

## 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 be 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 principle use or on an adjoining lot under the same ownership, and (2) subordinate or incidental to the principle 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 requirement 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 building thereon, both principal and accessory as measure 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 persons, firm, association, partnership, or corporation that regularly furnishes or hires on such premises, one or more ballrooms, reception rooms, dining rooms, banquet halls or similar 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 the 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 6) children two and one half (2 ½) years or less for any length of tie shall be considered institutional.

**Conversion:** The change of a dwelling so as to provide for year-round use of 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 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 of foundation of the structure.

**Grade Plane:** A reference planes 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 material 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 is designed for use with or without a permanent foundation when attached to the required utilities. The term also includes park trailers, travel trailers, recreational vehicles and other similar vehicles placed on a site for greater than 180 consecutive days 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 (MSL):** means, for purposes of the National Flood Insurance Program, the North American Vertical Datum (NAVD) of 1929 or other datum, to which base flood elevations shown on a community’s Flood Insurance Rate Map are referenced.

**Motel:** See “Hotel”

**Museum:** A Building that houses for preservation and for 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 lot 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 (610 mm) 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 principle 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 the 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 damage 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 material prior to distribution that are produced in conjunction with a manufacturing facility.

**Water surface elevation:** means the height, in relation to the North American Vertical Datum (NAVD) of 1929 (or other datum where specified), of floods of various magnitudes and frequencies in the floodplains 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.