

**TOWN OF MIDDLEBURY**

**CONNECTICUT**

**INCORPORATED 1807**

# **ZONING REGULATIONS**

**WITH AMENDMENTS EFFECTIVE THROUGH NOVEMBER 28, 2013**

**ZONING REGULATIONS  
TOWN OF MIDDLEBURY, CONNECTICUT  
AMENDMENTS through November 28, 2013**

**Amended Section 62.3.5 Stores and Offices to reduce parking requirement of ground floor area**

**Adopted November 2, 2000 Effective November 11, 2000**

**Revised Section 31 Commercial A-40 District to include a new Section 31.7.5 to permit a residential facility within a commercial building as a Special Exception use**

**Adopted November 2, 2000 Effective November 11, 2000**

**Re-codification of regulations with amendments through March 5, 1999**

**Adopted December 7, 2000 Effective December 31, 2000**

**Revised Section 22.2.1 to include an additional PRD eligible area**

**Adopted November 1, 2001 Effective November 15, 2001**

**Revised Section 22.2.2 to permit property separated from other property by a Town road to be considered contiguous provided there is a minimum of 30 acres on each side of the Town road**

**Adopted November 1, 2001 Effective November 15, 2001**

**Revised Section 22.2.3 to qualify North Benson Road as a required frontage**

**Adopted November 1, 2001 Effective November 15, 2001**

**Amended Section 42.5.2 to permit a minimum of a ten (10) foot setback for parking on property zoned as LI-200 as of May 1, 2001 which is adjacent property changed from LI-200 to R-40/PRD**

**Adopted November 1, 2001 Effective November 15, 2001**

**Amended Section 54 Special Development District to provide for special regulations applicable to Special Development District No. 1**

**Adopted October 25, 2001 Effective November 15, 2001**

**Amend Section 22.4.2 Preliminary Development Plan Submission permitting a building envelope area within which a home conforming to the building standards in Section 22.9.3 shall be located**

**Adopted December 6, 2001 Effective December 27, 2001**

**Amend Section 22.3.1 Special Density by changing the formula used in determining the maximum number of units allowed**

**Adopted January 3, 2002 Effective January 19, 2002**

**Amended Article 1, Section 9 Definitions to include additional definitions to this Section. Adopted January 2, 2003 Effective January 23, 2003**

**Amended Article II Residential Districts to include new Section 27: Planned Residential Recreational Development Overlay District**

**Adopted January 2, 2003 Effective January 23, 2003**

**Amended Article V Section 52.10.12 and Article VI Section 66.3.**

**Adopted March 6, 2003 Effective March 25, 2003**

**Amended Article V Section 52.10.12 and Article VI Section 66.3**

**Adopted March 6, 2003 Effective March 25, 2003**

**Amended Article I Sections 6,7,8,and 9; Article II, Section 21; Article VI, Section 64. Adopted July 3, 2003 Effective July 30, 2003**

**Amended Article II, Section 26**

**Adopted October 2, 2003 Effective October 24, 2003**

**Amended Article II, Section 26.7.6**

**Adopted January 8, 2004 Effective February 5, 2004**

**Amended Article I, Section 8 and Article III and IV to reflect changes to Article I, Section 8 and amended Article V, Sections 51 and 52 and Article VI, Section 64, And Article VII, Section 72.6.3. Adopted March 4, 2004 Effective March 25, 2004**

**Amended Article IV, Section 42.1.8 to ad Subsection K**

**Adopted April 1, 2004 Effective April 23, 2004**

**Amended Article III, Section 31.4 to ad Subsection 31.4.6**

**Adopted May 6, 2004 Effective May 28,2004.**

**Amended Article VI, Section 64 to change the fees to ad to Subsection 64.4.7 and to 64.11**

**Adopted June 3, 2004 Effective June 21, 2004**

**Amended Article IV, Section 41 to add Subsection 41.4.4 and renumber current Sub-Section 41.4.4 to 41.4.5**

**Adopted August 5, 2004 Effective August 25, 2004**

**Amended Article V, Sections 52.10,2A and 52.10.2E(2) to provide for adult day care**  
**Adopted October 7, 2004 Effective October 28, 2004**

**Amended Article II, Sections 22.4.1 and 22.4.7 to provide for Section C "Modifications"**  
**Adopted January 6, 2005 Effective January 31, 2005**

**Amended Article II, Section Section 24 to provide for the change of age from 62 years of age to 55 years of age.**

**Adopted February 3, 2005 Effective February 28, 2005**

**Amended Article II, Section 21.2 to add Section 21.2.14 to replace current 21.2.14 and 21.2.14 to become 21.2.15.**

**Adopted March 3, 2005 Effective March 28, 2005**

**Amended Article VI , to add Section 62.3.10 and to amend Section 62.3.12 and to amend 62.4.1 and to add Section 62.4.2**

**Adopted March 3, 2005 Effective March 28, 2005**

**Amended Article II, Section 27**

**Adopted June 2 and 9, 2005, Effective June 29, 2005**

**Amended Article II, Section 27.3.2**

**Adopted July 6, 2006, Effective July 28, 2006**

**Amended Article II, Section 26 (eliminated)**

**Adopted February 1, 2007, Effective February 22, 2007**

**Amended Article Article IV, Section 42.4.2 ( eliminated )**

**Adopted October 4, 2007, Effective October 25, 2007**

**Amended Article IV, Section 42.4.5 added "Commercial Health Club Facility"**

**Adopted July 3, 2008, Effective July 25, 2008**

**Amended Article IV, Section 8 added new section "Areas adjacent to Regional Water System Interconnection"**

**Adopted July 3, 2008, Effective July 25, 2008**

**Amended Article 1, Section 9 to revise definition of "Museum"**

**Adopted October 2, 2008, Effective October 25, 2008**

**Amended Article 6, Section 66.2 revised**

**Adopted October 2, 2008, Effective October 25, 2008**

**Amended Article 3, Section 31.4.2 revised**

**Adopted November 6, 2008, Effective November 28, 2008**

**Amended Article 3 to add Section 34 "Gateway Industrial Design District"**

**Adopted February 5, 2009, Effective Feb 25, 2009**

**Amended Article 2, Section 23.2.5**

**Adopted May 7, 2009, Effective May 27, 2009**

**Amended Article 3, Section 34**

**Adopted August 5, 2010, Effective August 27, 2010**

**Amended Article 4, Section 42.4.4**

**Adopted May 5, 2011, Effective June 7, 2011**

**Amended Article 6, Section 66**

**Adopted May 5, 2011, Effective June 7, 2011**

**Amended Article 2, Section 27 (Sections 27.3.2; 27.5.1 ; 27.5.2; 27.8; and 27.4.8**

**Adopted May 5, 2011, Effective June 7, 2011**

**Amended Article 3 and Article 52 (Section 31.4.2 and Section 52.10.8)**

**Adopted October 4, 2012, Effective November 1, 2012**

**Amended Article II, Section 25 (to add Subsections 25.6; 25.6.1; 25.6.2; 25.6.3; 25.6.4; 25.6.5; 25.6.6; 25.6.7; 25.6.8; 25.6.9; 25.6.10)**

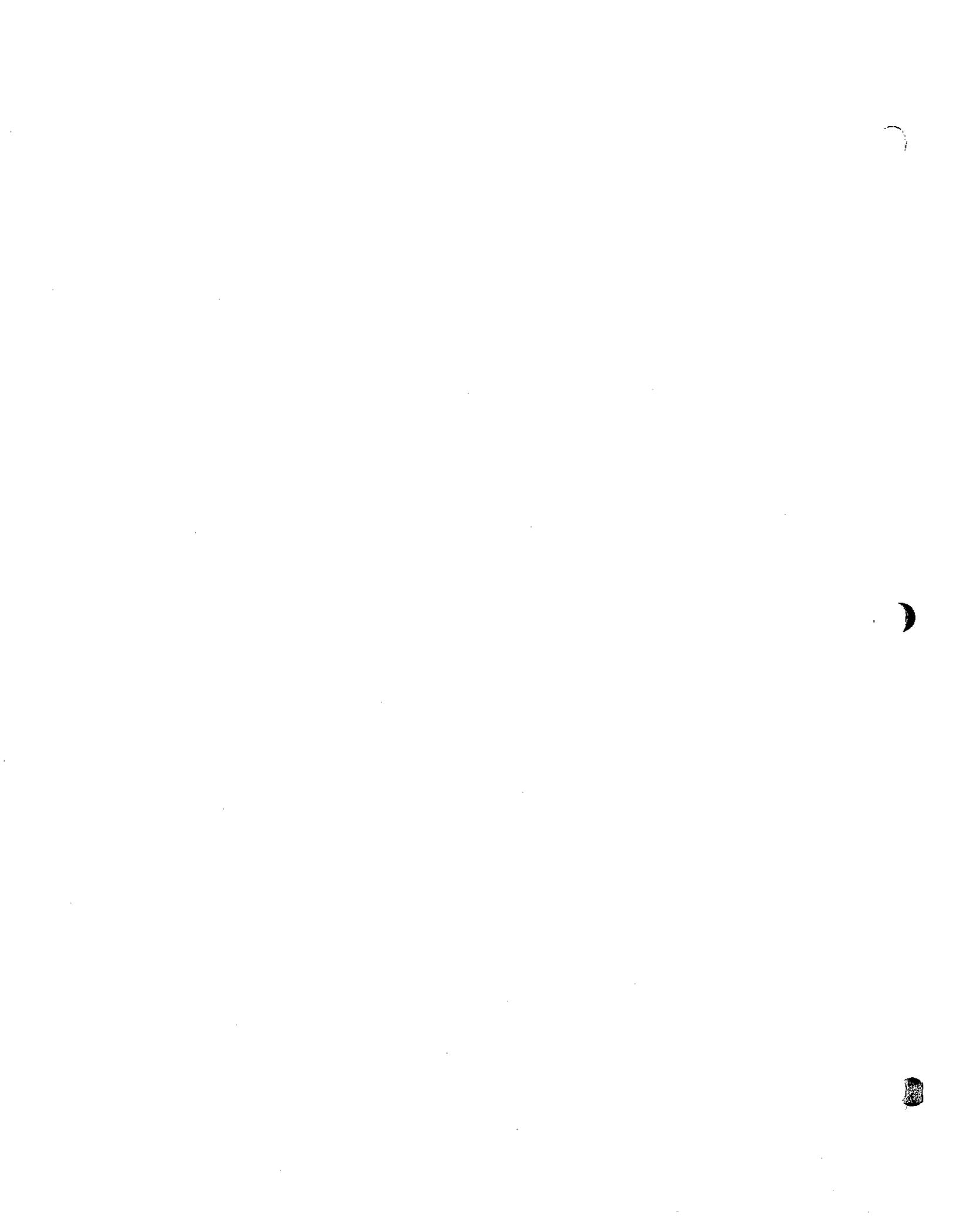
**Adopted November 7, 2012, Effective November 28, 2013**

## ZONING FEES SUBDIVISION FEES

Certificate of Zoning Compliance – Residential	\$75.00
Certificate of Zoning Compliance – Non-residential	\$250.00
Public Hearing – Other Applicable fees plus the following:	
• Initial Public Hearing	\$250.00
• Each continuance of the hearing	\$200.00
Excavation and Re-grading	\$1,000.00 plus \$1.00 per cubic yard of material
Site Plan – Residential	\$300.00 per dwelling
Site Plan – Non-residential	\$0.08 per square foot of use with a minimum of \$500.00
Petition for Zoning Amendment Change	\$750.00
Petition for Zoning Map Change	\$750.00
Subdivisions and Re-subdivisions	<ul style="list-style-type: none"> <li>• \$400.00 per lot with a minimum payment of \$800.00; plus</li> <li>• \$1.00 per linear foot of new road proposed within the sub-division</li> </ul>

If the Planning and Zoning Commission finds at the time of acceptance of application, that the application is of a significant magnitude that it would require substantial professional review, the Commission may establish an initial payment to cover the costs of expert review. This cost shall be paid at time of application by the applicant. If the costs of review exceed this initial amount, the applicant shall be required to pay additional costs. If the costs of review are less than the initial payment, the remainder shall be returned to the applicant.

Adopted at Special Meeting of July 3, 2008  
Effective July 14, 2008



**ARTICLE I**  
**GENERAL PROVISIONS**



## SECTION 1 - PURPOSE

### 1.1 Statement of Intent and Purpose:

The purpose of these Zoning Regulations is to guide the growth and development of the Town of Middlebury so as to promote beneficial and convenient relationships among residential, commercial, industrial and public areas within the Town, considering the suitability of each area for such uses, as indicated by existing conditions, trends in population and mode of living; and future needs for various types of developments, and to achieve the purposes more particularly described as follows:

- 1.1.1 to provide adequate light, air and privacy;
- 1.1.2 to prevent the overcrowding of land and undue concentration of population;
- 1.1.3 to provide for the beneficial circulation of traffic throughout the Town, having particular regard to the avoidance or lessening of congestion in the streets;
- 1.1.4 to secure safety from fire, panic, flood and other dangers;
- 1.1.5 to protect and conserve the existing or planned character of all parts of the Town, and thereby aid in maintaining their stability and value, and to encourage the orderly development of all parts of the Town;
- 1.1.6 to provide a guide for public policy and action which will facilitate economical provisions of public facilities and services, and for private enterprise in building development, investment and other economical activity relating to uses of land and buildings throughout the Town;
- 1.1.7 to minimize conflicts among uses of land and buildings and to bring about the gradual conformity of uses of land and buildings throughout the Town with the comprehensive plan herein set forth;
- 1.1.8 to create an optimum environment for living;

## SECTION 2 – JURISDICTION

### 2.1 Jurisdiction:

Within the Town of Middlebury, no land, building or other structure shall be used and no building or other structure shall be constructed, reconstructed, enlarged, extended, moved or structurally altered except in conformity with these Regulations. No lot or land shall be subdivided, conveyed or encumbered so as (1) to make said lot or land nonconforming or more nonconforming to these Regulations, (2) to make any use, building or other structure nonconforming or more nonconforming, (3) to reduce any setback, yard, open space or off-street parking and loading spaces to less than is required by these Regulations or (4) to make any nonconforming setback, yard, open space or off-street parking and loading spaces more nonconforming.

### 2.2 Nonconformity:

Any building or other structure or any lot which existed lawfully, by variance or otherwise, on the date these Regulations or any amendment hereto became effective, and fails to conform to one or more of the provisions of these Regulations or such amendment hereto, may be continued subject to the provisions and limitations of Section 10.

## SECTION 3 – CERTIFICATE OF ZONING COMPLIANCE

### 3.1 Certificate:

No building or other structure, or part thereof, shall be constructed, reconstructed, enlarged, extended, moved or structurally altered until an APPLICATION FOR CERTIFICATE OF ZONING COMPLIANCE has been approved by the Zoning Enforcement Officer. No land, building or other structure, or part thereof, shall be used or occupied, or changed in use, until an APPLICATION FOR CERTIFICATE OF ZONING COMPLIANCE therefor has been approved by the Zoning Enforcement Officer and until a CERTIFICATE OF ZONING COMPLIANCE therefor has been issued by the Zoning Enforcement Officer certifying conformity with these Regulations. No APPLICATION or CERTIFICATE, however, is required for a farm, forestry, truck garden or nursery use having no building or other structure in connection with such use. ALL APPLICATIONS FOR CERTIFICATE OF ZONING COMPLIANCE shall be submitted and approved in accordance with the provisions of Section 72; all CERTIFICATES OF ZONING COMPLIANCE shall be issued in accordance with such Section.

### 3.2 Conflict with Amendments:

No APPLICATION FOR CERTIFICATE OF ZONING COMPLIANCE shall be approved by the Zoning Enforcement Officer authorizing a proposed use of land, building or other structure or proposed construction, reconstruction, enlargement, extension, moving or structural alteration of a building or other structure which does not conform to any proposed amendment of these Regulations if the first notice of a public hearing to consider such amendment has been published in a newspaper as required by the General Statutes of the State of Connecticut. If, however, the proposed amendment has not been adopted by the Commission and made effective within 65 days from the date of such public hearing, the APPLICATION FOR CERTIFICATE OF ZONING COMPLIANCE may be approved by the Zoning Enforcement Officer.

## SECTION 4 – DISTRICTS

### 4.1 Districts:

For the purpose of these Regulations, the Town of Middlebury is hereby divided into the following classes of Districts:

<u>District</u>	<u>Map Code</u>
4.1.1 Residential District 40	R-40
4.1.2 Residential District 80	R-80
4.1.3 Residential District 120	R-120
4.1.4 Planned Residential Development Overlay District	P.R.D.
4.1.5 Planned Residential Development for Elderly Persons	
4.1.6 Senior Residential District	S.R.D.
4.1.7 Lake Quassapaug Preservation District	L.Q.P.D.
4.1.8 Assisted Senior Residential District	A.S.R.D.
4.1.9 Commercial District A-40	CA-40
4.1.10 Professional Office District 40	PO-40
4.1.11 Commercial Recreation District	C.R.D.
4.1.12 Light Industrial District 80	LI-80
4.1.13 Light Industrial District 200	LI-200

### 4.2 Special Districts:

The following are additional classes of districts established in accordance with ARTICLE V:

4.2.1 Flood Plain District	F.P.D.
4.2.2 Special Development District	S.D.D.

## SECTION 5 - ZONING MAP

### 5.1 Map:

The boundaries of the districts specified in Section 4 are hereby established as shown on a map entitled "Zoning Map, Middlebury, Connecticut" - dated May 29, 1975, including any special maps and boundary descriptions supplementary thereto and any amendments thereof, which map is hereby declared to be a part of these Regulations and is herein referred to as "Zoning Map".

### 5.2 Interpretation of Map:

Zone limits parallel to all roads shall be measured from the property line if discernible, if not, property lines shall be deemed 25 feet from the centerline of the travelway, except as otherwise noted. In the case of Route 64, the CB-40 zone in the vicinity of Four Corners, the zone boundary shall be measured from the centerline of pavement.

Where a question arises as to exact boundaries of a district shown on the Zoning Map, the Commission shall by resolution determine the location of the boundary, giving due consideration, among other factors, to the indicated location of the boundary property lines and the expressed intent and purposes of these Regulations.

### 5.3 Extension of Use:

Where the boundary of a district divides a lot, the existence of which lot is evidenced by deed or deeds recorded in the land records of the Town of Middlebury on the effective date of these Regulations establishing such boundary, the Zoning Commission, in accordance with the provisions of Section 52, may grant a Special Exception authorizing a use of land, buildings and other structures permitted in one district to be extended into the other district for a distance of not more than 30 feet.

## SECTION 6 – PERMITTED USES

### 6.1 Uses:

Land, buildings and other structures in any district may be used for one or more of the uses listed as permitted in the district under ARTICLES II, III, IV. Uses listed as SPECIAL EXCEPTION uses are permitted in the district subject to the approval of the Commission in accordance with the provisions of Section 52 or 53 as specified. Any use not specified as permitted in the district is prohibited. The following uses are specifically prohibited in all districts:

- 6.1.1 The use, occupancy, parking or storage of a trailer on any lot except in accordance with the provisions of Section 65.
- 6.1.2 The outdoor storage on any lot in a Residence District of more than one (1) unregistered and/or inoperable motor vehicle.
- 6.1.3 Carousel, roller coaster, whirligig, merry-go-round, ferris wheel or similar amusement device, unless sponsored by a local charitable or benevolent organization and located in a Business or Industrial District, or on a School Playground, or on a Church Yard. The provisions of this subsection shall not apply to a Commercial Recreation District.
- 6.1.4 The use or occupancy of a lot as a trucking terminal, except for the transportation of goods manufactured or assembled on the premises.
- 6.1.5 The Use of Occupancy of a Lot for a Nightclub. No existing Nightclub shall be enlarged, extended or altered.
- 6.1.6 Commercial car wash facilities
- 6.1.7 Retail storage units
- 6.1.8 Unlicensed junk yards as defined by State Statute as amended.

### 6.2 Performance Standards:

The use of land, buildings and other structures, wherever located, shall be established and conducted so as to conform to the performance standards specified in Section 61.

### 6.3 Parking and Loading:

As specified in Section 62, parking and loading spaces shall be provided off the street in connection with all uses of land, buildings and other structures. In addition, all off-street parking and loading spaces shall conform to the requirements of Section 62.

## SECTION 7 - AREA, LOCATION AND BULK STANDARDS

### 7.1 General:

The following regulations shall apply to the area, shape and frontage of lots and the location and bulk of buildings and other structures in each district under ARTICLES II, III, and IV.

### 7.2 Lot Area, Shape and Frontage:

Each lot shall have at least the minimum area as specified in the district. Each lot to be used for a dwelling shall have at least the minimum area as specified in the district, and each lot to be used for a dwelling containing more than one (1) dwelling unit shall have at least the minimum additional area for each dwelling unit in the dwelling in excess of one (1) specified in the district. Each lot shall be of such shape that a square with the minimum dimension specified in the district will fit on the lot and, in Residence Districts, shall also have the minimum width along the building line specified in the district. Each lot shall have the minimum frontage on a street specified in the district.

In determining compliance with minimum lot area and shape requirements of these Regulations, land subject to easements for drainage facilities and underground public utilities and easements to the Town of Middlebury for passive and active recreation to include but not limited to walking, bicycling, running, sledding and skiing and to exclude equestrian and motorized vehicle use, may be included; but no street or highway, easement of vehicular access, private right-of-way for vehicles or easement for above ground public utility transmission lines may be included. Area consisting of ponds, lakes, swamps or marsh shall not be used for compliance with more than 25% of the minimum lot area requirement. Land in two or more Zoning Districts may be used to satisfy a minimum lot area requirement, provided that the requirement of the District requiring the largest lot areas is met, but no land in a Residence District shall be used to satisfy a lot area requirement in any other District.

### 7.3 Height:

No building or other structure shall exceed the number of stories and/or the maximum height, whichever is less, as specified in the district. This limitation, however, shall not apply to the following: ornamental cupolas, belfries, chimneys, flag or radio poles, silos, bulkheads, water tanks and towers, hose towers or scenery lofts or towers, churches, or Town buildings and structures, nor to tanks and elevator, heating, ventilating, air conditioning or similar equipment located on the roof of a building and not occupying more than 25% of the area of the roof.

#### 7.4 Setbacks:

No building or other structure shall extend within less than the minimum set back distances of any street line, rear property line, other property line or Resident District boundary line as specified in the district, subject to the following exceptions and additional limitations:

##### 7.4.1 Signs:

Certain permitted signs, as specified in Section 63, may extend within lesser distances of a property or street line.

##### 7.4.2 Projections:

Pilasters, belt courses, sills, cornices, marquees, canopies, awnings, eaves, and similar architectural features not permanently affixed to the ground and open fire escapes may project into the area required for setback from a street line, property line or Residence District boundary line for the distance specified in the district. *No* projection will be permitted that interferes with site lines.

##### 7.4.3 Fences, Walls Paved Surfaces and Terraces:

The required setback distances shall not apply paved surfaces, to fences or walls six (6) feet or less in height nor to necessary retaining walls or to unroofed terraces, but no fence, wall or terrace shall be located within the right-of-way of any street.

##### 7.4.4 Accessory Building in Residence Districts:

Detached accessory buildings not more than twelve (12) feet in height and not used for human habitation or for the housing of animals and private swimming pools may be located in the required rear yard, not less than fifteen (15) feet from any side or rear lot line, provided that they occupy in the aggregate not more than twenty (20) percent of the required rear yard.

#### 7.5 Building Bulk and Coverage:

The total floor area of all buildings and other structures on any lot, excluding basements, shall not exceed the percentage of lot area as specified in the district, and the aggregate ground coverage of all buildings and other structures, including cantilevers, on any lot shall not exceed the percentage of lot area as specified in the district.

## SECTION 8 - ADDITIONAL STANDARDS

### 8.1 General:

The requirements hereinafter specified are supplementary to and in addition to standards set forth elsewhere in these Regulations.

### 8.2 Plans:

Site plans and architectural plans, when required to be submitted under these Regulations in connection with an APPLICATION FOR CERTIFICATE OF ZONING COMPLIANCE, shall conform to the following standards:

#### 8.2.1 Site Plan:

A site plan drawn to scale of not less than 1" = 50', showing the dimensions and acreage of each lot or tract to be built upon or otherwise used; water courses and wetlands; the size, shape and location of existing and proposed buildings and other structures; historic features and major trees; building coverage data; the location and layout of parking areas, all parking spaces, curb cuts, driveways and sight distances; outside loading zones and storage areas; existing and proposed grades and drainage; erosion control plans; proposed sewer (or other waste disposal system) and water facilities and connections; a landscaping plan showing locations of proposed plantings and screenings and natural areas to be left undisturbed; proposed location of outdoor illumination, fences, signs, and advertising features; a soil map, soil symbols and written interpretation of same showing soil conditions on the lot or tract; and a key map showing the entire project, and its relationship to surrounding properties and the existing buildings thereon; four (4) copies shall be submitted.

#### 8.2.2 Architectural Plans:

Preliminary architectural plans and rendering showing, as a minimum, the first floor plan and/or other outside access plan and all elevations, with indication of proposed material and color of all proposed principal buildings and structures and all accessory buildings and structures; four (4) copies shall be submitted.

#### 8.2.3 Other:

The Commission may also request the submission of such additional information as the Commission may deem necessary in order to decide on the application or may waive submission of any of the foregoing data.

### 8.3 Accessory Uses:

Accessory uses shall not include uses which are otherwise not permitted or specifically prohibited in the District. In Residence Districts, accessory uses shall also conform to the following additional standards and conditions:

- 8.3.1 The accessory use shall be located on the same lot with the use to which it is accessory.
- 8.3.2 Accessory uses may include off-street parking spaces and provide garages, but, except in connection with a farm or a SPECIAL EXCEPTION use, there shall be no more than one (1) commercial vehicle parked on any lot or street and such vehicle shall not exceed 1 ½ tons capacity.
- 8.3.3 No part of a lot located in any of the Residence Districts shall be used for access to a use not permitted in such District.

### 8.4 Professional Office in a Dwelling Unit:

A professional office in a dwelling unit located in a Residence District is an additional use for which a CERTIFICATE OF ZONING COMPLIANCE is required. Such office shall be used only for the office of persons engaged in a recognized profession, such as physicians, dentists, lawyers, engineers, architects, land surveyors, teachers and clergymen, who through training and experience are qualified to perform services of a professional as distinguished from a business nature. The person conducting the office shall reside in the dwelling unit, and there shall be no more than two (2) non-resident persons employed in connection with such office. The floor area used for the office shall not exceed one third of the floor area of the dwelling unit.

### 8.5 Home Occupation in a Dwelling Unit:

- 8.5.1 A permit shall be required and be issued for a home occupation as an accessory use to a residence as provided in Section 21. The following criteria shall be met, in addition to the other applicable criteria and standards set forth in these Regulations.
  - A. Such accessory uses shall be restricted to the residential owner, except as otherwise provided in these Regulations.
  - B. Adequate off-street parking shall be provided on the premises consistent with the standards established for the relevant type of use under Section 62 of these Regulations.

C. The Commission may condition the issuance of a permit under this section on the provision of reasonable screening, time limits, hours of use, and other factors related to the operation of such use.

8.5.2 The following standards shall be applied to all home occupations permitted under Section 21 of these Regulations.

- A. The use must be clearly incidental and secondary to the use of the building as the principal residence of the owner in fee thereof.
- B. Only one home occupation is permitted per dwelling unit.
- C. The use must not change the residential character of the dwelling in any visible manner.
- D. The use must not create objectionable noise, odor, vibrations, or unsightly conditions noticeable off the premises.
- E. The use must not create interference with radio and television reception in the vicinity.
- F. The use must not create a health or safety hazard.
- G. No more than one (1) non-resident may be employed.
- H. No external alterations or construction features not customarily found in a home may be made to the dwelling.
- I. No more than one (1) commercial-type vehicle, not to exceed 11,000 pounds gross vehicle weight (GVW), may be parked on the site.
- J. Except for fruits, vegetables, and other produce grown on the premises, no merchandise may be displayed so as to be visible from the street.
- K. Only those articles that are made, raised, or grown on the premises may be sold.
- L. The home occupation must be confined to the first floor of the dwelling unit and must not occupy more than twenty percent (20%) of the floor area of the first floor or five hundred (500) square feet, whichever is less (for purposes of this subsection, no addition made to the floor area within the two years prior to the Commission's receipt of an application for a home occupation permit shall be considered in the calculation of the floor area to be allowed for the home occupation).

8.5.2 (continued)

M. All parking shall be appropriately screened from all abutting residential properties.

N. Lawfully commenced home occupations shall not be permitted to become more intensive than these Regulations would otherwise allow, and any change to a home occupation that results in such a level of intensity shall be deemed to be a change in character of the use.

8.5.3 Any permit issued by the Commission for a home occupation under these Regulations shall be limited to the specific use described in the application and shall be contingent upon continuous satisfaction of the standards and criteria set forth in this Section 8 and all other relevant provisions of these Regulations. The permit shall expire and become null and void upon any substantial or material change in the nature of the permitted use or upon the failure of the permittee to comply with any applicable provision of these Regulations. Each permit shall be valid for a period of two (2) years or for such lesser period fixed by the Commission. Upon application, the Commission may extend the time period for periods of not more than one (1) year, provided that there exists no violation of the terms of the original permit.

#### 8.6 Renting of Rooms:

When a portion of a dwelling unit is rented or leased, the renting of rooms in the dwelling unit is an additional use for which a **CERTIFICATE OF ZONING COMPLIANCE** is required. The person renting the rooms shall reside in the dwelling unit. This section shall not apply to the renting or leasing of an entire dwelling unit.

#### 8.7 Farms:

Farms, including truck gardens, nurseries, greenhouses, forestry and the keeping of livestock, shall conform to the following additional standards and conditions:

8.7.1 Farms shall not include commercial piggeries, and there shall be no commercial slaughtering, fertilizer manufacturing or any commercial reduction of animal matter.

8.7.2 No livestock shall be kept on a lot less than five (5) acres and any building in which livestock or poultry are kept shall not extend within less than one hundred (100) feet of any property or street line, except as follows:

- A. The term "livestock" as used above shall not include domestic animals, sheep, goats or other animals being raised as part of a 4-H project, and the term "lot" as used in subparagraph (b) below may include leased land adjacent to or directly across the street from a lot owned; and
- B. horses or ponies may be kept on a lot less than five (5) acres, provided the lot contains an area not less than 40,000 square feet owned and/or leased for each such horse or pony and any building in which such horses or ponies are kept shall not extend within less than fifty (50) feet of any property or street line and, in the case of new buildings hereafter constructed, shall not extend within less than one hundred (100) feet from an existing dwelling on another lot, and
- C. an aggregate of not more than twenty (20) chickens or other poultry may be kept on any lot less than five (5) acres if kept in a building or enclosure conforming to the set back requirements for buildings and other structures; and
- D. provided that none of the foregoing uses on lots less than five (5) acres shall create offensive odors, noise or unsightly appearance noticeable off the owned and/or leased premises.

8.7.3 No commercial greenhouse shall extend within less than 150 feet of any property or street line.

**8.8 Minimum Access:**

Lots which lack the width measurement of the street line may be approved if the lots conform to the area requirement for that particular zone. Each interior lot must have a frontage effective for access purposes of not less than fifty (50) feet on a public street or on a street approved as part of a subdivision plan and maintain this minimum fifty (50) foot width from the street to the interior lot line. The area of the access strip shall not be included in determining the area of the interior lot. A separate access strip is required for each lot. Each access strip must be owned in fee simple by the owner of the lot. No more than one (1) single family dwelling is permitted per lot. Each lot shall be capable of accommodating automobile access from such street to a parking space or spaces on the lot by means of a driveway. Proof of capable access requires the necessary permits from any Commissions or Departments to include but not limited to the Middlebury Conservation Commission and the Board of Selectmen (for access to Town roads.)

**8.9 Corner Visibility:**

No wall, fence, shrubbery, or trees shall be erected, maintained, or planted on any lot which unreasonably or dangerously obstructs or interferes with visibility of drivers of vehicles on a curve or at any street intersection. Any fence, wall or plantings which so obstructs such line of sight shall not be considered a nonconformity authorized to continue under the provisions of Section 10, titled Nonconformity.

**8.10 Construction on Unaccepted Streets or Highways:**

No CERTIFICATE OF ZONING COMPLIANCE shall be issued for the erection of a Building, other than an accessory building, located on a lot abutting an unaccepted street or highway unless, (a) plans for a street to be accepted by the Town upon completion have been approved by the Commission and by the Board of Selectmen, (b) a bond complying with Subsection 8.1 of the Subdivision Regulations for completion of said street has been posted in an amount which in judgement of the Commission is sufficient to insure completion of the street in conformity with the plans and specifications and which meets Town standards and (c) the Board of Selectmen have by official vote determined that construction of buildings on said unaccepted street may proceed prior to completion and acceptance of the street without detriment to the Town. The Zoning Enforcement Officer may issue a Stop Work Order on any such building in accordance with Section 72 if at any time he/she determines that the completion of the street or highway in accordance with Town standards is not likely.

**8.11 Outside Lighting:**

Outside lighting in all districts shall be directed so that the source of illumination is not visible beyond the property or street line. In residential districts no light shall be transmitted outside of the lot where it originates so as to endanger the public health or safety on any street or highway nor to impair the value or reasonable use of any lot.

**8.12 Performance Standards:**

In addition to the requirements of Section 61, all use of land, buildings and other structures in Industrial Districts shall conform to the following standards:

8.12.1 No offensive odors, noxious fumes or gases shall be emitted into the air from any lot.

8.12.2 No noise from manufacturing, processing or assembly of goods or material shall be transmitted to a residential district or PO-40 District outside the lot where it originates; but noise up to 60 decibels may be transmitted within the Industrial District.

**8.13 Areas adjacent to Regional Water System Interconnection**

Only previously developed parcels and those developed through a simple division in accordance with R-40 and R-80 zoning districts will be eligible to receive public water service in areas where the extension of public water service is not compatible with the State of Connecticut Conservation and Development Policies Plan . (Conservation areas, Preservation areas, Existing preserved open spaces and Rural Lands). This restriction applies to properties located along the regions water supply interconnection (water main) installed in Route 188 ( Whittemore Road) and Tucker Hill Road between their respective intersection with Bronson Drive and Chase Road.

## SECTION 9 - DEFINITIONS

### 9.1 Definitions:

The paragraphs which follow define and explain certain words used in these Regulations. Other words used in these Regulations shall have the meaning commonly attributed to them. Words in the present tense include the future, the singular number includes the plural and vice-versa. The word "person" includes a partnership, corporation or other entity. The words "shall" and "must" are mandatory and not merely directory, and the word "may" is permissive.

The word "lot" includes the word "plot". The word "building" includes the word "structure". Where a question arises as to the precise meaning of a word, the Commission shall by resolution determine the meaning of the word, giving due consideration to the expressed purpose and intent of these Regulations.

Whenever any statute, regulation or ordinance is referred to by these Regulations, the reference shall be deemed to be to the most recently amended version, and if the statute, regulation or ordinance has been renumbered or otherwise recodified after the effective date of these Regulations, the reference shall be deemed to be to the most recently amended version as so renumbered or recodified.

Accessory Apartment: A separate self-contained living unit and within and subordinate to any existing single family residence

Accessory Use: A use of land, or of all or a portion of a building or structure, that is both (1) located on the same lot as the principal use or on an adjoining lot under the same ownership, and (2) subordinate or incidental to the principal use of the land, building or structure.

Accessory Building or Structure: A building or structure that is both (1) located on the same lot as the principal building and (2) used in a manner subordinate or incidental to the use of the existing principal building or structure. The main dairy, livestock, poultry, nursery or other barn on a farm shall not be deemed to be an accessory building or structure.

Age Restricted Housing : Housing designed to meet the needs and requirements of an active adult community, where at least one adult occupant of each dwelling is 55 years or older and there is no permanent resident under the age of 18 years of age.

Assisted Living Facility: A managed residential community consisting of private residential units and providing assistance with activities of daily life such as meal service, laundry service, housekeeping, social and recreational activities, transportation and personal services in a group setting to persons who require help or aid with activities of daily living.

Base Flood means the flood having a one percent chance of being equaled or exceeded in any given year.

Base Flood Elevation means the elevation of the base flood as recorded on the Flood Insurance Rate Map and accompanying stream profile data.

Basement: A portion of a building partially or completely below finished grade, and having at least six (6) feet of its wall height below grade plane for at least one half (1/2) of its perimeter ( see "story above grade"). For the purposes of the National Flood Insurance Program only, a basement means that portion of a building having its floor subgrade (below ground level) on all sides.

Boarding House: A building arranged or used for lodging for compensation, with or without meals, and not occupied as a single family unit.

Building: Any structure having a roof supported by columns or walls and intended for shelter, housing or enclosure of persons, animals or chattel. The word "building" shall also refer to any modification, addition or alteration to an existing building.

Building Coverage: The percentage of the total area of the lot covered by ground floor area of all buildings thereon, both principal and accessory as measured by the exterior dimensions of each building, including cantilever areas.

Building Height: The vertical distance from the grade plane to the highest point of mansard, curvilinear, A frame, or flat roofs and parapets, or to the mean level between the eaves and ridges of gable, hip or gambrel roofs. The grade plane is a reference plane representing the average of finished ground level adjoining the building at all exterior walls. When the finished ground level slopes away from the exterior walls, the reference plane shall be established by the lowest points within the area between the building and the lot line or, when the lot line is more than 6 feet from the building, between the building and a point 6 feet from the building.

Cantilever: Any part of a structure projecting horizontally more than three (3) feet from the structure and entered at one end only.

Catering Establishments: Any premises which has an adequate , suitable and sanitary kitchen , dining room , and facilities to provide hot meals , which does not have sleeping accommodations for the public and which is owned or operated by any person, firm, association , partnership or corporation that regularly furnishes or hires on such premises , one or more ballrooms , reception rooms , dining rooms , banquet halls or imilar places or assemblages for a particular function, occasion, or event or that furnishes provisions and services for consumption or uses at such functions, occasion or event and which employs an adequate number of employees on such premises at the time of any such function, occasion or event.

Certification: For the purpose of soil erosion and sediment control, certification means a signed, written approval by the Commission or its designated agent, that a soil erosion and sediment control plan complies with the applicable requirements of this regulation.

Child Care Facility: A child care facility which accommodates six (6) or fewer children of any age is one classified and required to meet the Group R-3 of the Building Code as amended. During the regular school year a maximum of three (3) additional children who are in school full time, including the provider's own children, shall be permitted except that if the provider has more than three (3) children who are in school full time, all of the provider's children shall be permitted. A facility which accommodates more than six (6) children two and one half (2 ½) years or less for any length of time shall be considered institutional.

Conversion : The change of a dwelling so as to provide for year-round use of a previously part-year use.

Club: An organization catering exclusively to members and their guests, provided that the primary purpose of the club is not financial gain and that commercial activities conducted by the club are incidental to its purposes.

Commission: The Planning and Zoning Commission of the Town of Middlebury.

Congregate Living Facility: A managed residential community consisting of private residential units and providing meal service, laundry service, housekeeping, social and recreational activities, transportation and personal services in a group setting to persons primarily fifty-five (55) years and older.

Convalescent Home: Any establishment, other than a hospital, where three or more persons suffering from or afflicted with, or convalescing from, any infirmity, disease or ailment, are kept, boarded or housed for remuneration.

Day Care: A facility providing care for five (5) or fewer individuals during daytime hours and one that has received the appropriate zoning, building, sanitation, and State permits as regulations require, as amended.

Development: Any man-made change to improved or unimproved real estate, or to buildings or other structures. The term includes, but is not limited to, construction, mining, dredging, filling, grading, paving, excavation, drilling operations, and permanent storage of materials.

Disturbed Area means an area where the ground cover is destroyed or removed leaving the land subject to accelerated erosion.

Dwelling: A single unit providing complete, independent living, sleeping, eating, cooking and sanitation. These facilities must be contiguous and have separate egress. The term

"dwelling" shall not be deemed to include hotel, motel, inn, boarding or rooming house, convalescent or nursing home, mobile home trailer, tent or tourist home, except as these Regulations may otherwise specifically provide. An apartment is a dwelling on the same lot as the primary residence. If the apartment is part of the primary dwelling structure, it must have the specified wall separation and other requirements of the Building Code.

Dwelling, Multiple: A dwelling or group of dwellings on one lot containing dwelling units for three (3) or more families and having separate or joint entrances, services and facilities.

Equestrian Complex: Areas of land and buildings laid out to feature horseback riding as a private and/or public facility. Area can be designated as paddock areas, pasture land, training grounds, competition grounds and/or bridal trails.

Erosion means the detachment and movement of soil or rock fragments by water, wind, ice and gravity.

Flood Hazard Boundary Map (FHBM) means an official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of the areas of special flood hazard have been defined as A zones.

Flood Insurance Rate Map (FIRM) means an official map of a community on which the Federal Emergency Management Agency has delineated both the areas of special flood hazard and the applicable risk premium zone.

Flood Insurance Study is the official report by the Federal Emergency Management Agency. The report contains flood profiles as well as the Flood Boundary Floodway Map and the water surface elevation of the base flood.

Floodway means the high risk channel area of a watercourse and adjacent land area that must be reserved to discharge the base flood without increasing water surface elevations more than one foot.

Floor: For the purposes of the National Flood Insurance Program only, floor means the top surface of an enclosed area in a building (including basement) i.e., top of slab in concrete slab construction or top of wood flooring in wood frame construction. The term does not include the floor of a garage used solely for parking of vehicles.

Floor Area The floor area for a dwelling unit shall be measured by the outside dimensions of the walls enclosing the dwelling unit, but it shall not include entries or breezeways, heater rooms or any common areas serving several dwelling units. Party walls serving two (2) dwelling units shall be equally divided between the dwelling units for the purpose of determining the floor area. Only that portion of the floor area which is finished for living purposes shall be counted in meeting the above requirements.

Garage, Private: An accessory building or a portion of a primary building providing for the storage of motor vehicles belonging to the occupants of the premises. This accessory building shall not have provision for repairing nor servicing vehicles for profit.

Garage, Public: A building other than a private garage or carport, used for maintaining, repairing, selling, servicing and storage of motor vehicles.

Golf Course: Areas of land laid out for golf with a series of 9 (nine) or 18 (eighteen) holes, each including tee, fairway, practice greens, driving ranges, and putting greens and often one or more natural or artificial hazards.

Grade - The mean of the highest and lowest finished grade at the base or foundation of the structure.

Grade Plane: A reference plane representing the average of the finished ground level adjoining the building at all exterior walls.

Grading means any excavating, filling (including hydraulic fill) or stockpiling of earth materials or any combination thereof, including the land in its excavated or filled condition.

Home Occupation: Any use that meets the criteria set forth in Section 8 of these Regulations and that is customarily carried on entirely within a dwelling by the residents thereof.

Hotel, Inn, Motel or Motor Court: A building or group of buildings used primarily as a temporary rooming place and having sleeping rooms in which lodging is provided for compensation with or without meals.

Inspection: For the purposes of soil erosion and sediment control, inspection means the periodic review of sediment and erosion control measures shown on the certified plan.

Junkyard: A lot, land or structure, or part thereof, used primarily for the collecting, storage and/or sale of waste paper, rags, scrap metal or discarded materials, and/or for the collecting, dismantling, storage and salvaging of machinery or vehicles not in running condition, or discarded solid materials including garbage, scrap metal, junk and refuse materials including inert matter and landscape refuse. This definition may be refined to comply with the definition of "junk yard" as defined by State Statute as amended.

**Kennel:** The term "kennel" shall have the same meaning as defined in the General Statutes of the state of Connecticut and shall include "commercial kennel" as defined in such Statutes.

**Lot Area:** The actual area, in square feet, enclosed by the boundaries of a lot.

**Lot assessor:** A lot is a parcel or plot of land which is taxed as a single unit of land by the Tax Assessor of the Town of Middlebury

**Lot, building:** is a lot shown on a subdivision map approved by the Planning and Zoning Commission and filed in the office of the Middlebury Town Clerk, or a lot that is capable of meeting all of the relevant Municipal and State requirements for a building permitted in the zoning district where is currently located

**Lot, Corner:** A lot located at the intersection of and abutting two or more streets. See "Lot Line, Front".

**Lot Line:** The established division line between lots, or between a lot and a street or other proposed or dedicated public right-of-way.

**Lot Line, Front:** The line separating the lot from the street right-of-way. In the case of a corner lot, the lot line front shall be considered the lot line which is the front entrance for the purposes of establishing setbacks.

**Lot, Rear:** A lot not having the required lot frontage but having lawful access, as provided by these Regulations.

**Lowest Floor** means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building's lowest floor.

**Manufactured Home** means a structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term also includes park trailers, travel trailers and similar transportable structures placed on a site for 180 consecutive days or longer and intended to be improved property.

**Manufactured Home Park or Subdivision** means a parcel, or contiguous parcels, of land divided into two or more manufactured home lots for rent or sale.

Mean Sea Level means, for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map is referenced.

Motel: See "Hotel".

Museum:

A building which houses, for preservation and display to the public ( by paid or free admission) artistic, historical or scientific objects which have permanent value and which is used for accessory uses common to and complimentary to museum such uses such as: maintaining dining facilities where food and beverages may be served to museum visitors only, holding catered events at which food and alcoholic beverages may be served, fundraisers, seminars and outdoor events, which outdoor events shall be subject to obtaining an individual certificate of zoning compliance submitted thirty (30) days in advance of the scheduled date of such outdoor events.

National Geodetic Vertical Datum (NGVD) as corrected in 1929 is a vertical control used as a reference for establishing varying elevations in the flood plain.

New Construction: For the purpose of the National Flood Insurance Program only, new construction means structures for which the start of construction commenced on or after the effective date of Section 53 – Flood Plain District of these Regulations.

Nightclub: Any business establishment serving food or drink (or permitting any consumption thereof on the premises) which provides live or recorded music for dancing or other entertainment of customers; but not including business establishments that provide recorded background music at low decibel levels to create a pleasant atmosphere.

Open Space: For the purposes of Section 27 , "Open Space" shall mean all land not used for the construction of dwellings, supporting facilities, parking, vehicular circulation, or private yards.

Outside Storage: The outside storage or display of merchandise supplies, machinery, equipment, two or more unregistered vehicles (provided they do not constitute a junk yard), defined hereinbefore, and other material and/or the outside manufacturing, processing or assembly of goods, but excluding areas for parking of registered motor vehicles in daily use.

Pool, private: Any structure that contains water over twenty-four (24) inches (610mm) in depth and which is used solely for swimming or recreational bathing and which is available only to the family and guests of the owner of record. These pools include in-ground, above-ground, and on-ground swimming pools, hot-tubs, and spas.

Private Street: A street that is maintained by private parties and not maintained by the Town nor State but is built to the standards of a public street.

Professional Office: The office of recognized professions, such as doctors, lawyers, dentists, architects, engineers, artists, musicians, designers, teachers and others, who, through training or experience, are qualified to perform services of a professional as distinguished from a business nature.

Sediment: A solid material, either mineral or organic, that is in suspension, is transported or has been moved from its site of origin by erosion.

Setback: The shortest distance between a structure and a street line or lot line.

Sign: Sign shall include every sign, billboard, illustration, insignia, lettering, picture, display, banner, pennant, flag or other device, however made, displayed, painted, supported or attached, intended for use for the purpose of advertisement, identification, publicity or notice, when visible from any street or from any lot other than the lot on which the sign is located and either (1) located out-of-doors or (2) located indoors and intended to be viewed from outside the building. The term "sign", however, shall not include any flag, pennant or insignia of any governmental unit, or any traffic or directional sign located within the right-of-way of a street when authorized by the Town of Middlebury or State of Connecticut.

Soil: means any unconsolidated mineral and organic material of any origin.

Soil Erosion and Sediment Control Plan: means a scheme that minimizes soil erosion and sedimentation resulting from development and includes, but is not limited to, a map and narrative.

Start of Construction: For the purposes of the National Flood Insurance Program only, start of construction includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, or improvement was within 180 days of the permit date. The actual start means the first placement of permanent construction of a structure (including a manufactured home) on a site, such as the pouring of slabs or footings, installation of piles, construction of columns, or any work beyond the stage of excavation or placement of a manufactured home on a

foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include the excavation for a basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure.

**Story:** That portion of a building included between the upper surface of any floor and the upper surface of any floor next above, except that the topmost story shall be that habitable portion of a building included between the upper surface of the topmost floor and the ceiling or roof above Story above grade: Any story having its finished floor surface entirely above grade except that a basement shall be considered a story above grade when the finished surface of the floor above grade is :

- 1- more than above six (6) feet above grade plane; or
- 2- more than six (6) feet above the finished ground level for more than fifty (50) percent of the total building perimeter as determined by the Building Official(s).
- 3- more than twelve (12) feet above the finished ground level at any point as defined by the Building Code as amended.

**Street:** Any thoroughfare, including any street, avenue, boulevard, road, lane, highway, and place, and any land dedicated as a public right-of-way, that affords a principal means of access to abutting property and that is dedicated and accepted by the Town or the State for such purposes.

**Street Line:** See "Lot Line, Front". If the street right-of-way boundaries have not been established, they shall be deemed to be twenty-five (25) feet off the centerline of the existing travelway.

**Structure:** Anything constructed, erected or assembled on or within the ground, or attached to something located on or within the ground. The term "structure" includes, but is not limited to, any building, manufactured home, storage tank, sign, wall (retaining or otherwise), swimming pool, satellite dish, ham radio antenna, cellular or radio transmission tower, or other man-made utility and infrastructure. The term "structure" excludes public utility poles, flagpoles, transmission lines, television antennas, highway and railroad bridges, landscape furniture, fences and decorations, mailboxes, lamp posts, and seasonal decorations. Where the phrase "building or structure" appears in these Regulations, it shall be deemed to mean "building or other structure".

Substantial Improvement means any combination of repairs, re-construction, alteration or improvements to a structure, the costs of which equal or exceeds 50% of the market value of the structure as determined by the cost approach of value, the quantity survey method, the segregated cost method or the square foot method either before the improvement or repair is started or before the damaged occurred if the structure has been damaged and is being restored. For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.

Swimming Pools: See "Pools private"

Warehouse: a building used primarily for storage of goods and materials prior to distribution that are produced in conjunction with a manufacturing facility .

Water Surface Elevation means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929 (or other datum, where specified), of floods of various magnitudes and frequencies in the flood plains of coastal or riverine areas.

Yard: A portion of a lot lying between a building or structure and a lot line, and containing no surface structures, except as may be specifically authorized in these Regulations. In measuring a yard, as hereafter provided, the line of a structure shall be deemed to mean a line parallel to the relevant lot line, drawn from the point of the structure nearest to such lot line.

Zero Line Lot Development: A siting technique where side yard restrictions are reduced and the building abuts a side lot line.

## SECTION 10 - NONCONFORMITY

### 10.1 Continuing Existing Non Conforming Uses:

The lawfully permitted use of land or structures existing at the time of the adoption of the zoning ordinance or any amendment thereto may be continued, although such use does not conform to the standards of the district in which such land or structure is located. Said uses shall be deemed nonconforming uses.

### 10.2 Non Conforming Use of Land:

Where no structure is involved, the nonconforming use of land may be continued, provided, however:

- 10.2.1 That no such nonconforming use shall be enlarged or increased, nor that it be extended to occupy a greater area of land than that occupied by such use at the time of the adoption of the zoning ordinance, unless specifically allowed by other provisions in this regulation.
- 10.2.2 That no such nonconforming use be moved in whole or in part to any other portion of the lot or parcel of land occupied by such nonconforming use at the time of the adoption of this regulation.
- 10.2.3 That if such nonconforming use of land, or any portion thereof, ceases for any reason for any continuous period of more than 30 days, or is changed to a conforming use, any future use of the land shall be in conformity with the provisions of these regulations.
- 10.2.4 For non-conforming lots in a Light Industrial District 200, the existence of which lot is evidenced by deed or deeds recorded in the land records of the Town of Middlebury on the effective date of these Regulations establishing the Light Industrial District 200, the Commission in accordance with Section 52 may grant a special exception authorizing the use of land or structure permitted in Section 42 within the applicable yard so that the use or structure is not nearer to the lot line than the setbacks in Section 11 for Light Industrial District 80 (LI-80).

### 10.3 Non Conforming Use of Structures:

- 10.3.1 A structure, the use of which does not conform to the use regulations for the district in which it is situated, shall not be enlarged or extended unless the



use therein is changed to a conforming use. Such nonconforming structure shall not be structurally altered or reconstructed unless such alterations are required by law, provided, however, that such maintenance and repair work as is required to keep a nonconforming structure in sound condition shall be permitted.

- 10.3.2 Such nonconforming structure shall not be structurally altered or reconstructed unless such alterations are required by law, provided, however, that such maintenance and repair work as is required to keep a nonconforming structure in sound condition shall be permitted.
- 10.3.3 A nonconforming use may be extended throughout any parts of the structure which were manifestly arranged or designed for such use at the time of the adoption of the ordinance, provided this extension was made within one year after the date of such adoption.
- 10.3.4 A nonconforming use of structures may be changed to a conforming use or changed to a use less nonconforming than its present use.
- 10.3.5 If any nonconforming use of a structure ceases for any reason for a continuous period of more than one year, or is changed to a conforming use, or if the structure in which such use is conducted or maintained is moved for any distance whatsoever, for any reason, than any future use of such structure shall be in conformity with the standards specified by the zoning regulations for the district in which such structure is located.
- 10.3.6 If any structure in which any nonconforming uses are conducted or maintained is removed, the subsequent use of land on which such structure was located, and the subsequent use of any structure thereon, shall be in conformity with the standards specified by the zoning regulations for the district in which such land or structure is located.
- 10.3.7 For nonconforming buildings in a Light Industrial District 200, the existence of which is evidenced by zoning, building or other records in the Town Hall on the effective date of these Regulations establishing the Light Industrial District 200 and which use or uses are permitted in Section 42, the Commission in accordance with Section 52 may grant a special exception authorizing the extension or enlargement within the applicable yard so that the extension or enlargement is not nearer the lot line than the existing building.

#### 10.4 Restoration of Damaged Structures:

Any structure legally nonconforming in use which is damaged or destroyed by fire, explosion, act of God, or the public enemy may be rebuilt and the use continued, but not to any greater extent than in the previously existing structure.

## 10.5 Non Conforming Lot:

A parcel of land, which fails to meet the area, shape or frontage of any other applicable requirements of these Regulations pertaining to lots, may be used as a lot, and a building or other structure may be constructed, reconstructed, enlarged, extended, moved or structurally altered thereon, provided that the following requirements are met:

10.5.1 The use, building or other structures shall conform to all other requirements of these regulations;

10.5.2 No owner of the parcel since October 15, 1959 shall have been the owner of contiguous land which in combination of such nonconforming parcel would make or would have made a parcel that conforms, or more nearly conforms, to the area, shape or frontage requirements of these regulations pertaining to lots;

10.5.3 Or if the nonconformity is due to the fact that the area has been up-zoned and the owner builds on the lot within five years of the effective date of up-zoning.

10.5.4 A lot which meets all of the area, shape, frontage and other applicable requirements of these Regulations pertaining to lots on November 3, 1977, but thereafter fails to meet all of said requirements because the area has been up-zoned effective December 5, 1977, may be used as a Lot, and a building or other structure may be constructed, reconstructed, enlarged, extended, moved or structurally altered thereon. This provision is intended to supercede Subsection 10.5.3 above with respect to previously conforming Lots in the area affected by the December 5, 1977 Zone change only, and will not affect any Lot made nonconforming by a previous or future Zone change. This subparagraph shall not apply to any Lot containing less than 40,000 sq. ft. located in an area zoned R-20 on November 3, 1977, which under the provisions of Section 11, then existing would have required 40,000 sq. ft. because of the absence of sewers, but said Lot shall continue to be subject to the provisions of Subsection 10.5.3 above as they applied to said Lot on November 3, 1977.

10.5.5 A lot which meets all of the area, shape, frontage and other applicable requirements of these regulations pertaining to lots on January 3, 1991 but thereafter fails to meet all of said requirements because the area has been up-zoned effective January 20, 1991 may be used as a lot and a building or other structure may be constructed, reconstructed, enlarged, extended, moved or structurally altered thereon. In addition, any such lots which lack 200 feet frontage or 200 feet width will only be required to comply with the R-40 District side yard requirements of Section 11 as they existed on January 3, 1991; and any such lots which lack 300 feet in depth will only be required to comply with the R-40 District rear yard requirements of Section 11 as they existed on January 3, 1991. This provision shall supercede Subsection 10.5.3 above with respect to previously conforming or valid nonconforming lots in the area affected by the January 20, 1991 zone change only, and will not affect any lot made nonconforming by a previous or future zone change.

**SECTION 11  
HEIGHT, AREA AND YARD REQUIREMENTS**

	<b>R40</b>	<b>R80</b>	<b>R120</b>	<b>PO40</b>
<b>Min. Lot Area</b>	40,000 S.F.	80,000 S.F.	120,000 S.F.	40,000 S.F.
<b>Min. Lot Area for Family Unit</b>	40,000 S.F.	80,000 S.F.	120,000 S.F.	40,000 S.F.
<b>Min. Lot Area Interior Lot</b>	60,000 S.F.	120,000 S.F.	120,000 S.F.	60,000 S.F.
<b>Min. Square</b>	150'	200'	200'	150'
<b>Min. Frontage</b>	150'	200'	200'	150'
<b>Min. Set Back from Street</b>	35'	50'	50'	50'
<b>Min. Set Back from Other Property Line</b>	25'	40'	40'	25'
<b>Min. Set Back from CT Highway 63 &amp; 64</b>	75'	75'	75'	75'
<b>Max. Stories</b>	2.5	2.5	2.5	2.5
<b>Max. Height</b>	35'	35'	35'	35'
<b>Max. Lot Coverage</b>	10%	10%	10%	10%
<b>Max. Floor Area</b>	15%	15%	15%	15%
<b>Area Min. for All Floors</b>	1,300 S.F.	1,300 S.F.	1,300 S.F.	1,300 S.F.
<b>Min. for 1<sup>st</sup> Floor Area One Story</b>	1,300 S.F.	1,300 S.F.	1,300 S.F.	1,300 S.F.
<b>Min. for 1<sup>st</sup> Floor Area 1.5 Story</b>	1,000 S.F.	1,000 S.F.	1,000 S.F.	1,000 S.F.
<b>Min. for 1<sup>st</sup> Floor Area 2 Story</b>	900 S.F.	900 S.F.	900 S.F.	900 S.F.

**SECTION 11 (continued)**  
**HEIGHT, AREA AND YARD REQUIREMENTS**

	CA40	LI80	S.D.D.	C.R.D.
Min. Lot Area	40,000 S.F.	80,000 S.F.	10 Acres	15 Acres
Min. Lot Area for Family Unit	40,000 S.F.	80,000 S.F.		
Min. Lot Area Interior Lot	40,000 S.F.	80,000 S.F.	10 Acres	15 Acres
Min. Square Min. Frontage	150'	200'	200'	200'
Min. Set Back from Street	50'	100'	100'	100'
Min. Set Back from Other Property Line	20'	60'	60'	60'
Min. Set Back from CT Highway 63 & 64	75'	100'	100'	100'
Max. Stories	2.5	2.5	2.5	2.5
Max. Height	35'	35'	35'	35'
Max Lot Coverage	25%	25%	25%	20%
Max. Floor Area	30%	30%	30%	30%