to Council approval. Telecommunication antennas with colors designed to match buildings or structures to which they are attached shall be exempt from this subsection.
- (i) A tower shall be located so as not to encroach into any established public or private airport approach as established by the Federal Aviation Administration.
- (j) Towers higher than 100 feet must be a minimum of 2,000 feet from the nearest similar tower, measured from the base of the towers.
- (k) No interference with existing television, cable television, radio signals, or other electronic devices shall be permitted from the tower. If interference occurs, it shall be immediately remedied by the operators of the tower.
- (l) If a tower is abandoned, unused for two years, or no longer operable, it shall be removed within six months of its abandonment. If a tower is not dismantled as specified in this subsection, the Town shall arrange to have the facility dismantled and will assess the owner all costs associated with the removal of the tower. If the full amount due the Town is not paid by the owner, or person in control of the property, or his or her agent, within 90 days of receipt of a bill from the Town, the Town shall place a lien on the property and shall remain in full force and effect for the amount due in principal and interest until final payment has been made.

- (m) The owner of such tower shall provide proof to the Town that the tower has undergone a triennial inspection for structural integrity. Said inspection is to be performed by a certified engineer, or other qualified professional, at the expense of the owner of the tower. If structural deterioration affects the physical stability or aesthetic integrity of the tower, the owner shall be required to correct such deterioration within a time limit to be established by the building department.
- (n) The owner of such tower shall give proof to the Town that any damages which may occur to surrounding properties or injury which may occur to persons, which damages or injuries are caused by a failure of the tower and/or its associated structural supports, regardless of whether such failure is a result of human error or an act of God, shall be paid by the owner of the tower and/or insurers of the tower.
- (o) In addition, the operator of such tower shall provide annual proof to the Town that the tower has undergone field measurements to ensure compliance with all applicable Federal Communication Commission safety standards for exposure to nonionizing electromagnetic radiation. Such field measurements, and submission of the results to the city, shall be conducted upon start up of the facility and annually thereafter; except that every third year, such proof of compliance shall be submitted on behalf of the operator by an independent nonionizing electromagnetic radiation evaluator. All such field measurements, and submission of the results, are performed by a certified engineer, or other qualified professional, at the expense of the operator. If such field measurements demonstrate noncompliance with Federal Communication Commission safety standards specified in this section, transmission at the facility shall be suspended until such time as full Federal Communication Commission safety standards compliance is demonstrated to the satisfaction of the Town.

(For a copy of the Conditional Use Permit Application, please call (302) 378-2711. Conditional Use Permit Applications are reviewed by Planning and Zoning, then Mayor and Council.)