

# **TOWN OF MIDDLEBURY**

## **ORDINANCES**

Revised through April 15, 2024

## **PUBLIC ACT NO. 430 (1959)**

Each town, city and borough in this state shall, on or before December 31, 1960, compile and publish in permanent form all ordinances adopted by it and all special acts concerning it. All amendments to such ordinances, all new ordinances and all special acts adopted thereafter shall be printed at least biennially and published as a cumulative supplement to such compilation. Such compilation and all supplements, thereto, shall be available for sale to the public at the office of the clerk or other similar office in such municipality at a reasonable cost to be determined by such municipality, and a copy of each such compilation and supplement shall be deposited by the clerk of the municipality in the office of the Secretary of the State.

In compliance with Section 7-148A of the Connecticut General statutes the following are ordinances enacted by the Town of Middlebury and effective as of February 1, 1978.

A Charter was approved by the voters of the Town of Middlebury on November 3, 1987 and became effective on November 4, 1987. A Charter revision was approved and became effective December 2, 1993. An additional Charter revision was approved and became effective December 7, 2000. An additional Charter revision was approved and became effective December 7, 2012. Any changes due to Charter revisions are noted with an “\*”.

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## **FINANCE:**

1. The fiscal year shall be from July 1st through June 30th of each year. Voted and adopted October 2, 1944. Recorded Vol. 7, Page 10.
2. The Town of Middlebury establish a Board of Finance. This Board to consist of six electors, appointed by the Board of Selectmen to serve until the next Town election. At the next annual election, the town shall elect a board of six (6), two to serve for one year, two to serve for two years, and two for three years. Thereafter, two shall be elected each year for a period of three years.\*\* The powers of this Board shall be all those conferred, and the obligations all those imposed by the General Statutes of the State of Connecticut. More especially this Board shall have the duty to prepare a proposed Town Budget annually, which shall be printed and available for distribution to any interested person at least ten (10)\* days before the Town Meeting called for its adoption. It shall also have the duty to prepare the annual report, which likewise shall be printed and available at least ten days before the Annual Town Meeting.

\* CHARTER: Changed to not later than one (1) week. / \*\* Chapter 146 - §9-202 Changed to six (6) year term

Voted and adopted October 6, 1947. Recorded Vol. 7, Page 35.

3. The Board of Assessors of the Town of Middlebury be authorized to eliminate the listing of real estate and motor vehicles and that the Assessors be authorized to compile the abstract of real estate from data contained on the owners' cards in accordance with provisions of Section 1719 of the General Statutes, revision of 1949, as amended by Section 371B of the 1951 supplement.

Voted May 8, 1953. Recorded Vol. 7, Page 86.

## **ALL LIQUOR PRIVILEGES, AND OTHER LICENSES, PERMITS, ETC.**

1. Voted and adopted October 2, 1961. Recorded Vol. 7, Page 148.
2. Adoption of the Bazaars and Raffles Act.  
Voted and adopted November 6, 1956. Recorded Vol. 7, Page 108.

## **FOOD AND BEVERAGE SERVICE LICENSE:**

Be it ordained that the Town of Middlebury adopt the following ordinance setting license requirements for food and beverage service establishments pursuant to the pertinent Sections of the Connecticut General Statutes and Section 19-13-B42 (r) (1) of the Public Health Code of the State of Connecticut.

Section 1. No person, firm or corporation shall, after July 1, 1975, operate or maintain, within the Town of Middlebury, any place where food or beverage are served to the public without first obtaining a license from the Director of Health.

Section 2. Licenses shall not be issued to any applicant failing to comply with the requirements of this ordinance and the Public Health Code of the State of Connecticut. Licenses shall not be transferable and shall be posted in every food and/or beverage establishment.

Section 3. License for temporary food and/or beverage service establishments shall be issued for a period of time not to exceed fourteen (14) days.

Section 4. Applications shall be in writing on forms provided by the Director of Health and shall include the applicants full name and address; whether such applicant is an individual, partnership or corporation, and if a partnership, the names and addresses of said partners; the location and type of the food and/ or beverage service establishment. If the application is for temporary food and/or beverage establishment, it shall include the dates of the proposed operation. The application shall be signed by the applicant, or its authorized officer.

Section 5. License fees shall be set in accordance with the following schedule: \*

- |  |          |
|--|----------|
| a. Permanent License                             | \$ 40.00 |
| b. Temporary License (not to exceed 14 days)     | 20.00    |
| c. Non-Profit Organizations (including churches) | No Fee   |

-See Board of Selectmen Minutes – Sept. 3, 2002 “New Proposed Health Dept. Fee Schedule”

-See Board of Selectmen Minutes – July 16, 2007 “Building Dept. Fee Schedule”

- See Board of Selectmen Minutes – January 7, 2010 “New Health Department Fee Schedule”

Section 6. All permanent licenses shall expire one year after date of issuance.

Section 7. A license may be suspended by the Director of Health for failure of the licensee to comply with the Public Health Code of the State of Connecticut. Notice of suspension shall be in writing and shall be served on the licensee and shall specify the reason for suspension.

Section 8. Any licensee whose license has been suspended may, at any time, request the Director of Health to inspect the subject premises. Such request shall be in writing and shall include a statement that the conditions resulting in the suspension of the license have been corrected. Within ten (10) days following the receipt of said written request, the Director of Health shall conduct an inspection, and if he determines that the subject premises are not in violation of the Public Health Code of the State of Connecticut, he shall reinstate the license.

Section 9. This ordinance shall become effective fifteen (15) days after publication in a newspaper having circulation in the Town of Middlebury.

Voted and adopted May 15, 1975. Recorded Vol. 7, Page 266.

## **PLANNING AND ZONING**

1. The Zoning Ordinance of the Town of Middlebury passed at a Special Town Meeting on October 16, 1942 by a vote of 197 to 157.

Recorded Vol. 7, Page 11, including regulations.

2. Pursuant to the authority granted by Chapter 45 of the General Statutes of the State of Connecticut 1949 Revision, as amended, there is hereby created a Planning Commission for the Town of Middlebury, with all the powers of and duties specified in said Chapter 45, except that the Commission shall not have the powers delegated by Sections 390-d and 391-d of the 1955 Supplement to the General Statutes.

Said Commission shall consist of five (5) members, not more than four of whom shall be members of the same party, who shall be appointed by the Board of Selectmen of said Middlebury. One member shall be appointed for a term of five years from April 2, 1956, one member for a term of four years from April 2, 1956, one member for a term of three years from April 2, 1956, one member for a term of two years from April 2, 1956, and one member for a term of one year from April 2, 1956, and annually thereafter said Board of Selectmen shall appoint one member for a term of five years from April 1st of that year.

Said Commission shall have the powers and duties of Chapter 43 of the General Statutes, 1949 revision, as amended, relative to municipal zoning and is hereby designated as the Planning and Zoning Commission of the Town of Middlebury.

All the acts and regulations of the Middlebury Zoning Commission heretofore adopted shall remain in full force and effect until modified, amended or replaced in accordance with the provisions of said Chapter 43.

This ordinance shall take effect upon its passage.

Voted and adopted April 2, 1956. Recorded Vol. 7, Page 101.

## **PLANNING AND ZONING COMMISSION ALTERNATE MEMBERS**

Be it ordained that the Planning and Zoning Commission of the Town of Middlebury shall have a panel of three alternate members in accordance with the provisions of Section 8-lb of the 1963 Supplement to the Connecticut General Statutes.\*

\* CHARTER: Alternates to serve for three (3) years.

Voted and adopted August 30, 1965. Recorded Vol . 7, Page 172.

### **ZONING BOARD OF APPEALS:**

The members and alternate members of the Zoning Board of Appeals of the Town of Middlebury shall serve for a term of five years, commencing on the first Monday in October and terminating on the first Monday in October or upon the qualification of their successor. The Board of Selectmen shall appoint members and alternate members of the Zoning Board of Appeals of the Town of Middlebury, as follows: In 1959, one member for a term of one year from the first Monday in October 1959; one member for a term of two years from said date; one member and one alternate member for a term of three years from said date; one member and one alternate member for a term of four years from said date; one member and one alternate member for a term of five years from said date; and thereafter one member and one alternate member to fill vacancies as terms shall expire.

Voted and adopted August 28, 1959. Recorded Vol. 7, Page 130.

### **GOVERNMENT ORGANIZATION:**

Biennial Town Elections for the Town of Middlebury, in accordance with Section 492-C of the 1953 supplement to the General Statutes and of other sections of said 1953 supplement, providing for term of office and rotation of members for Town Boards and Commissions.

Voted and adopted February 16, 1955. Recorded Vol. 7, Page 86.

### **FIRE DEPARTMENT:     Mutual Aid**

Officers of the Middlebury Volunteer Fire Department be authorized to send Middlebury Fire Equipment to assist in mutual aid to adjoining towns.

Voted and adopted March 22, 1951. Recorded Vol. 7, Page 66.

### **OPERATION OF MOTORBOATS ON LAKE QUASSAPAUG & LONG MEADOW POND**

1. Except as hereinafter provided, no person, firm or corporation shall operate any motorboat or other vessel propelled by machinery, or permit the operation of any such craft owned by him, on the waters of Lake Quassapaug or Long Meadow Pond if equipped with motor or motors of greater than 5 1/2 H.P. Boating Safety Commission did not approve Horse Power Regulation.
2. Except as hereinafter provided, no person, firm or corporation shall operate any motorboat or other vessel propelled by machinery or permit the operation of any such craft owned by him on the waters of Lake Quassapaug or Long Meadow Pond at a speed in excess of six (6) miles per hour.

3. Except as hereinafter provided, no person, firm or corporation shall operate any motorboat or other vessel propelled by machinery, or permit the operation of any such craft owned by him, on the waters of Lake Quassapaug or Long Meadow Pond before the hour of 6:00 A.M. or after the hour of 10:00 P.M. prevailing time.
4. No person, firm or corporation shall operate any motorboat or other vessel propelled by machinery, or permit the operation of any such craft owned by him, within one hundred (100) feet of any public or private beach, dock or float located on Lake Quassapaug or Long Meadow Pond except when proceeding to a mooring or shore, or leaving a mooring or shore, or where the width or depth of the navigable waterway prohibits such distance.
5. Aquaplaning, water skiing or any variation thereof shall be prohibited on the waters of Lake Quassapaug and Long Meadow pond.
6. The horse-power limitation imposed by this ordinance shall not apply to any vessel being in actual use for marine police duty in accordance with Connecticut Boating Safety Law, or to any vessel being used for water safety patrol or other official duties in connection with a regatta, or to a vessel which, at the time of adoption of this ordinance had been registered with the Connecticut Boating Commission and had been used for commercial passenger sightseeing purposes on the waters of Lake Quassapaug or Long Meadow pond.
7. The speed limitation imposed by this ordinance shall not apply to any vessel proceeding so as to render aid on any occasion when human life may be endangered on the waters of Lake Quassapaug or Long Meadow Pond or, when necessary for the enforcement of the provisions of this ordinance, to any vessel being used for marine police duty under Connecticut boating Safety Law.
8. Any persons convicted of violating any of the provisions of this ordinance shall be punished by a fine not exceeding one hundred (\$100) dollars for each such offense.
9. Any resolutions or ordinances previously adopted regarding the operation of motorboats on the waters of Lake Quassapaug and Long Meadow Pond shall be rescinded upon the effective date of this ordinance. This ordinance shall become effective following its adoption in accordance with Connecticut Boating Law.

Adopted at Town Meeting June 16,1970. Recorded Vol. 7, Page 218.

#### **ORDINANCE PROHIBITING DISCARD OF REFUSE IN MIDDLEBURY WATERS**

1. Any person who shall place, drop or deposit cans, bottles, plastic materials, papers or other waste materials in the waters or on the frozen surface of Lake Quassapaug or Long Meadow Pond, or any other body of water including streams, brooks and swamps within the limits of the Town of Middlebury, shall be fined not more than twenty-five (\$25) dollars.

Adopted Special Town Meeting June 16,1970. Recorded Vol. 7. Pg.217

## **CENTRAL NAUGATUCK VALLEY REGIONAL PLANNING AGENCY:**

### **Section 1. Adoption of Enabling Act:**

Pursuant to the provisions of Section 1, of Public Act 613 of the 1959 Session of the General Assembly, the Town of Middlebury hereby adopts said Public Act 613 and joins the Regional Planning Agency for the Central Naugatuck Valley Planning Region, as defined by the Connecticut Development Commission under the provisions of Public Act 448 of the 1959 Session of the General Assembly.

### **Section 2. Local Representation:**

The Town of Middlebury having a population of 3,296, according to the Federal Census of 1950, shall have two (2) representatives on the agency. The Planning and Zoning Commission shall appoint one Elector to serve as a representative for two years. Thereafter, all appointments shall be made for a period of two (2) years, said appointments being made alternately; by the Planning and Zoning Commission and the Board of Selectmen. Appointees under this section shall continue to serve after expiration of their terms, until their successors are appointed and take office. Appointees may be reappointed for successive terms. Terms of initial appointees shall commence upon the establishment of said Regional Planning Agency. At least one representative shall be a member of the Planning and Zoning Commission of the Town of Middlebury.

### **Section 3. Attendance:**

Any representative who is absent from three consecutive meetings of the Regional Planning Agency, shall be considered to have resigned from said Regional Planning Agency and the vacancy shall be filled by the Board of Selectmen. The requirements of this section may be waived, where illness or other extenuating circumstances make it impossible for a representative to meet the attendance requirements of this section.

### **Section 4. Effective Date:**

This ordinance shall become effective on the formal establishment of the Regional Planning Agency for the Central Naugatuck Valley Region.

Voted and adopted March 11, 1960. Recorded Vol. 7, Page 135.

Repealed 1/1/2015. See Naugatuck Valley Council of Governments.

## **LICENSING OF PEDDLERS:**

1. As used in this ordinance, "Peddler" shall mean any person, whether principal or agent, who shall go about from place to place in the Town of Middlebury selling or bartering, or carrying for sale or barter, or exposing therefore, any goods, wares or merchandise, either on foot or from any animal or vehicle.
2. No person except those exempted by the Statutes of the State, or by this ordinance shall sell upon the public highways of the town, any goods, wares, or other merchandise at public or private sale or auction, or sell or peddle such articles from house to house within the Town of Middlebury, unless such person shall first obtain a license from the Board of Selectmen.
3. Each such Peddler shall pay as a fee for such license, the sum of five (5) dollars a year for each team or vehicle used by him in connection with such selling or peddling.
4. Any Peddler so licensed shall engage in his business within the town only on days other than Sundays and Holidays, and he shall carry on his person at all times while engaging in such peddling or selling, the license issued to him and shall display the same upon request of any prospective purchaser.
5. This ordinance shall not apply to sales by farmers and gardeners of the produce of their farms and gardens, or to the sale, distribution and delivery of milk, tea, coffee, spices, groceries, meats and bakery goods, to sales on approval or to conditional sales of merchandise, nor shall this ordinance apply to sales by anyone on behalf of any church or school, boy scout or girl scout organization, 4-H Club, American Legion, or any other civic or non-profit-making organization, nor shall this ordinance apply to the sale of newspapers. This ordinance shall further not apply to any person who has had, for at least the preceding six (6) months, a regular place of business in the Town of Middlebury, and any person employed by or soliciting for any person, firm or corporation that has, and has had for the preceding six (6) months a regular place of business within said town, shall not be required to register before soliciting orders.
6. Any person violating any provision of this ordinance shall be fined not more than \$50.00 (fifty dollars) for each offense.
7. All prior ordinances of the town concerning licensing of peddlers are hereby repealed.

Voted and adopted October 6, 1958. Recorded Vol. 7, Page 126.

## **BUILDING AND HOUSING**

1. The Town of Middlebury adopt the provisions of Chapter 198, Sections 4106-4114 inclusive of the General Statutes of Connecticut, revision of 1949, such code to be called, "The Middlebury Building Code".

Voted October 1, 1951. Recorded Vol. 7. Page 68.

2. The issuance of building permits within the Town of Middlebury for the erection of buildings or structures on unimproved subdivisions, or on lots abutting on unaccepted highways or streets, shall be regulated by the Planning and Zoning Commission of said Town, provided, however, such Commission shall have no authority to prevent the issuance of a building permit for the construction of farm or accessory buildings which are not in violation of any lawful zoning or building regulations of such town.

Voted and adopted April 2, 1956. Recorded Vol. 7. Page 101.

**STATE BUILDING CODE, WITH AMENDMENTS:**

**ADOPTION:**

Be it resolved that there is hereby adopted by the Town of Middlebury for the purpose of establishing rules and regulations for the construction, alteration, removal, demolition, equipment, use and occupancy, location and maintenance of buildings and structures, including permits, licenses and penalties, that certain building code known as the State Building Code, adopted from the Basic Code of the Building Officials Conference of America Inc., as recommended by the State of Connecticut, being particularly the 1955 amended edition thereof and the whole thereof, save and except such portions as are hereafter deleted, modified or amended, of which not less than three (3) copies have been and now are filed in the office of the Clerk of the Town of Middlebury and the same are hereby adopted and incorporated as fully as if set out at length herein, and from the date on which this ordinance shall take effect, the provisions thereof shall be controlling in the construction of all buildings and other structures therein contained within the corporate limits of the Town of Middlebury.

1. Be it resolved that nothing in this Ordinance or in the Code hereby adopted shall be construed to affect any suit or proceedings now pending in any Court, or any rights acquired, or liability incurred, nor any cause or causes of action accrued or existing, under any act or ordinance repealed hereby. Nor shall any right or remedy of any character be lost, impaired or affected by this ordinance.
2. Be it resolved that the invalidity of any section or provision of this ordinance, or of the code hereby adopted shall not invalidate other sections, or provisions thereof.
3. Be it resolved that Ordinances or parts thereof in force at the time that this Ordinance shall take effect and inconsistent herewith, are hereby repealed.
4. Be it resolved that this Ordinance shall take effect immediately.

## AMENDMENTS:

1. The first sentence of Section 100, Paragraph 5, is amended to read as follows.

"The Building Official shall be appointed yearly\* by the Board of Selectmen, with his term to start the first Monday in October".

\* CHARTER: Changed to four-year term.

2. Section 100, Paragraph 5, is further amended by adding thereto the following sentence: "Pending the appointment of such duly qualified Building Official, the Board of Selectmen shall appoint a temporary Building Inspector, having such qualifications as the Board of Selectmen may determine, who shall be vested with all the powers and perform all the duties of the Building Official during the interim prior to the appointment of the regular Building Official, his compensation to be fixed by the Board of Selectmen".
3. Section 100, Paragraph 9, is amended by substituting for the words, "with the approval of the legislative body", the words, "with the approval of the Board of Selectmen".
4. The following paragraph is substituted for Section 100, Paragraph 13: "Before receiving a building permit the owner, or his agent, shall pay the fees established by the Board of Selectmen".
5. Section 100 is further amended by adding thereto the following new paragraph: "Nothing contained in this code shall be deemed to bar the owner or his agent, from doing the construction or alteration work himself, whether he be licensed in trade or not, provided always, that the work shall be done in compliance with the provisions of this code".
6. Section 105 is deleted in its entirety.
7. Ordinances or parts thereof in force on the effective date hereof and inconsistent with the Building Code of Middlebury, as hereby amended, are hereby repealed.
8. The following definitions are adopted as a part of the Building Code:
  - a. The Legislative Body is the Town meeting.
  - b. The Appointing Agency is the Board of Selectmen.
  - c. The Building Official is the Building Inspector.
  - d. The Building Code with amendments passed at this meeting, to be known as the Middlebury Building Code of 1957.
9. Be it resolved: The Building Code Committee, established at a Special Town Meeting on March 1, 1956, be charged with the additional responsibility of serving as the Building Code Board of Appeals, as specified in Section 100, Paragraph 11 of the Middlebury Building Code adopted on this date.

Voted and adopted March 19, 1957. Recorded Vol. 7, Pages 111 & 112.

### **AMENDMENTS BUILDING CODE:**

Be it resolved that the following amendments to the Middlebury Building Code as voted and adopted March 19, 1957 (Vol. 7 Pages 111 and 112) be hereby adopted:

1. Domestic hot water Systems shall be so piped that the heating coil can be reverse flushed.
2. A mixing valve shall be installed to regulate hot water wherever the water temperature can exceed 140 degrees.
3. All exposed piping shall be neat, plumb, parallel to beams and walls and copper tubing joints shall be wiped clean. Piping diagonally to beams and floor joists is prohibited.
4. Waste lines leading to public sewers or to private septic systems shall have a clean-out installed inside the foundation walls. Said clean-outs shall be full line size and of the WYE configuration. Plug threads shall be coated with a pliable substance for easy future removal.
5. All hot and cold water lines shall have separate shutoff valves for each fixture.
6. Hot water series heating systems shall be piped in such a manner that air can be purged from each separate zone with full water pressure from domestic water service.
7. Water piping from main supply whether it be from a well or municipal water company shall be no less than 3/4" to take off for domestic hot water heating coil in electric, gas, oil, fired or heating boiler.
8. A draft control must be installed in flue pipe from any furnace or heating boiler fired by gas or oil burner.

Voted and adopted January 14, 1976. Recorded Vol. 7, Pgs. 275 & 276.

### **OLD AGE AND SURVIVORS INSURANCE SYSTEM:**

1. The Town of Middlebury apply for membership and to participate in the Old Age and Survivors Insurance System under Title 2 of the Social Security Act, as amended, in accordance with Public Act 277 of the 1951 Public Acts, as of the First of July 1952, for all of its employees with the exception of employees performing any service of emergency nature while performing such services or all employees performing services in any class or classes of elective positions, part time positions or positions, the compensation for which is on a fee basis while performing such service, and the employees excluded by Section 3 of the said Public Act No. 277, and that the First Selectman shall execute in behalf and in the name of the Town of Middlebury any and all agreements with State Employees' Retirement Commission for the aforesaid purpose, in accordance with and subject to the provisions of said Public Act No. 277 and subject to the regulations promulgated by the State Employees' Retirement Commission pursuant to said Public Act, and that the First Selectman of the Town of Middlebury be and is hereby authorized and directed to make deductions from the wages of the employees

participating in the aforesaid Old Age and Survivors Insurance System as required by Section 4 of the said Public Act No. 277 and to forward the amount thereof together with the contribution of the Town of Middlebury to the State Employees' Retirement Commission in manner and form prescribed by the said regulation.

Voted and adopted May 8, 1953. Recorded Vol. 7, Page 76.

2. Effective as of July 1, 1956, all full-time elected and appointive personnel shall be participants therein and that the exclusion for participation therein shall continue to apply to services of an emergency nature; and services in any class or classes of part time positions. In all other respects the Resolution of May 8, 1953 shall continue in effect subject to such statutory identifications, Federal and State, as presently apply, and as from time to time amended.

Voted and approved October 18, 1956. Recorded Vol. 7, Page 106.

#### **MIDDLEBURY RECREATIONAL AREA DEVELOPMENT COMMITTEE\***

The committee shall maintain and operate recreational facilities on the easterly side of Lake Quassapaug in said Town and in accordance with the rules and regulations prescribed by said Committee, said Committee to be composed of three members to be appointed by the Board of Selectmen for such terms as said Board of Selectmen shall determine.

\*CHARTER: Now under purview of Parks and Recreation Commission Ordinance

Voted and adopted April 12, 1961. Recorded Vol. 7, Page 140 & 141.

#### **DEVELOPMENT AND INDUSTRIAL COMMISSION \***

Be it ordained that the Town of Middlebury does hereby accept the provisions of Section 7-136 of the General Statutes of the State of Connecticut 1959 Revision, and does hereby establish a Development Commission for the promotion and development of the business and industrial resources of the town.

The Commission shall consist of seven members, not more than five of whom shall be members of the same political party, to be appointed on or before November 1, 1962 by the Board of Selectmen of the Town, two members for a term of one year, two members for a term of two years, one member for a term of three years, one member for a term of four years, and one member for a term of five years, and on or before November 1st in each year after 1962, the Board of Selectmen shall appoint for a term of five years such members as may be necessary to succeed any member whose term shall have expired and the Board of Selectmen further shall have the power to fill any vacancy for the unexpired term.

\*CHARTER: Name changed to "Economic and Industrial Development Commission

Voted and adopted October 1, 1962. Recorded Vol. 7, Page 155.

## **UNREGISTERED, INOPERABLE VEHICLES AND UNSIGHTLY EQUIPMENT**

Be it ordained that:

Section 1. No unregistered inoperative vehicle or other unsightly equipment shall be permitted to be stored, parked or kept in open space in any residential district. If any such vehicle or equipment is allowed to stand in any such open space for a period exceeding fifteen (15) days it shall be declared in violation.

Section 2. The violation of this ordinance shall be declared a misdemeanor and be punishable by a fine not exceeding fifty (50) dollars.

Section 3. This ordinance shall take effect upon passage.

Voted and adopted August 30, 1965. Recorded Vol. 7, Page 173. (See Page 29)

## **MUNICIPAL WATER WORKS SYSTEM. ESTABLISHMENT OF**

Special Act #261 passed at regular session of the General Assembly January 1963.

Voted and adopted at Special Election October 4, 1965. Recorded Vol. 7, Page 174.

## **CONSERVATION COMMISSION, ESTABLISHMENT OF**

Be it resolved that a Conservation Commission for the Town of Middlebury be established consisting of seven members to be appointed by the First Selectman on or before the 15th day of October, 1966, of whom two members shall hold office to October 15, 1967; two members shall hold office to October 15, 1968; two members to October 15, 1969; and one member to October 15, 1970; and that as the term of each of the aforementioned appointees terminates, successors shall be appointed for terms of four years each; and that all vacancies shall be filled by appointment by First Selectman and that said commission shall have such powers and perform such functions as may be provided by Section 7-131a of the General Statutes.

Voted and adopted at Special Town Meeting October 6, 1966. Recorded Vol. 7, Page 181.

## **CONSERVATION COMMISSION AMENDMENTS**

Be it ordained that the Conservation Commission of the Town is hereby designated as the municipal board authorized to adopt, amend, or repeal regulations, regulating, restricting, or prohibiting activities affecting wetlands or watercourses within the territorial limits of the Town of Middlebury. The Conservation Commission shall further have all the powers and duties provided by Public Act #155, and any amendments thereto, for the purpose of effectuating the purposes of the Inland Wetlands and Watercourses Act.

Voted and adopted April 3, 1974. Recorded Vol. 7, Page 248.

To amend the ordinance to establish a Conservation Commission for the Town of Middlebury, adopted October 6, 1966, and recorded Vol. 7, Page 181, by increasing the number of members from seven to nine, as permitted by Public Act 73-293, of whom one new member shall hold office to October 15, 1977, and one new member shall hold office to October 15, 1978; and to further amend the ordinance by adding at the end of the last sentence and any amendments thereto".

\*

\*CHARTER: Changed from nine to seven members..

Approved at Special Town Meeting July 24, 1974. Recorded Vol. 7, Page 253.

### **MIDDLEBURY WATER COMMISSION**

Be it ordained that

1. The Middlebury Water Commission, established as provided herein, is hereby designated as the water authority for the Town of Middlebury in accordance with the provisions of Special Act No. 261 of the 1963 General Assembly.
2. The Middlebury Water Commission shall have five members who shall be appointed from time to time by the Board of Selectmen of said town. The first members thereof shall be appointed for terms commencing on the 18th day of November, 1966, of one, two, three, four and five years respectively, and each year thereafter one member shall be appointed for a five year term. Vacancies shall be filled by appointment by the selectmen for the unexpired term of the member whose death, resignation or removal caused such a vacancy. Members may be removed by vote of all of the selectmen for proper cause. Expired terms shall terminate on the fifteenth of October each year.
3. Members of the Middlebury Water Commission shall serve without compensation.
4. In addition to such powers and duties as may be specifically set forth in said Act, the Middlebury Water Commission shall have the following powers and duties:
  - a. Conduct such studies as it shall deem appropriate to determine the requirements for a water system for the Town of Middlebury and the costs of constructing and maintaining the same;
  - b. Make such recommendations concerning a water system for said town as it may from time to time deem appropriate.
  - c. Negotiate with other municipalities or private water system to provide for the water needs of the Town of Middlebury.
  - d. Within the limits of funds provided therefore, prepare plans and specifications for any specific project to supply water for said town, the inhabitants thereof, or part thereof.

Passed at a Special Town meeting November 2, 1966. Recorded Vol. 7, Page 182.

## **PARTICIPATION IN REGIONAL ECONOMIC DEVELOPMENT**

Section 1. The Town of Middlebury, pursuant to the provisions of Section 7-137 of the General Statutes, hereby joins with the Town of Southbury and the Town of Oxford in the formation of a Regional Economic Development Commission whose area of jurisdiction shall be coterminous with the area of said Towns of Middlebury, Southbury, and Oxford. The Middlebury Economic Development Commission, the Southbury Economic Development Commission, and the Oxford Economic Development Commission shall jointly determine the membership of said Regional Economic Development Commission.

Section 2. The Regional Economic Development Commission shall have such duties and authorities, in respect to its area of jurisdiction, as may be provided by the General Statutes of the State of Connecticut. The Town of Middlebury may annually appropriate to the Regional Economic Development Commission a sum which, in addition to any amount appropriated to the Middlebury Economic Development Commission, will not exceed one twentieth of one per cent of its last-completed grand list of taxable property.

Section 3. The members of the Regional Economic Development Commission from the Town of Middlebury shall receive no compensation for their services as such but shall be reimbursed for their necessary expenses incurred in the performance of their official duties.

Section 4. This ordinance shall become effective fifteen days after publication in accordance with the provisions of Section 7-157 of the General Statutes of the State of Connecticut, and the adoption of similar ordinances by the Towns of Oxford and Southbury.

Approved at Special Town Meeting May 25, 1967. Recorded in Vol. 7., Page 193.

## **ORDINANCE CREATING SEWER COMMISSION\***

Be it ordained that:

1. The Town of Middlebury create a Commission to be known as the Sewer Commission, which shall be designated the Sewer Authority for the Town, in accordance with Section 7-246 of the General Statutes, Revision of 1958, as revised, which shall exercise such powers and duties as now are or hereafter may be given to such Sewer Authority by said General Statutes.
2. Said Commission shall consist of five members to be chosen as follows:
  - a. The initial members of said Commission shall be appointed by the Selectmen, two to serve until the Tuesday after the first Monday of November 1969, and three to serve until the Tuesday after the first Monday of November 1971.
  - b. At the Town election on the Tuesday after the first Monday of November 1969, and biennially thereafter on the Tuesday after the first Monday in November, there shall be elected by the electors of the Town of Middlebury as many members of said Commission to serve for a period of four years as shall be required by reason of the expiration of the terms of such members.
  - c. In the event that a vacancy shall occur in the membership of said Commission, said vacancy shall be filled by appointment by the Selectmen, for the unexpired balance of the term of the person whose unexpired term is being filled.
3. The members of said Commission shall not receive any compensation for their services as such members.

\*CHARTER: Changed to Water Pollution Control Authority

Voted and adopted at Special Town Meeting February 15, 1968. Recorded Vol. 7, Page 199.

## **POLICE COMMISSION, ESTABLISHMENT OF**

- A. Pursuant to the provisions of Section 7-274 of the General Statutes of Connecticut, a Board of Police Commissioners is established consisting of three electors\*
- B. Two of said Commissioners shall be elected at the next biennial election after the adoption of this ordinance for a term of four (4) years and one of said Commissioners shall be elected for a term of two (2) years. At each biennial election thereafter the vacancy caused by expiration of a member's term shall be filled with the election of a member for the further term of four (4) years.

\* CHARTER: Changed to five (5) members.

C. The Board of Selectmen shall appoint members of said Commission to serve until the next biennial Town Election.

D. Said Board shall have all powers set forth in Section 7-276 of the General Statutes.

Amendment:

If any part of said ordinance section is declared invalid, it will not affect the validity of the rest of said ordinance.

Passed at a Special Town Meeting January 25, 1973. Recorded Vol. 7, Page 237.

**WETLANDS AND WATER COURSES PROTECTION\***

Authorize the Middlebury Conservation Commission to promulgate such regulations as are necessary to protect the wetlands and water courses within the territorial limits of the Town of Middlebury under the provisions of Public Act #155, approved May 19, 1972 by the 1972 Legislature.

Passed at a Special Town Meeting April 24, 1973. Recorded Vol. 7, Page 240.

\* Superseded by Ordinance amendment approved April 3, 1974. Recorded Vol.7, Page 248.

**TERM OF OFFICE OF TOWN CLERK AND REGISTRARS OF VOTERS**

To authorize a change in term of office of Town Clerk and Registrars of Voters from two (2) to four (4) years.

Passed at a Special Town Meeting April 24, 1973. Recorded Vol. 7, Page 240.

**TOWN CLERK' S SALARY**

A. That under the provisions of Section 7-34-b of the 1971 Non-Cumulative Supplement to the General Statutes of Connecticut that the Town Clerk shall receive a salary in lieu of all fees and other compensation provided for in the General Statutes, which salary shall be in an amount fixed by the Legislative body of the Town. Upon adoption of this ordinance, fees or other compensation provided by the General Statutes to be paid to the Town Clerk shall be collected by the Town Clerk and he shall deposit all such money collected by him in accordance with such provisions of law as govern the deposit of monies belonging to such Town.

B. The salary of the Town Clerk shall be \$10,250.00 annually. \*

Passed at a Special Town Meeting August 13, 1973. Recorded Vol. 7, Page 244.

\* Superseded by Ordinance amendment approved March 24, 1982, effective April 12, 1982. Recorded Vol. 7, Page 300.

**REGIONAL COUNCIL OF ELECTED OFFICIALS OF**  
**CENTRAL NAUGATUCK VALLEY**

Be it enacted by Town Meeting of the Town of Middlebury that:

Section 1. The Town of Middlebury does hereby join with such of the towns, cities, within its planning region as defined by the director of the office of state planning, as may enact a similar ordinance, to create a Regional Council of Elected Officials as said Council is defined by Sections 32-7a, 32-7b, 32-7c and 32-7d of the General Statutes of Connecticut.

Section 2. The representative to said Regional Council shall be the Mayor, First Selectman or Chairman of the Town Council.

Section 3. The Regional Council shall have such powers, purposes, responsibilities and duties as stated in Sections 32-7a, 32-7b, 32-7c and 32-7d of the General Statutes of Connecticut.

Passed at a Special Town Meeting November 23, 1970. Effective date December 27, 1970.  
Recorded Vol. 7, Page 222. Repealed 1/1/2015. See Naugatuck Valley Council of Governments.

## LOST PROPERTY

Be it ordained that as provided by Section 50-9 of the Connecticut General Statutes, the Town of Middlebury hereby adopts the provisions of Sections 50-10, 50-11, 50-12, 50-13, 50-14 of the Connecticut General Statutes concerning lost property as follows: the Connecticut General Statutes concerning lost property as follows:

## Section 1. Duties of Finder

Any person who finds and takes possession of any article of one dollar or more shall report the finding of such article to the Police Department of the municipality in which he finds such article within forty-eight hours from the time of such finding. The finder of such shall, at the time of reporting, furnish to the Police Department the date, time and place of finding, his name and address and a description of the article found, and within a period of one week from such finding, shall deliver such article to the Police Department. Any person who violates or fails to comply with the provisions of this section shall be fined not more than one hundred dollars or imprisonment not more than thirty days or both.

## Section 2. Advertising:

### Sale of Perishable Goods.

The Police Department shall, commencing within one week from the date of receipt of any lost article, advertise a general description of such article once a week for at least two successive weeks in a newspaper having a circulation in the Town of Middlebury and shall retain custody of such article for six months from the date of receipt thereof, unless it is claimed by the rightful owner within such six months period. The requirement of advertising may be omitted when the value or

estimated value of the article is less than two dollars. Perishable or obnoxious property or articles of a dangerous or harmful nature may be sold or otherwise disposed of as soon as practicable on the best terms available.

Section 3. Restoration to Owner if Claimed.

If the owner of any such article claims it within six months from the date of receipt by the Police Department, the article or the proceeds thereof shall be restored to him upon payment or deduction of all proper charges.

Section 4. Procedure if Unclaimed.

If no owner claims such article within six months from the receipt thereof by the Police Department, the Police Department shall, within two weeks thereafter, notify the finder of such fact by registered or certified mail at his last known address, and the article or the proceeds thereof shall be turned over to the finder, upon demand by him within thirty days from the expiration of the six months period and upon payment or deduction of all proper charges; but, if such finder fails to demand such articles or the proceeds thereof or refuses to pay such charges within thirty days from expiration of the six months period, such article, or proceeds shall belong to the Town of Middlebury. The requirement of notification may be omitted when the value or estimated value is less than five dollars.

Section 5. Disposition after Expiration of Time for Making Claims.

The Police Commissioners of the Town of Middlebury shall sell at public auction any articles which it acquires as provided herein after the expiration of the time for the owner or finder to demand the same and after the time and place of such sale and a description of the articles to be sold have been advertised once a week for two successive weeks in a newspaper having a circulation in the Town of Middlebury. The net proceeds from such sales and the unclaimed net proceeds from the sales of perishable or obnoxious property or articles of a dangerous or harmful nature shall be paid to the Treasurer of the Town of Middlebury who shall deposit them in the Police Benefit Fund, if any, of the Town of Middlebury.

Voted and adopted May 29, 1974. Recorded Vol. 7, Page 251.

**PARK AND RECREATION CAPITAL AND NONRECURRING EXPENSE FUND**

Be it ordained that the Town of Middlebury adopt the following ordinance creating a special fund which shall be known as the Park and Recreation Capital and Nonrecurring Expense Fund:

Section 1. There shall be deposited in said fund:

- a. All moneys received by the Town, from whatever source and by whatever means, as

gifts for park or recreation purposes;

- b. All moneys received by the Town, from whatever source and by whatever means, as governmental grants or loans for park or recreational purposes;
- c. All moneys received by the Town from the sale or voluntary or involuntary conveyance of land used for park or recreational purposes; and
- d. All moneys appropriated to said fund by the Town.

Section 2. Said fund shall be in the custody of the Treasurer of the Town. All or any part of the moneys in said fund, may from time to time, be invested in any securities in which public funds may lawfully be invested. All income derived from such investments shall be paid into the fund and become a part thereof. The moneys so invested shall at all times be subject to withdrawal from such investment for use as provided in Section 4.

Section 3. Annually, the Treasurer shall submit to the Board of Selectmen, the recreation authority and to the legislative body of the Town a complete and detailed report of the condition at said fund, which report shall be made a part of the annual Town report.

Section 4. Upon authorization of the body in such Town having the power of appropriation, the moneys in said fund may be used for capital and nonrecurring expenditures incurred in any of the following: 1) Acquisition, development, improvement, maintenance and expansion of park and recreation lands; (2) acquisition, erection, installation, maintenance, improvement, repair and replacement of park or recreation facilities and equipment; (3) development, establishment and improvement of park or recreation programs; (4) any other capital or nonrecurring expenditure incurred for park or recreational purposes.

Section 5. No budget proposed or approved or appropriation made for park or recreational purposes shall be reduced, ratably or otherwise, in consideration of any moneys in said fund.

Voted and adopted at Annual Town Meeting June 20,1977. Recorded Vol. 7 Page 294.

### **TOWN CLERK'S SALARY – AMENDED**

At a Special Town Meeting held Thursday, May 18, 1978 in Middlebury, Connecticut Town Hall, the following amendment to an ordinance was approved and, therefore, adopted:

To revise Section B of the ordinance setting the Town Clerk's salary to read "The Town Clerk shall receive \$11,018.75 for the fiscal year July 1, 1978 - June 30, 1979, thereafter, the Town Clerk's salary shall be set by vote of the legislative body of the Town.

Publication date: May 22, 1978.

Effective date: June 6, 1978.

Recorded in Vol. 7, Page 300.

## **BEAUTIFICATION COMMITTEE**

At a Special Town Meeting held Wednesday, March 24, 1982 in Middlebury, Connecticut Town Hall, the following ordinance was approved and, therefore, adopted:

### **BE IT ORDAINED THAT**

Section 1, A Beautification Committee for the Town of Middlebury be established consisting of twelve (12) members to be appointed by the Board of Selectmen on or before the first day of July, 1982 of whom four (4) members shall hold office to June 30, 1983, four (4) members shall hold office to June 30, 1984, four (4) members to June 30, 1985, and that as the term of each of the aforementioned appointees terminates, successors shall be appointed for terms of four (4) years each; and that all vacancies shall be filled by appointment by the Board of Selectmen;

Section 2, Members of the Middlebury Beautification Committee shall serve without compensation;

Section 3, The Middlebury Beautification Committee may act in the following manner:

- A) Serve as a consultant to the Boards and Commissions of the Town of Middlebury, as requested, on matters concerning aesthetics;
- B) Conduct studies to determine the need for beautification, plantings and landscape improvements throughout Middlebury;
- C) Implement plantings and improvements in areas deemed in need of same for beautification purposes, subject to approval by the Board of Selectmen;
- D) A chairman shall be elected annually by the members at the first meeting after the first of July of each year.

In accordance with General State Statutes, Section 7-157, this ordinance shall become effective fifteen (15) days after publication of this Legal Notice.

Publication date: March 28, 1982.

Effective date of ordinance: April 12, 1982.

Recorded in Vol. 7 Page 333.

## **PARK AND RECREATION COMMISSION**

At a special Town Meeting held Thursday, May 20, 1982 in Middlebury, Connecticut Town Hall, the following ordinance was approved and, therefore, adopted:

### **BE IT ORDAINED THAT**

1. There is hereby established in the Town of Middlebury, a Park and Recreation Commission, consisting of five (5) electors of the Town of Middlebury, appointed by the Board of selectmen. Initially, the Board of Selectmen shall appoint one elector to serve for a term of one (1) year; one elector to serve for a term of two (2) years; one elector to serve for a term of three (3) years; one elector to serve for a term of four (4) years; and one elector to serve for a term of five (5) years. Thereafter, all appointments shall be for five (5) years. All vacancies shall be filled by the Board of Selectmen for the unexpired term of the vacating member. Members of said Commission shall serve without pay.
2. The Commission shall develop and execute recreational programs for all the residents of the Town of Middlebury, and said Commission shall have the power to make and enforce such rules and regulations governing parks, recreational facilities and areas, and recreational programs, as they deem proper, with the approval of the Selectmen.
3. The Commission shall screen all applicants for the position of the Town's Recreation Director, and shall recommend a pool of applicants to the Board of Selectmen from which the Selectmen may appoint the Town's Recreation Director.
4. Upon passage of this ordinance, the ordinance creating the "Middlebury Recreational Area Development Committee" which was voted and adopted April 12, 1961, shall be expressly repealed and all duties and obligations created thereunder shall come within the purview of this ordinance.

In accordance with General State Statutes, Section 7-157, this ordinance shall become effective fifteen (15) days after publication of this Legal Notice.

Publication date: May 27, 1982.

Effective date: June 11, 1982.

Recorded in Vol . 7 Page 335.

## **BOARD OF FINANCE – ALTERNATE MEMBERS**

At a Special Town Meeting held Monday, October 1, 1984 in Middlebury, Connecticut Town Hall, the following ordinance was approved and, therefore, adopted:

### **BE IT ORDAINED THAT**

There is hereby established in the Town of Middlebury, Connecticut, the following Ordinance pursuant to Section 7-340-a of the Connecticut General Statutes:

Section 1, There is hereby established a panel of three (3) alternate members to the Board of Finance of the Town of Middlebury.

Section 2, Said panel shall consist of three (3) members, all of whom shall be electors and taxpayers of the Town of Middlebury.

Section 3, Such alternate members shall, when seated as herein provided, have all the powers and duties set forth in the Connecticut General Statutes, as amended, and as the same may be amended from time to time, relating to the Board of Finance of the Town of Middlebury and its members.

Section 4, Said panel of alternate members shall be appointed in the following manner: Not later than thirty (30) days after the effective date of this Ordinance, the Board of Selectmen of the Town of Middlebury shall appoint, subject to the provisions of Section 9-167a of the Connecticut General Statutes, as amended, and as the same may be amended from time to time, one such alternate member to hold office until the first Monday in January 1985, one such alternate member to hold office until the first Monday in January 1986, and one such alternate member to hold office until the first Monday in January 1987. Thereafter, on or before the fifteenth day of December preceding the expiration of the term of office of each alternate member, the Board of Selectmen shall appoint, subject to the provisions of Section 9-167a of the Connecticut General Statutes, as amended, and as the same may be amended from time to time, an alternate member for a two year term commencing the first Monday in January.

Section 5, If a regular member of the Board of Finance of the Town of Middlebury is absent or is disqualified, such absent or disqualified member shall designate, subject to the provisions of Section 9-167a of the Connecticut General Statutes, as amended, and as the same may be amended from time to time, an alternate member to so act.

In the event that an absent or disqualified regular member of the Board of Finance of the Town of Middlebury shall fail or refuse to designate an alternate member to so act, the majority of the regular members of the Board of Finance of the Town of Middlebury not absent and not disqualified may designate, subject to the provisions of Section 9-167a of the Connecticut General Statutes, as amended, and as the same may be amended from time to time, an alternate member to so act for such absent or disqualified regular member.

Section 6, This ordinance shall become effective upon its passage by the Town Meeting.

In accordance with Section 7-157 of the Connecticut General Statutes, this Ordinance shall become effective fifteen (15) days after publication of this Legal Notice.

Publication date: October 5, 1984.

Effective date of ordinance: October 21, 1984.

Recorded in Vol. 7 Page 357.

## **POLICE COMMISSION / TRAFFIC AUTHORITY**

At a Special Town meeting held Tuesday, February 18, 1986 at Middlebury Town Hall, the following ordinance was approved and therefore adopted:

### **BE IT ORDAINED THAT**

The Police Commission of the Town of Middlebury will serve as the Middlebury Traffic Authority and will have powers to regulate and prohibit, in a manner not inconsistent with the General Statutes of the State of Connecticut, traffic, the operation of vehicles on streets and highways and off-street parking; place and maintain traffic control signals, signs, markings and other safety devices upon highways within the Town of Middlebury; and to make any other regulations consistent with the powers set forth in Sections 14-307 and 14-312 of the Connecticut General Statutes.

Section 1. For the purpose of this ordinance, the following definitions shall be used:

- (a) The word "Vehicles", as used herein, shall mean any device in, upon, or by which any person or property is or may be transported upon a public highway.
- (b) The word "Parking" shall mean the standing of a vehicle, whether occupied or not, upon a highway, otherwise than temporarily, for the purpose of, and while actually engaged in, receiving or discharging passengers or loading or unloading merchandise or in obedience to traffic regulations or traffic signs or signals.
- (c) The word "Operator" shall mean the person operating or in control of a vehicle on a public highway.
- (d) The words "Traffic authority", as used herein, shall mean that official, board, commission or other person or official body as has been or may be, from time to time, designated by the State Statutes as having authority over and control of traffic and parking on the public highways of the Town of Middlebury.

Section 2. If any section, paragraph, subdivision, clause or provision of this Ordinance shall be adjusted invalid, such adjudication shall apply only to the section, paragraph, subdivision, clause or provision so adjudged and the remainder of this Ordinance shall be deemed valid and effective.

Section 3. The Board of Police Commissioners of the Town of Middlebury, in its capacity as the Middlebury Traffic Authority, shall have the power and authority to establish traffic regulations and assess fines for violation of said regulations. Said fines shall be examined by said Authority from time to time and revisions made if said Authority deems such action appropriate.

Section 4. All fees collected by the Middlebury Police Department from said fines shall be turned over to the Middlebury Town Treasurer in accordance with General Statutes of the State of Connecticut..

### ***Parking Violation Hearing Procedure***

Section 1. The Chief executive officer of the Town of Middlebury shall appoint one or more parking violation hearing officers other than police officers or persons who issue parking tickets or work in the Police Department to conduct the hearing authorized by the General Statutes of Connecticut Sec. 7-152b.

Section 2. The hearing officer (officers) shall be governed by the General Statutes, Sec. 7-152bc through Sec. 7-152bg and any other Statutes referred to within Sec. 7-152bc through Sec. 7-152bg also any other Town Ordinances which effect the procedures set forth regarding Parking Violation Hearing Procedure.

### ***Parking During and After Snow and Ice Storms and Obstruction of Plowing and Sanding Operations***

Section 1. (a) No vehicle may stand or park on any highway of the Town in such a manner as to constitute a hazard or obstruction to traffic during the time of falling snow, sleet or freezing rain or to hamper or interfere with the effective removal or plowing of snow or removal of ice from said highway or the sanding of ice on said highway. Any vehicle so standing or parked is hereby declared to be a menace to traffic and dangerous to the general welfare of the public.

Section 2. If any prosecution or proceeding under the provisions of this section, the registered owner of any such vehicle shall prima facie be presumed to have parked or to have authorized the parking of said vehicle in violation of this Section.

Section 3. Any person who violates any of the provisions of this Section shall, upon conviction, be punished by a fine of not less than Twenty (\$20.00) Dollars nor more than Thirty-Five (\$35.00) Dollars.

Section 4. In addition to the foregoing penalty, such vehicle left standing on the highway in violation of this Section may be removed in accordance with Section 14-150 of the General Statutes of the State of Connecticut.

### ***Town of Middlebury Ordinance Concerning Unregistered and/or Inoperable Vehicles***

Section 1. No unregistered and/or inoperable vehicle or vehicle parts shall be permitted to be stored, parked, or retained in open view in any residential district in the Town of Middlebury. If any such vehicle, vehicles or vehicle parts are allowed to be stored, parked or kept in open view in any residential district exceeding thirty (30) days, it shall be declared in violation.

Section 2. Upon determination that a violation of Section 1 exists, the Middlebury Police Department shall refer said violation to the Zoning Enforcement Officer for appropriate action

pursuant to Middlebury Zoning Regulations and Connecticut General Statutes 8-12. An Ordinance adopted August 30, 1965, recorded in Volume 7, Page 173 of the Middlebury Town Records shall be repealed upon passage of this Ordinance.

***Town of Middlebury***  
***Ordinance Concerning the Establishment of Fire Lanes***

Section 1. Pursuant to, without limitation, the provisions of Sections 7-194 and 7-154 of the Connecticut General Statutes, and in order to protect the Town from fire, it is hereby made the duty of the Fire marshal and his agents to inquire into and investigate the parking of motor vehicles of all kinds ("vehicles") in driveways, alleys, parking areas and other open spaces adjacent to or leading to dwellings occupied by two or more families and buildings open to the public, where the blocking of such driveways, alleys, parking areas and other open spaces by the parking of vehicles endangers the safety of persons occupying or using said dwellings and/or buildings so as to constitute a fire hazard, in the opinion of the Fire Marshal; to designate parking in said areas as a fire hazard, and to have said areas posted as a fire zone. This section shall not apply to driveways serving only one dwelling when such dwelling has lot frontage on a public street.

Section 2. A fire zone is a designated unobstructed passageway sufficient in size to permit free passage of fire and other emergency equipment from a public highway to all necessary areas or portions of any private or public property.

Section 3. The Fire Marshal shall establish a fire zone by written order specifying the limits thereof; shall file a copy of said order with the offices of the First Selectman, Town Clerk, and with the Board of Police Commissioners, and shall send a copy by certified mail, return receipt requested, to the owner(s), or agent(s) thereof, of any private land on which such fire zone is established. If any such certified mail copy is returned, a copy of such order shall be published at least once in a newspaper having general circulation within the Town and a copy of the order shall be posted in a conspicuous place on each dwelling or building affected thereby.

Section 4. Any private property owner aggrieved by the designation of a fire zone on his property may file with the Town Clerk, within 30 days after receipt of the Fire Marshal's order by mail or within 30 days of the last publication or posting of such order, whichever is later, written notice of appeal, setting forth therein reasons for aggrievement. The Board of Police Commissioners shall hold a hearing on such appeal within 60 days after it has been filed. Reasonable notice of the time, date and place of the hearing shall be given to the property owner and the Fire Marshal. At such hearing the Board shall consider the reasons of aggrievement, the reasons for the establishment of the fire zone and shall determine whether said order was reasonably necessary in order to protect the safety of persons occupying or using the dwellings and/or buildings involved. The Board may affirm, modify or rescind the order and shall notify the property owner and the Fire Marshal in writing of its decision within 15 days of the date of the hearing.

Section 5. Within 10 days of the establishment or modification of a fire zone, the Board of Police Commissioners shall cause to be erected or installed adequate signs, markings or other devices to delineate said fire zone and to warn that no parking is permitted therein. Said signs, markings or other devices shall be erected or installed at the expense of the owner of the property which is the

location of said fire zone. The design and location of said signs, markings or other devices shall be determined by the chief of the Middlebury Fire Department.

Section 6. No person shall park, or permit to stand, a vehicle in a fire zone, except when actually picking up or discharging passengers.

Section 7. Where reasonable practical, the Police Department shall notify the owner, operator, or other person in charge of a vehicle in violation of Section 6 to remove the vehicle immediately. If the vehicle is not removed within a reasonable time, members of the Police Department are authorized to remove or have removed by a commercial towing service any vehicle parked in violation of Section 6 to the nearest garage or place of safety, or to a garage designated or maintained by the Police Department within the Town of Middlebury. Such removal shall be at the risk and expense of the owner of the vehicle. Cars so removed shall be stored in a safe place and shall be restored to the owner or operator upon payment of a fee of Six (\$6.00) Dollars within twenty-four hours after the time the car was removed, plus Six (\$6.00) Dollars for each additional twenty-four hours or fraction thereof, plus reasonable costs of towing and storage.

Section 8. It is hereby provided, however, that the Police Department may, in lieu of towing said vehicle to a garage, serve upon the owner, operator or other person in charge of the vehicle, or attach to the vehicle, a notice directing the owner or operator or other person in charge thereof, to appear in person and pay Six (\$6.00) Dollars or to mail a check or money order for said sum to the Police Department, Town of Middlebury, within 48 hours subsequent to issuance of said notice, or to pay Twelve (\$12.00) Dollars in the above manner after the expiration of 72 hours. A receipt shall be issued for all money so received.

In accordance with General State Statutes Section 7-157, these ordinances shall become effective fifteen (15) days after publication of this Legal Notice.

Publication date: February 23, 1986

Effective date of ordinance: March 10, 1986

N. B. Due to errors of omission by the newspaper, the ordinance establishing fire lanes was republished thereby having the following publication and effective dates:

Publication date: March 1, 1986

Effective date of Fire Lane ordinance: March 16, 1986

Recorded in Vol. 7 Page 376.

At a Special Town Meeting held Monday, April 20, 1987 Middlebury Town Hall, the following Ordinance was approved and therefore adopted.

**ORDINANCE ESTABLISHING MOTOR VEHICLE TAX PAYMENTS**

Be it ordained:

**PART I: FORM OF PAYMENT**

- 1.1 General: Motor vehicle taxes which have been due and payable to the Middlebury Tax Collector for one year or less may be paid by cash, certified check, money order or personal check.
- 1.2 Delinquent Taxes: Motor vehicle taxes which have been due and payable for a period in excess of one year shall be considered delinquent taxes. Said delinquent taxes may be paid by cash, certified check, or money order only. Personal checks will not be accepted for the payment of said taxes.

**PART II: ADMINISTRATION**

- 2.1 The Tax Collector shall have responsibility for administration and enforcement of this ordinance.
- 2.2 Passage and Effective Date: This ordinance shall take effect fifteen (15) days after publication of a legal notice.
- 2.3 Other Ordinances: This ordinance shall supersede and replace all ordinances or parts thereof which concern the acceptable forms of payment for motor vehicle taxes.

Publication date: April 24, 1987

Effective Date: May 9, 1987

Recorded in Vol. 7 Page 403.

At a special Town Meeting held January 20, 1987 in Middlebury, Connecticut Town Hall, the following ordinance was approved and therefore adopted:

**BE IT ORDAINED:**

**PART I: DRIVEWAYS**

1.1 General: No person firm or corporation shall construct, provide or maintain, or move, alter or reconstruct, any driveway or other motor vehicle travelway connecting private property with the right-of-way of a) any Town street or highway or  
b) any street shown on a subdivision map either filed in the Office of the Middlebury Town Clerk or approved by the Middlebury Planning Commission until a Driveway Permit therefor has been issued by the Board of Selectmen or their authorized agent.

1.2 Application and Approval: Application for a Driveway Permit shall be made to the Board of Selectmen, on the application form provided by the Board of Selectmen and in accordance with the accompanying guidelines of the Application Plan. The Driveway Permit may be issued subject to filing with the Board of Selectmen of a suitable executed agreement and bond, as provided in Para. 2.2 to guarantee the full cost of completion of the driveway within the street right-of-way as approved under the Permit. The Board of Selectmen is authorized to charge a Driveway Permit fee in such amount that the Board deems sufficient to defray the Town's cost of plan approval and inspection.

1.3 Permits and Certificates: No building permit shall be issued by the Building Inspector for the construction of any building or structure for which a new driveway is necessary until a Driveway Permit has been issued as required by this Ordinance. No Certificate of Occupancy shall be issued by him for the use or occupancy of any building or structure until such driveway therefor has been approved by the Board of Selectmen or their authorized agent. For such approval, plans drawn and certified by a licensed Engineer showing the final driveway grades in conformity with the specifications in Part II of this Ordinance must be submitted to the Building Inspector.

1.4 Standards: All driveways subject to this Ordinance shall be designed and constructed in accordance with the standards and specifications outlined in Part II of this Ordinance. The Board of Selectmen is authorized to and shall amend such standards as necessary to further the objectives of this Ordinance.

1.5 Existing Driveways: This Ordinance shall not be construed to require the modification of any driveway existing on the effective date of this Ordinance. The Board of Selectmen, however, may order in writing the modification or closing of any existing driveway that in the judgment of the Board, after consultation with the owner of the driveway, constitutes or otherwise causes a danger to the safety of traffic and/or pedestrians on any street or highway, or obstructs drainage within the right-of-way of any street or highway, provided that the owner shall be given a reasonable period of time, as determined by the Board, to make such modification.

## PART II: STANDARDS AND SPECIFICATIONS

2.1 Specifications: Every new driveway constructed under this Ordinance shall conform to the following specifications:

- a. It shall be so designed as not to pass water on the surface of any existing or proposed roadway.
- b. It shall have a grade not greater than 5% from the edge of the pavement for a distance of 25 feet..
- c. Within the lot it shall not contain grades greater than 15%.
- d. It shall intersect generally at right angles with the line of the street.
- e. A paved apron will be provided from the street pavement to the highway line.
- f. The paved apron will be flared at the street to permit normal turning by the vehicles using the driveway.
- g. If the driveway slopes down to the pavement in the street, adequate provision will be made for the flow of water into the normal drainage pattern and not into the traveled portion of the highway. Culverts under the driveway will be provided if needed in the opinion of the Building Inspector
- h. Sight distances up and down the street for the emerging driver will be suitable for the highway in the opinion of the Inspector.
- i. Driveways over 400 feet will have a pulloff area so that two trucks can meet. Such driveways shall also include a means for fire trucks to turn around and exit going out in a forward direction.
- j. The traveled portion of the driveway shall be 10 feet wide as a minimum. All culverts and bridges located in the driveway shall be able to carry Fire Department Vehicles.
- k. If the driveway is to be on a state highway, a written permit from the Department of Transportation, Permit Encroachment Division, located in New Milford, Connecticut is required before the Middlebury Building Inspector can issue any driveway permit for a driveway from a State Highway.

2.2 Bond: To guarantee the full cost of completion of the driveway within the street right-of-way as approved under the permit the selectmen shall require that a Bond in the minimum amount of \$300.00 be posted.

2.3 Time Limit: The driveway permit shall be valid for a period of two years, or such lesser period as the Board may specify. Any permit which has expired may be renewed only upon reapplication and repayment of the fee.

2.4 Revocation: The Board of Selectmen may revoke or suspend a *permit* when the Board or its authorized agent determines that the work is not being carried out in accordance with the regulations and the permit.

### PART III: ADMINISTRATION

3.1 Administration: The Board of Selectmen shall have responsibility for administration and enforcement of this Ordinance. In carrying out its duties, the Board of selectmen is authorized to adopt policies, rules and procedures necessary to the enforcement of this Ordinance, including the charging of Permit and Inspection fees as specified in Par. 1.2 and the amending of standards as specified in Par. 1.4. Such policies, rules and procedures shall become effective after the Board of Selectmen has held a public hearing thereon. Notice of the time and place of such hearing shall be published in the form of a legal advertisement appearing in a newspaper having a substantial circulation in the Town at least twice at intervals of not less than two days, the first not more than 15 days nor less than 10 days, and the last not less than two days, before such hearing, and a copy of the proposed policies, rules and procedures shall be filed in the Office of the Middlebury Town Clerk for public inspection at least 10 days before such hearing.

3.2 Remedies and Penalties: The Board of Selectmen may institute any appropriate action or proceedings to enforce the provisions of this Ordinance or to prevent, restrain, enjoin, correct or abate any violation of this Ordinance, as may be authorized by law. Any person, firm or corporation who shall construct, provide or maintain, or move, alter or reconstruct, any driveway or other motor vehicle travelway that is subject to this Ordinance, except under a valid Driveway Permit, shall be fined no more than twenty five dollars for each day that such violation continues.

3.3 Effective Date. If enacted at this Town meeting it shall become effective fifteen days after publication.

3.4 Other Ordinances: This Ordinance shall supersede and replace any other ordinance or part thereof which concerns the construction, reconstruction or maintenance of driveways in the Town of Middlebury.

In accordance with General State Statutes Section 7-157, this ordinance shall become effective fifteen (15) days after publication of this Legal Notice.

Publication date: January 26, 1987

Effective date: February 10, 1987

Recorded in Vol. 7 Page 401.

Superseded by Ordinance Effective December 26, 1991, Recorded in Vol. 7, Page 463.

(See Page 37)

At a Special Town meeting held Monday, April 20, 1987 at Middlebury Town Hall, the following amendment was approved and therefore adopted.

**AMENDMENT TO AN EXISTING ORDINANCE GOVERNING**  
**THE CONSTRUCTION, RECONSTRUCTION**  
**AND MAINTENANCE OF DRIVEWAYS IN THE**  
**TOWN OF MIDDLEBURY**

**PART I: DRIVEWAYS**

1.3 Permits and Certificates: No building permit shall be issued by the Building Inspector for the construction of any building or structure for which a new driveway is necessary until a Driveway Permit has been issued as required by this ordinance. No Certificate of Occupancy shall be issued by him for the use or occupancy of any building or structure until such driveway therefor has been approved by the Board of Selectmen or their authorized agent. For such approval, plans drawn and certified by a licensed ENGINEER OR SURVEYOR showing the final driveway grades in conformity with the specifications in PART II of this ordinance must be submitted to the Building Inspector.

In accordance with General State Statutes Section 7-157, this ordinance shall become effective fifteen (15) days after publication of this legal notice.

Publication Date:     April 24, 1987

Effective Date:       May 9, 1987

Recorded in Vol. 7. Page 403.

**TOWN OF MIDDLEBURY ORDINANCE CONCERNING**  
**RESIDENTIAL DRIVEWAYS**

WHEREAS, it is desirable to minimize high safety problems created by excessive and unplanned curve cuts, and

WHEREAS, it is desirable to control erosion and sedimentation upon the public street caused by driveways, and

WHEREAS, it is desirable to avoid altering the existing flow of water in the street or right-of way, and

WHEREAS, it is desirable to establish a permit procedure which applies to all residential driveways, whether they be on an existing lot of record or in a new subdivision.

NOW THEREFORE, BE IT ORDAINED

**PART I: DRIVEWAYS**

1.1. **GENERAL:** No person, firm or corporation shall construct, provide or maintain, or move, alter or reconstruct, any driveway or other motor vehicle travelway connecting private property with the right-of way of (a) any Town street or highway or (b) any street shown on a subdivision map either filed in the office of the Middlebury Town Clerk or approved by the Middlebury Planning Commission until a Driveway Permit therefore has been issued by the Board of Selectmen or their authorized agent.

1.2 **APPLICATION AND APPROVAL:** Application for a Driveway Permit shall be made to the Board of Selectmen, on the application Form provided by the Board of Selectmen and in accordance with the accompanying guidelines of the Application Plan. The Driveway Permit may be issued subject to filing with the Board of Selectmen of a suitable executed agreement and bond, as provided in Para. 2.2, to guarantee the full cost of completion of the driveway within the street right-of-way as approved under the Permit. The Board of Selectmen is authorized to charge a Driveway Permit fee in such amount that the Board deems sufficient to defray the Town's cost of plan approval and inspection.

1.3 **PERMITS AND CERTIFICATES:** No building permit shall be issued by the Building Inspector for the construction of any building or structure for which a new driveway is necessary until a Driveway Permit has been issued as required by this Ordinance. No Certificate of Occupancy shall be issued by said Building Inspector for the use or occupancy of any building or structure until such driveway therefor has been approved by the Board of Selectmen or their authorized agent. For such approval, plans drawn and certified by a "Licensed Engineer or Surveyor" showing the final driveway grades in conformity with the specifications in Part II of this Ordinance must be submitted to the Building Inspector.

1.4 **STANDARDS:** All driveways subject to this Ordinance shall be designed and constructed in accordance with the standards and specifications outlined in Part II of this Ordinance. The Board of

Selectmen is authorized to and shall amend such standards as necessary to further the objectives of this Ordinance.

**1.5 EXISTING DRIVEWAYS:** This Ordinance shall not be construed to require the modification of any driveway existing on the effective date of this Ordinance except when additional parcels are to be serviced by the existing driveway, in which case the existing driveway shall be brought to such standards as may be required by the Board of Selectmen, which standards shall not be in excess of the standards imposed by this Ordinance for new driveways.

## **PART II      STANDARDS AND SPECIFICATIONS**

**2.1 SPECIFICATIONS:** Every new driveway constructed under this Ordinance shall conform to the following specifications:

- a. It shall be so designed as not to pass water on the surface of any existing or proposed roadway.
- b. It shall have a grade not greater than 5% from the edge of the pavement for a distance of twenty-five (25) feet.
- c. Within the lot it shall not contain grades greater than 15%.
- d. It shall intersect generally at right angles with the line of the street.
- e. A paved apron will be provided from the street pavement to the highway line.
- f. The paved apron will be flared at the street to permit normal turning by vehicles using the driveway.
- g. If the driveway slopes down to the pavement in the street, adequate provision will be made for the flow of water into the normal drainage pattern and not onto the traveled portion of the highway. Culverts under the driveway will be provided if needed in the opinion of the Inspector
- h. Sight distances up and down the street for the emerging driver will be suitable for the highway in the opinion of the Inspector.
- i. Driveways over 400 feet in length, and less than 18 feet in width, will be widened every 400 feet or less to a width of 18 feet for a distance of 30 feet so that a moving vehicle can pass a vehicle stopped in the widened area. Such driveways may be required to provide, to the satisfaction of the Board of Selectmen, a means for fire apparatus to turn around within the parcel served by the driveway and exit in a forward direction.
- j. The traveled portion of the driveway shall be of a minimum width; 10 feet for one lot (or other use); 18 feet for (2) lots; 22 feet for three or more lots. Driveways to more than one (1) lot may be required to provide turnarounds to the satisfaction of the Board of Selectmen.
- k. All culverts and bridges located in the driveway shall be capable of carrying Fire Department vehicles.
- l. Before the Middlebury Building Inspector can issue a Driveway Permit for any driveway from the State Highway, a written permit from the Department of Transportation, Permit Encroachment Division, located in New Milford, Connecticut, is required.

2.2 BOND: To guarantee the full cost of completion of the driveway within the street right-of-way as approved under the Permit the Selectmen shall require that a Bond in the minimum amount of \$300.00 be posted.

2.3 TIME LIMIT: The driveway permit shall be valid for a period of two (2) years, or such lesser period as the Board may specify. Any permit which has expired may be renewed only upon reapplication and repayment of the fee.

2.4 REVOCATION: The Board of Selectmen may revoke or suspend a Permit when the Board or its Authorized Agent determines that the work is not being carried out in accordance with the Regulations and the Permit.

### **PART III: ADMINISTRATION**

3.1 ADMINISTRATION: The Board of Selectmen shall have responsibility for Administration and Enforcement of this Ordinance. In carrying out its duties, the Board of Selectmen is authorized to adopt policies, rules and procedures necessary to the enforcement of this Ordinance, including the charging of Permit and Inspection Fees as specified in Para. 1.2, and the amending of standards as specified in Para. 1.4. Such policies, rules and procedures shall become effective after the Board of Selectmen has held a Public Hearing thereon. Notice of the time and place of such hearing shall be published in the form of a Legal Advertisement appearing in a newspaper having a substantial circulation in the Town at least twice at intervals of not less than two (2) days, the first not more than fifteen (15) days nor less than ten (10) days, and the last not less than two (2) days before such hearing. A copy of the proposed policies, rules and procedures shall be filed in the Office of the Middlebury Town Clerk for public inspection at least ten (10) days before such hearing.

3.2 REMEDIES AND PENALTIES: The Board of Selectmen may institute any appropriate action or proceedings to enforce the provisions of this Ordinance or to prevent, restrain, enjoin, correct or abate any violation of this Ordinance, as may be authorized by law. Any person, firm or corporation who shall construct, provide or maintain, or move, alter or reconstruct, any driveway or other motor vehicle travelway that is subject to this ordinance, except as authorized by a valid Driveway Permit, shall be fined no more than one hundred (\$100.00) dollars.

3.3 EFFECTIVE DATE. In accordance with Connecticut General Statute § 7-157, this Ordinance shall become effective fifteen (15) days after publication of this Legal Notice.

3.4 OTHER ORDINANCES: This Ordinance shall supersede and replace any other ordinance or part hereof which concerns the construction, reconstruction or maintenance of driveways in the Town of Middlebury.

Effective Date: December 26, 1991

Recorded in Vol. 7, Page 463.

**TOWN OF MIDDLEBURY**  
**ORDINANCE CONCERNING INSTALLATION AND REMOVAL OF**  
**ABOVE AND UNDERGROUND FUEL OIL STORAGE TANKS**

A. **PUPPOSE:**

The purpose of this ordinance is to protect the health, safety and general welfare of the residents of the Town of Middlebury by minimizing the risk of potential pollution of Middlebury's surface and ground waters from leakage of fuel oil.

B. **AUTHORITY:**

This ordinance is adopted pursuant to the Connecticut General Statutes, Section 7-148.

C. **DEFINITIONS:**

Fuel Oil – Any petroleum product, including waste oil but excluding liquified petroleum gas and liquified natural gas.

D. **REQUIREMENTS:**

1. Any installation of a new, or replacement of any existing tank used for the storage of fuel oil shall require a plan review, building permit and installation inspection by the Town of Middlebury.
2. All tanks of any capacity used for storing fuel oil shall be installed above ground or in a basement or vault and be fully visible for inspection and accessible for repair or replacement. Tanks may be required to have spill containment dikes. Above ground tanks shall be constructed of steel, or other approved material. All lines delivering heating fuel to the tank and all lines delivering fuel from the tank to the furnace shall be fully visible for inspection and fully accessible for repair.
3. If, because of safety considerations or unusual building or building lot circumstances, the building official determines that it is not feasible to install a tank to be used for the storage of fuel oil in a manner conforming to the provisions of Section D. 2 of this Ordinance, the building official may authorize an underground fuel oil storage system.
4. All underground fuel oil storage tanks, after approval of size and location by the building official, shall be of one of the following designs and constructions:
  - (1) double-walled steel;
  - (2) Double walled fiberglass-reinforced plastic; or
  - (3) Steel coated with a factory applied corrosion resistant coating.
5. Underground tanks shall be equipped with contact plates under all fill and gauge openings; steel tanks shall be equipped with cathodic protection, cathodic protection monitoring devices and a leak monitoring system. All underground lines servicing underground tanks shall be installed in protective sleeves so as to allow failure determination without the need for substantial excavation. Service lines shall be of one piece with no underground joints. Any fuel oil storage tank and its components which have been approved for underground installation by the building official must be pressure

tested by the installer and inspected by the building official prior to being covered or buried.

6. The design, construction, installation, and maintenance of any above ground or underground tank used for the storing of fuel oil shall be in conformance with the provisions of the regulations concerning the safe storage and use of flammable or combustible liquids as adopted by the State Commissioner of Public Safety under the authority of the Connecticut General Statutes Sections 29-320 and 29-331, respectively and all relevant federal laws or regulations.
7. Any underground tank being replace or abandoned shall be emptied of any liquid and then removed or filled in such a manner so as to prevent future collapse and pollution to ground or surface waters, and shall be accomplished by a method approved by the building inspector, in advance and in writing. All work shall be inspected and approved by the building official at all stages during such replacement or abandonment.
8. The town may require periodic testing of underground tanks where cause exists to believe that there is a danger of pollution of ground or surface waters.

E. PENALTIES:

Any person who, by himself or his employee or agent, or as the employee or agent of another, violates any provision of this ordinance shall be subject to a fine of one hundred dollars (\$100.00) for each such offense.

F. SEVERABILITY:

1. Nothing in this ordinance shall be construed to supersede any lawful authority of the local or state fire marshal regarding the design, construction, installation and maintenance of heating fuel tanks, or any state or federal statutes or regulations.
2. Should any provision of this Ordinance be declared invalid for any reason, such declaration shall not affect the validity of other provisions or of this Ordinance as a whole, it being the legislative intent that the provisions of this Ordinance shall be severable and that the balance of this Ordinance shall remain valid notwithstanding such delcaration.

EFFECTIVE DATE:

In accordance with Connecticut General Statutes § 7-157, this Ordinance shall become effective fifteen (15) days after publication of this Legal Notice.

Effective Date: December 26, 1991  
Recorded in Vol. 7, Page 464.

## **RECYCLING ORDINANCE FOR THE TOWN OF MIDDLEBURY**

### **PURPOSE**

THIS ORDINANCE ADOPTED BY THE TOWN OF MIDDLEBURY, CT AS PART OF A LONG TERM PLAN FOR SAFE AND SANITARY DISPOSAL OF SOLID WASTE, AND TO ESTABLISH MEASURES TO ASSURE COMPLIANCE OF PERSONS WITHIN THE TOWN'S BOUNDARIES AND OF COLLECTORS WITH THE REQUIREMENTS OF STATE STATUTE FOR SEPARATION, COLLECTION, PURCHASING AND MARKETING OF RECYCLABLE SOLID WASTE.

### **DEFINITIONS**

As used in this ordinance, the following terms shall have the meanings herein defined:

- Board – The Board of Selectmen of the Town of Middlebury, CT. When used in reference to a voting body, it shall be taken to include the phrase “or a majority thereof”.
- Cardboard – Corrugated boxes and similar material and kraft paper materials which are unwaxed and are free of contamination by food or other material.
- Commingled – Mixed recyclables that are collected together.
- Collector – Any person who holds himself or herself out for hire to collect recyclables from residential, commercial, industrial, or other sources.
- CRRA – Connecticut Resources Recovery Authority.
- Director – The Director of Public Works of this Town or his or her authorized representative.
- Dry Cell Battery – Any device used in generating electric current through a chemical reaction including, but not limited to nickel cadmium batteries, carbon batteries and alkaline batteries.
- Glass Food Container – A glass bottle or jar, free of contamination, of any size or shape used to package food products suitable for human or animal consumption.
- Hauler – Any person who holds himself or herself out for hire to pickup refuse (garbage) from residential, commercial, industrial, or other sources.
- HDPE Container – Any high-density polyethylene bottle or container of any size or shape used to store food, household laundry detergent, or other non-hazardous or non-toxic materials.
- IPC – Intermediate Processing Center which receives, processes, and markets recyclables.
- Leaf Waster – Deciduous and coniferous seasonal deposition, including grass clippings.
- Mandated Recyclables – Those recyclables which have been designated by the DEP and any additional items which have been designated by the Board that are mandated to be recycled within the Municipality.

Those items currently designated as mandated are as follows:

1. Cardboard
  2. Glass Food and Beverage Containers (Free of contamination)
  3. Leaves
  4. Metal Food and Beverage Containers (Free of contamination)
  5. Newspapers
  6. White Office Paper
  7. Scrap Metal
  8. Storage Batteries
  9. Waste Oil
- *Metal Food Container* - An aluminum, bi-metal, tin plated steel, or other metallic can, plate, or tray of any size used to package food for human or animal consumption which are free of contamination by food or other materials.
  - *Municipality* – The Town of Middlebury, CT
  - *Municipal Agent* – The person designated by the Board to administer the notice and enforcement provisions of this Ordinance.
  - *Newspaper* – Used or discarded newspaper (newspaper advertisements, supplements, comics, and newsprint-type enclosures) which is free of contamination by food or other material.
  - *Office Paper* – Any used or discarded high grade white paper and Manila paper including, but not limited to paper used for file folders, tab cards, writing, typing, printing, computer printing, and photo-copying, which is suitable for recycling and which is free of contamination. For purposes of this Ordinance, the foregoing definition of office paper shall exclude any such generated from residential sources.
  - *Optional Recyclables* – Those recyclables which may be designated to be recycled by the DEP or Board to be recycled through a voluntary or mandatory pilot recycling program.

Those items currently designated as optional recyclables are as follows:

1. Dry-Cell Batteries
  2. HDPE Plastic Containers
  3. PET Plastic Containers
  4. Magazines
  5. Scrap Tires
- *Person* – Any individual, corporation, partnership, association, or other entity or organization, either public or private, of any kind.
  - *Pet* – Polyethylene terephthalate container of any size or shape used to package beverages.
  - *Recyclables* – Any item designated by the DEP or Board which can be separated or diverted as defined below under “Recycle”.

- Recycle – To separate or divert an item or items from the Solid Waste stream for the purposes of processing it, causing it to be processed, or storing it for later processing into a material product, including the production of compost, in order to provide for disposition of the item or items in a manner, other than incineration or land filling, which will best protect the environment. Nothing in this definition shall preclude the use of Waste Oil as a fuel in an oil burner, or Scrap Tires as fuel in an incinerator.
- Recycling Container – Any container designated by the Board for use as a residential recycling container for the storage and/or commercial curbside collection of recyclables.
- Recycling Center – The municipality’s recycling drop-off facility, area or areas as designated by the Board.
- Residential Property – Real estate containing one or more dwelling units, but shall not include hospitals, motels, hotels, or nursing homes.
- Scrap Metal – Used or discarded items which consist predominantly of ferrous metals, aluminum, brass, lead chromium, iron, nickel, or alloys thereof including but not limited to, white goods.
- Scrap Tires - Discarded rubber or synthetic rubber tires used by or manufactured for vehicles including, but not limited to, automobiles, trucks, buses, tractors and trailers.
- Storage Batteries – Lead acid batteries or other batteries used in motor vehicles such as automobiles, airplanes, boats, recreational vehicles, tractors and like applications.
- Waste Oil – Uncontaminated crankcase oil that has been utilized in internal combustion engines.

## **AUTHORITY AND POWERS**

The municipality is authorized to, by Public Act 90-220, and shall, through its legislative body, designate where the following items generated from residential properties shall be taken for processing or sale: (1) cardboard, (2) glass food and beverage containers, (3) leaf waste, (4) metal food and beverage containers, (5) newspapers, (6) storage batteries, (7) waste oil, (8) plastic food and beverage containers, (9) white office paper, and (10) scrap metal. The processing or sale of such items at any other area shall be prohibited.

The Board shall not give less than sixty (60) days notice of its intent to designate where these items from the residential properties shall be taken for processing or sale to all licensed collectors hauling solid waste or such items of the municipality. At the conclusion of such period, the Board shall cause notice of such designation to appear in a newspaper of general circulation in the municipality and shall conduct a public hearing thereon.

The Board is hereby authorized to enact, from time to time, by resolution, such regulations as it shall deem in the public interest regarding separation, collection, recovery, removal and storage or recyclables an enforcement of this Ordinance.

The First Selectmen shall, and is granted the authority to, designate a person to be contacted by the DEP with inquiries regarding the recycling program.

The First Selectman shall, and is granted the authority to, designate a Municipal Agent to receive complaints and notices of violations of the separation requirements set forth in the Public Act 90-220 and this Ordinance.

The Board is hereby authorized to add or delete, from time to time, items on the list of mandatory and optional recyclables so long as such action is not in conflict with the Connecticut General Statutes, Department of Environmental Protection regulations, or the Municipal Recycling Service Agreement signed with the CRRA.

The Board is hereby authorized to adopt a fee schedule and a method for ensuring payment of the fees; for depositing any and all recyclables at any municipal, or municipally designated, disposal facility for recyclables.

The Board, through resolution, shall adopt rules and regulations, from time to time, governing any practice and related practices contained in this ordinance provided that such rules and regulations are not inconsistent with the Connecticut General Statutes, Department of Environmental Protection regulations, or any provisions of this ordinance.

The Board is hereby authorized to employ or make contracts with persons, including the CRRA, for the separation, collection, transportation, processing, and/or marketing of recyclables, as provided for in Public Act 90-220, Section 2(d) of the Connecticut General Statutes, to carry out the provisions of this ordinance.

## **SEPARATION AND COLLECTION**

**SEPARATION:** On or after January 1, 1992, (1) each person who generates solid waste from residential property within the municipality shall separate from other solid waste those items designated as mandatory recyclables and (2) every other person who generates solid waste shall make provision for the separation from other solid waste of those items designated as mandatory recyclables.

**RESIDENTIAL CONTAINER:** The municipality shall provide one recycling container, free of charge, to each residential property dwelling unit. Said container shall remain the property of the municipality and remain with the dwelling unit through changes in occupancy due to transfer from sale or rental.

The owner or occupant of such dwelling unit shall label or cause to be labeled said container with the address where the box shall be used. All said containers must be so labeled prior to the first time they are set out at the curb for recycling collection.

Regulations for replacement of recycling containers shall be established by resolution by the Board.

Residents shall use only the recycling containers for the purpose of placing the recyclables for collection and they shall not be used for any other purpose.

**MATERIALS:** Recyclables should be prepared for collection as follows: glass food containers, metal food containers and aluminum foil shall be washed clean. Lids shall be removed and labels may be left on glass containers.

Newspapers, including advertising sections, can be either bundled with strings or placed in brown kraft paper grocery bags.

Corrugated cardboard which is free of contamination and unwaxed shall be flattened and cut into pieces no larger than two (2) foot square and placed on top of recycling container for collection.

Recycling containers shall not be used for other waste. Recyclables shall not be mixed with other waste.

**RESIDENTIAL CURBSIDE COLLECTION:** The recycling container shall be placed for collection purposed within ten (10) feet of the street or curblin or in such other location as shall be agreed upon by the owner or tenant and the collector. For curbside collection the container shall be placed at curbside not earlier than twelve (12) hours before the scheduled time of collection nor later than 7:00 A.M. on the scheduled collection days and shall be removed from the street or curblin within twelve (12) hours after the materials therein have been collected. Said containers and any bundles shall be so placed in such a manner that they do not constitute a travel or health hazard or nuisance of any sort.

Only recyclables generated from residential sources should be place for residential curbside collection. The Collector shall deliver all recyclables from residential properties to such locations as shall be designated by the Board from time to time.

**MULTI-FAMILY COLLECTION:** It shall be the responsibility of the person having custody and control of multi-family residential dwelling units to educate the tenants to the need and techniques of recycling.

Multi-family units utilizing dumpster service for garbage pickup shall have the option to establish residential curbside collection for recyclables for each dwelling unit.

In multi-family dwelling units not accessing residential curbside collection it shall be the responsibility of the owner, or the person having custody and control, to provide, at a convenient location, containers of sufficient size and quantity to receive the recyclable materials to be collected from the dwelling units they are intended to serve and to clearly label those containers for their intended use. Such containers shall provide for ensuring a minimum of contamination of the recyclables.

**OTHER RESIDENTIAL COLLECTION:** All residents who are not served by a collector shall arrange to dispose of their recyclables at the municipality recycling center. (Occupants of premises within the municipality must apply for a permit to be able to dispose of these recyclables and said

permit shall be displayed in a manner as the Director shall prescribe. Said permit may be revoked or suspended for the reasons and in a manner prescribed for Commercial licenses and appeals therefrom may be taken in the same manner.)

**OTHER RESIDENTIAL RECYCLABLES:** All other mandatory recyclables generated from residential properties and not collected by residential curbside collection shall be delivered to such drop-off location as the Board shall prescribe.

**RECYCLABLES FROM OUTSIDE THE MUNICIPALITY:** The dumping or disposal of recyclables at any location as designated by the Board from a source outside of the municipality shall be prohibited. Any dumping or disposal of recyclables from a source outside the municipality at a regionally designated IPC in the name of the municipality shall be prohibited.

**COLLECTION, HANDLING AND DISPOSAL:** Collection, handling and disposal of recyclables within or on behalf of the municipality shall only be carried out by persons licensed by the municipality and in accordance with all State and Federal laws including, but not limited to, the Public Health Code of the State of Connecticut as it shall be amended from time to time, and in a manner as not to pose a hazard or potential hazard to public travel, health, or safety or to become a nuisance of any sort. (Any recyclables collected or transported within the municipality shall be carried in tightly covered containers in or on such vehicles. Any recyclables which are collected or transported in open top vehicles shall be suitably covered so as to prevent scattering litter upon the streets. All vehicles used for collection or transportation of recyclables within the municipality shall be subject to approval of the Director or the Board.

**ANTI-SCAVENGING:** Upon placement of recyclables out for residential curbside collection, or upon delivery to any disposal location designated by the Board pursuant to provisions of this ordinance, it shall be a violation of this ordinance for any person other than the collector or the authorized agents of the municipality acting in the course of their employment, to collect or pick up any such recyclables, or cause the same to be collected or picked up.

In addition to the fine imposed for violation of this provision, the violator may be required to make restitution to the municipality for the value of any materials illegally removed. Each and every such collection or pickup in violation of this section from one or more locations shall constitute a separate and distinct violation.

Nothing in this ordinance shall abridge the right of any person to give or sell their recyclables, including deposit beverage containers, to any person provided that such materials have not been set out for residential curbside collection or delivered to any disposal location designated by the Board.

**LICENSING:** In accordance with the provisions of Subsection 22a-220(d) of the Connecticut General Statutes, any person collecting recyclables generated by residential, business, commercial or other establishments in the municipality shall annually register each collection vehicle separately with the municipality on forms prescribed by the Director or the Board, on or before the first day of July.

Each such collector shall disclose the name of any other municipality in which such collector hauls such solid waste. The door of any private vehicle used to haul solid waste shall be clearly marked with the business name and address of the collector. Registration shall not be transferable from vehicle to vehicle.

The Board is authorized and empowered prior to issuing a license to require evidence of liability insurance in effect covering all vehicles to be used to collect recyclables.

The Board shall further require that any collector tipping recyclables at the CRRA IPC maintain a performance bond, or other means to ensure payment, with the vendor of that IPC or the municipality.

When any licensee shall sell or transfer all or part of his or her route to another Refuse Collector presently licensed to collect refuse in the municipality, he or she shall forthwith give written notice to the Director at least seven (7) days before the date of the sale or transfer stating the name of the buyer or transferee and the date of such sale or transfer.

No collector shall be required to provide collection services to any customer who is more than thirty (30) days delinquent in the payment of the collector's fee. If the delinquent customer shall discharge his or her delinquency, the collector shall immediately resume collection services to the customer.

No license shall be issued to any recyclables collector whose permit has been previously revoked on more than one (1) occasion. For purposes of this section, the ownership of collectors shall be determined pursuant to the standards set forth in this Ordinance.

During the period of any licensee suspension, no license shall be issued:

- (a) To any person who is, or was an owner of, or partner in any unincorporated business whose license, during the period of said ownership, was revoked under the terms of this Ordinance; or who owns or owned fifty percent (50%) or more of the stock of any corporation whose license, during the period of said ownership, was revoked under the terms of this Ordinance.
- (b) To any partnership or unincorporated business in which any owner or partner is or was the owner of or partner in any unincorporated business whose license, during the period of said ownership, was revoked under the terms of this Ordinance or in which any partner who owns or owned fifty percent (50%) or more of the stock of any corporation whose license, during the period of said ownership, was revoked under the terms of this Ordinance.
- (c) To any corporation in which the owner of fifty percent (50%) or more of the stock is or was the owner of fifty percent (50%) or more of the stock of any corporation whose license, during the period of said ownership, was revoked under the terms of this Ordinance or is or was the owner of or partner in any unincorporated business whose license, during the period of said ownership, was revoked under the terms of this Ordinance.

For the purposes of the computation of the ownership of stock in any corporation of the interest in any partnership or unincorporated business under the provisions of this section, the interest of any person shall include:

- (a) Any beneficial interest held for the benefit of said person or for the benefit of any person of the type set forth in section (b) or (c) hereof, whether in trust or otherwise.
- (b) Any interest owned by the spouse of said person, if said person and said spouse shall file a joint tax return for purposes of Federal and State tax.
- (c) Any interest owned by any person whom said person shall claim as a dependent upon his or her Federal or State tax return.

The Board may require of any licensee or license applicant such information, under oath, as it deems necessary for purposes of enforcement of this section. To the extent permitted by law, such information shall not be disclosed, except to the extent necessary for the determination, by the appropriate municipal authorities, as to the compliance with the provisions of this Ordinance.

The license of any collector shall, after notice and hearing pursuant to this Ordinance, be revoked for the violations listed in this Ordinance. In addition, said collector shall be prohibited from dumping or depositing any recyclables (Solid Waste) at the regional IPC (municipal Solid Waste facility(s)) for a period of thirty (30) days from the date of such license revocation.

Refusing to remove or cause to be removed recyclables deposited at other than the authorized facility, when ordered to do so by the Board or its designated agent.

Any material misrepresentation or omission in the filling out of any permit application or in providing information pursuant to this Ordinance.

**INVESTIGATIONS AND HEARING:** Prior to any action pursuant to the provisions of this Ordinance, the Board shall hold a hearing, pursuant to the provisions of this section.

- (a) The First Selectman may cause the Town Attorney to investigate any allegation of a violation of the provisions of this Ordinance, and, if he or she shall determine that there is probable cause to believe that such a violation has occurred, he or she shall refer said matter to the Board for a hearing.
- (b) The First Selectman who, pursuant to the provisions of this section, shall preside at said hearing shall give notice of the time and place of said hearing and a general statement of the alleged violation, including the date thereof, to the licensee by mailing such notice, certified mail, return receipt requested, not less than seven (7) days prior to the date of said hearing, to the address set forth upon the license.
- (c) The First Selectman shall preside at said hearing unless said First Selectman shall be disqualified, in which event one of the remaining two (2) selectmen shall preside.
- (d) The licensee and the municipality shall have the right to be represented by counsel.
- (e) All witnesses at said hearing shall be placed under oath, and each party shall have an opportunity to cross-examine all witnesses to be presented by the other.
- (f) Unless both the municipality and the licensee shall waive the keeping of a transcript, a verbatim record of said proceeding shall be kept. Either party shall have the right to order a copy of said

record upon the payment, in advance, of the cost thereof.

- (g) The rules of evidence shall not apply to any proceeding hereunder, and subject to the provisions of this section, the presiding Selectman shall be permitted to accept such evidence as he or she shall deem appropriate.
- (h) In the event that any member of the Board shall be a witness in the proceedings, he or she shall be disqualified to act upon said complaint.
- (i) In the event that any member of the Board shall be disqualified to act upon said complaint for any reason, the remaining member(s) of the Board shall select an elector of the municipality to replace said disqualified member at said hearing. If the remaining member(s) are unable to agree upon said replacement, the Town Meeting, acting at a regular or special meeting, shall select said replacement.

In the event that the Board shall determine by a preponderance of the evidence, that the licensee is in violation of any section of this Ordinance, the First Selectman presiding at said hearing shall take such action as may be proper under the provisions of this Ordinance. Notice of such action shall be given to the licensee, in writing, by mailing thereof, certified mail return receipt requested, to said licensee at the address set forth on the permit not less than five (5) days prior to the effective date of said action.

**COMPLIANCE:** On or after January 1, 1992 any collector who has reason to believe that a person from whom he or she collects solid waste has discarded recyclable items with such solid waste in violation of the provisions of this Ordinance or of Section 22a-241b of the Connecticut General Statutes, as amended, shall promptly notify the municipal agent of the alleged violation. Upon the request of the municipal agent, a collector shall provide warning notices, by the placement of tags provided by the municipality, to any person suspected by the collector of the municipality of violating the separation requirements of state law or this Ordinance. Each collector shall also be required to assist the municipality in the identification of any person responsible for creating loads containing significant quantities of items subject to the separation requirements of State law or this Ordinance which are delivered to a resources recovery facility or solid waste facility by the collector and detected by the owner or operator of such a facility pursuant to Subsection (b) of Section 22a-220 of the Connecticut General Statutes.

**ENFORCEMENT:** Any collector found to have violated the separation and collection requirements of this Ordinance shall be subject to a fine in the amount of one hundred dollars (\$100.00) for each offense. In addition, the municipality reserves the right to suspend or revoke the license of any such collector. Any collector whose license is either suspended or revoked as provided for herein shall be entitled to a hearing in accordance with the provisions of this Ordinance.

Any person who violates the provisions of this Ordinance shall be subject to the following penalties:

- (a) Upon a first or second offense, the violator shall receive a written warning.
- (b) Upon a third or subsequent offense occurring within a period of one (1) year from the date of the last offense, the violator shall be subject to a fine of one hundred dollars (\$100.00) and, in addition, shall be refused recycling collection.

In accordance with the authority provided in Section 2 of Public Act 90-249, any commercial establishment that is found to have violated the provisions of Subsection (c) of Section 22a-241b of the Connecticut General Statutes shall be subject to a fine in the amount of five hundred dollars (\$500.00) for each such violation.

Any person who violates any other provision of this Ordinance shall be subject to a fine of one hundred dollars (\$100.00) for each such offense.

**SEVERABILITY:** Should any provision of this Ordinance be declared invalid for any reason, such declaration shall not affect the validity of other provisions or of this Ordinance as a whole, it being the legislative intent that the provisions of this Ordinance shall be severable and that the balance of this Ordinance shall remain valid notwithstanding such declaration.

**EFFECTIVE DATE:** In accordance with Connecticut General Statute § 7-157, this Ordinance shall become effective fifteen (15) days after publication of this Legal Notice.

Effective December 26, 1991

Recorded in Volume 7, Page 466

**TOWN OF MIDDLEBURY**  
**ORDINANCE CONCERNING OUTDOOR PRIVATE GATHERINGS**  
**UNDER TENTS OR PORTABLE STRUCTURES**

**PURPOSE:** The purpose of this Ordinance is to provide for health and safety in relation to fire, storm, collapse and ground movement.

**SCOPE:** The provisions of Section 1.-12. Inclusive shall be applicable to all private gatherings under tents or portable structures in the Town of Middlebury.

**SECTION 1. DEFINITIONS**

- a. "Generally accepted good practice" means the practice established by the best available authorities.
- b. "Inspector" means a fire marshal, deputy fire marshal and Building Department Inspectors appointed by the Town of Middlebury.
- c. "Tent" means any structure having wood or metal supports and using any kind of a textile or similar material for coverage, and having a capacity sufficient to shelter one hundred or more persons.
- d. "Private Gatherings" means gatherings other than those open to the general public.

**SECTION 2: GENERAL APPLICATION**

This ordinance shall apply to all tents or portable structures used for gatherings of 100 or more persons or covering a ground area of more than one thousand two hundred square feet.

**SECTION 3. PERMIT REQUIRED**

The owner of the property where the gathering is to be held shall secure a building permit from the Middlebury Building Official before the erection of any tent or portable structure.

**SECTION 4. LOCATION AND PLOT SPECIFICATIONS**

- a. Tents and air-supported plastic or fabric or other portable shelters shall have at all times ample and unrestricted access to public ways of approach from at least two points, remote from each other. An available open ground area, approved by the inspector as an ample area of refuge, may be used in lieu of one means of access to a public way.
- b. The entire area available for occupancy, including all passageways within such tent or shelter and from such tent or shelter to the public way, shall have a reasonable smooth surface and be safe for pedestrian travel.
- c. The entire area of the ground used by the gathering and all adjacent ground associated with the gathering shall be cleared of all flammable material or vegetation which will carry fire and shall be maintained free from such flammable materials during the period for which the premises are used by the gathering.
- d. No gradient exceeding one foot in eight feet shall be permitted in the area to be used by occupants within the means of the access or egress.
- e. No tent or air-supported plastic or fabric or other portable shelter shall be erected closer than ten feet to other structures but this shall not prohibit an enclosed passage from one tent or shelter to one other, provided satisfactory means of egress shall be available from each tent or shelter.
- f. Tents or air supported plastic or fabric or other portable shelters, vehicles, paraphernalia and

other equipment within the area shall not cover more than seventy-five percent of the open area upon which the gathering is taking place and shall be so arranged that there will be clear and unobstructed passage from all such tents or shelters.

- g. No tent or air-supported plastic or fabric or other portable shelter shall be located on property adjoining hazardous conditions.

## **SECTION 5. LIGHTING**

If the event is to be held after sundown, there shall be sufficient illumination by electric lights, both inside and outside the tents and shelters and about the area occupied by the same, so patrons may easily and safely find their way. Such electric service is to be provided either by the local public utility or by a portable power plant provided by the owner. In either event, such electrical installations and maintenance shall be in accordance with generally accepted good practice and shall meet with the approval of the local official charged with the duty of inspecting electrical installations. If a portable electric power plant is used, it shall be properly insulated and either entrenched in the ground or properly covered so that they will not constitute a hazard to foot travel. If such lines are overhead, they shall be at least ten feet from the ground. Emergency lighting shall be provided to illuminate the way of exit in case of a power failure.

## **SECTION 6. TENT AND SHELTER REQUIREMENTS**

- a. All tents and portable structures shall be adequately supported, guyed and braced to withstand wind or suction pressure.
- b. Tents and air-supported plastic or fabric or other portable shelters, including top, side walls and canopies, and all decorative material affixed therein except safety nets, shall be rendered and maintained flame resistant, and shall meet all applicable State regulations regarding permitting, certification or licensing.
- c. Guy stakes adjacent to or bordering required passageways shall be made readily visible by a guide rope or railing four feet in height.

## **SECTION 7. FIRE HAZARDS WITHIN TENTS AND SHELTERS**

- a. No hay, straw, shavings or similar combustible material shall be permitted within any tent or air-supported plastic or fabric or other portable shelters.
- b. No smoking, fireworks or open flame of any kind shall be permitted in any such tent or shelter while occupied by the public.
- c. "No Smoking" signs shall be posted in each tent or shelter in such a manner as to be visible from every portion occupied. The owner, management, policemen and firemen shall strictly enforce this regulation.
- d. No flammable liquids or gasses shall be brought into a tent or air-supported plastic or fabric or other portable shelter when it is occupied.

## **SECTION 8. SEATING**

- a. No seat shall be more than one hundred fifty feet from the nearest exit from the tent.

## **SECTION 9. AISLES FOR TABLED ASSEMBLIES**

Seating in tents and air-supported plastic or fabric or other portable shelters used for gatherings involving the use of tables shall have adequate aisles leading directly to means of egress, and such aisles shall be kept free and clear while tent is occupied.

## **SECTION 10. EXITS**

- a. Each tent or air-supported plastic or fabric or other portable shelter shall have two ways of egress remote from each other and, if the capacity of such tent or shelter exceeds five hundred persons, there shall be at least three ways of egress, and such ways of egress shall be increased in number with the capacity of the tent or shelter.
- b. Aggregate clear width of exit doorways, spaces, stairways, ramps and passageways serving as a means of egress from such tent or shelter, including the entrance, shall be provided on a basis of not less than thirty-six inches for each additional hundred persons up to and including twenty-five hundred persons, and twenty-two inches for each additional hundred persons to be accommodated.
- c. Egress passages shall not be less than forty inches in width.
- d. Egress passages shall be distributed equally to effect a rapid discharge of occupants.
- e. The capacity of a tent shall be determined by the number of chairs and/or seats in bleachers computed on the basis of eighteen inches for each person, and /or eight square feet per person of standing room.
- f. Illuminated exit signs shall be provided with a battery back up power source at each exit.

## **SECTION 11. OCCUPANCY LIMITED**

The number of persons to be admitted to the gathering shall not exceed the number for which seating has been provided and approved by the inspector.

## **SECTION 12. FIRE PROTECTION**

- a. For each gathering up to two hundred persons there shall be at least one fireman provided by the fire department and paid by the owner. For gatherings of 201 to 300, two firemen shall be provided, for gatherings of more than 300, firemen shall be provided based on the judgment of the fire marshal.
- b. Fire extinguishers shall be furnished by the owner and placed at the discretion of the inspector.
- c. All mechanical equipment shall be according to Article 4 of the B.O.C.A. Code.

## **SECTION 13. PENALTIES**

Any person who, by himself or his employee or agent, or as the employee or agent of another, violates any provision of this ordinance shall be subject to a fine of one hundred dollars (\$100.00) for each such offense.

## **SECTION 14. SEVERABILITY**

- a. Nothing in this ordinance shall be construed to supersede any lawful authority of the local or state fire marshal regarding the design, construction, installation and maintenance of tents or portable structures, or any state or federal statutes or regulations.
- b. Should any provision of this Ordinance be declared invalid for any reason, such declaration shall not affect the validity of other provisions or of this Ordinance as a whole, it being the legislative intent that the provisions of this Ordinance shall be severable and that the balance of this Ordinance shall remain valid notwithstanding such declaration.

**EFFECTIVE DATE**

In accordance with Connecticut General Statute § 7-157, this Ordinance shall become effective fifteen (15) days after publication of this Legal Notice.

Effective December 26, 1991

Recorded in Volume 7, Page 470.

**TOWN OF MIDDLEBURY**  
**ORDINANCE CONCERNING BURGLAR, FIRE HOLD-UP**  
**AND AUTOMATIC DIALER ALARM SYSTEMS \***

PURPOSE: The purpose of this ordinance is to provide minimum standards and regulations applicable to users and installers of burglar, fire, hold-up and automatic telephone dialer alarms within the Town of Middlebury, to provide penalties for noncompliance, and to encourage the installation of protective alarm systems in all dwellings and commercial structures.

SCOPE: This ordinance shall be known and may be cited as an Ordinance Regulating Burglar, Hold-up, and Fire Alarm Systems and Users.

SECTION 1. DEFINITIONS.

For the purpose of this ordinance, the following terms, phrases, words and their derivations shall have the meaning giving herein. When not inconsistent with the context, words used in the present tense include the future, words used in the plural number include the singular number and words in the singular number include the plural number. The word shall is always mandatory and not merely directory.

- (a) Alarm system means an assembly of equipment and devices (or a single device, such as a solid state unit, which may operate from a 110-volt AC line) arranged to signal the presence of a hazard requiring urgent attention and to which police or fire department personnel are expected to respond. This includes all burglar alarms, fire arms, holdup alarms, and automatic telephone dialer alarms, except this does not include smoke detectors which do not signal outside an alarmed premises or alarm systems on motor vehicles.
- (b) Alarm user means any person, firm or corporation on whose premises any alarm system is maintained within the town.
- (c) Automatic telephone dialing device refers to an alarm system which automatically sends over regular telephone lines, by direct connection or otherwise, a prerecorded voice message indicating the existence of the emergency situation that the alarm system is designed to detect.
- (d) False alarm means the activation of an alarm system through mechanical failure, malfunction, improper installation, or the negligence of the owner or lessee of an alarm system or of his/her employees or agents. Such terminology does not include, for example, alarms caused by hurricanes, tornadoes, earthquakes or other normally infrequent violent condition or acts of God. Excluded from this chapter are false alarms that are transmitted with a criminal, malicious or mischievous intent. Such violations will be prosecuted under the applicable general statutes of the State of Connecticut.

## SECTION 2. INSTALLATION REGISTRATION.

Any person, firm or corporation installing an alarm system within the town shall register with the Middlebury Police Department at least ten (10) days prior to anticipated installation. All existing alarm systems shall be registered with the Middlebury Police Department within sixty (60) days of the effective date of this chapter.

## SECTION 3. ELECTRICAL PERMIT TO INSTALL

No alarm system shall be installed by the other than a licensed person or other person meeting the requirements set forth in the building and electrical codes of the State of Connecticut. No alarm system shall be installed unless an electrical permit to install an alarm system has been obtained from the town building official, or his designated representative, as is required by the building and electrical codes of the State of Connecticut and the Zoning Regulations of the Town of Middlebury.

## SECTION 4. EXISTING AUTOMATIC DIALING ALARMS

Alarm users having existing automatic telephone dialing devices shall comply with section 7-282b of the General Statutes of the State of Connecticut.

## SECTION 5. PROGRAMMING AUTOMATIC DIALING ALARMS

Automatic telephone dialing devices in existence as of or prior to June 8, 1981, shall be programmed to a special telephone number which is to be designated by the chief of police. An automatic telephone dialing device shall not be programmed to dial 911.

## SECTION 6. AUTOMATIC DIALING ALARM TO THE POLICE

No person, firm or corporation shall install an automatic telephone dialing device within the Town of Middlebury terminating at the Middlebury Police Department after the effective date of this ordinance.

## SECTION 7. AUDIBLE ALARM RESTRICTION

All alarm systems, as defined in this chapter, which sound an audible signal which may be heard outside of the protected premises, shall be equipped with a device which shall limit the duration of such audible signal to not more than thirty (30) minutes in accordance with Section 22a-69-5.1 of the Administrative Regulations of the Department of Environmental Protection of the State of Connecticut.

## SECTION 8. FALSE ALARM LIMITATION

A maximum of five (5) false alarms per town fiscal year (July 1 to June 30) shall be allowed from any alarm system to any person, firm or corporation. Upon receipt of a sixth false alarm and for each false alarm thereafter during the fiscal year, a user fee shall be assessed by the chief of police in the amount of seventy-five dollars (\$75.00). Alarms originating from any building owned or

operated by the Town of Middlebury shall be exempt from the user fee requirements.

#### SECTION 9. ENFORCEMENT GENERALLY; PERFORMANCE STANDARDS

Enforcement and administration of this ordinance shall be the function of the chief of police, except that the fire marshal shall have jurisdiction over the fire alarm systems and shall be accomplished as is provided in either or both of the following two (2) sections.

#### SECTION 10. PENALTIES

Any person, firm or corporation found to be in violation of the Section 6 shall be fined one-hundred dollars (\$100.00).

- (a) Any person, firm or corporation who shall fail to pay a user fee, which has been assessed as provided in section 8 of this chapter, within thirty (30) days shall be fined one-hundred dollars (\$100.00). Each delinquent user fee shall be a separate offense.
- (b) Any person, firm or corporation found to be in violation of any provision of this chapter shall be fined twenty-five dollars (\$25.00).

In accordance with General State Statute Section 7-157, this Ordinance shall become effective fifteen (15) days after publication of a Legal Notice.

This Ordinance is effective October 24, 1994.

Recorded in Volume 8, Page 4.

- **See Page 93 for Amendment to Ordinance concerning Burglar, Fire Hold-Up and Automatic Dialer Alarm System approved at a Special Town Meeting July 29, 2009.**

LEGAL NOTICE  
TOWN OF MIDDLEBURY

At a Special Town Meeting held Tuesday, March 25, 1997 at the Shepardson Community Center, the following Ordinance was approved.

**TOWN OF MIDDLEBURY**  
**ORDINANCE ESTABLISHING CITATION PROCEDURES**  
**AND FINES FOR ZONING VIOLATIONS**

It is hereby ORDAINED by a Town Meeting of the Town of Middlebury:

1. That the Zoning Enforcement Officer or any other person designated by the Board of Selectmen is authorized to issue citations for violations of the Zoning Regulations of the Town of Middlebury to the extent and in the manner provided by this Ordinance. Any such citation may be served either by hand delivery or by certified mail, return receipt requested, to the person named in such citation. If the person named in a citation sent by certified mail refuses to accept such mail, the citation may be sent by regular United States mail. The official authorized to make service shall file with the Zoning Enforcement Officer an original or certified copy of the citation.
2. That citations may be issued for those types of zoning violations specified in paragraph 3 of this Ordinance.
3. That the fine for each such citation shall be in accordance with the following schedule:

NATURE OF VIOLATION	AMOUNT OF FINE
Construction or alteration of any building without a certificate of zoning compliance	\$75.00
Construction of any accessory structure, other than a building, without a certificate of zoning compliance	\$50.00
Conducting an unauthorized nonresidential use in a residential zone	\$75.00

Conducting an unauthorized use in a nonresidential zone	\$125.00
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Establishing, maintaining, constructing, reconstructing, enlarging, extending, moving or structurally altering signs without a certificate of zoning compliance

Signs under 2 sq. feet	\$25.00
Signs 2 to 12 sq. feet	\$50.00
Signs 12 sq. feet or larger	\$100.00

Outdoor storage on any lot in a Residence District of more than one (1) unregistered motor vehicle

For each unregistered motor vehicle in excess of one	\$100.00
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4. That any person receiving such a citation shall be allowed a period of thirty (30) days from his or her receipt of the citation to make an uncontested payment of the fine specified in the citation to the Treasurer of the Town of Middlebury. If the citation has been sent by regular mail pursuant to the provisions of paragraph 1 of this Ordinance, the day of receipt of the citation shall be deemed to be three business days after the day of mailing of the citation.

5. If a person who has been issued a citation does not make uncontested payment of the fine specified in the citation to the Treasurer within the time allowed under paragraph 4 of this Ordinance, the official authorized to make service shall send a notice to the person cited, informing such person: (1) of the allegations against him or her and the amount of the fines; (2) that the person cited may contest liability before a Hearing Officer appointed by the Board of Selectmen, as provided in paragraph 9 of this Ordinance, by delivering, in person or by mail, within ten days of the date of the notice, a written demand for a hearing; (3) that if the person cited does not demand such a hearing, an assessment and judgment shall be entered against him or her; and (4) that such judgment may issue without further notification.

6. If the person who is sent notice pursuant to paragraph 5 of this Ordinance wishes to admit liability for any alleged violation, he or she may, without requesting a hearing, pay the full amount of the fine, either in person or by mail, to the Zoning Enforcement Officer. All fines shall be made payable to the Treasurer of the Town of Middlebury. Such payment shall be inadmissible in any proceeding, civil or criminal, to establish the conduct of such person or other person making the payment. Any person who does not deliver or mail written demand for a hearing within ten days of the date of the notice described in paragraph 5 of this Ordinance shall be deemed to have admitted liability, and the Zoning Enforcement Officer shall certify to the Hearing Officer that such person has failed to respond. The Hearing Officer shall thereupon enter and assess the fines provided for by this Ordinance and shall follow the procedures set forth in paragraph 8 of this Ordinance.

7. Any person who requests a hearing shall be given written notice of the date, time and place for the hearing. Such hearing shall be held not less than fifteen days nor more than thirty days from the date of the mailing of notice, provided the Hearing Officer shall grant upon good cause shown any reasonable request by any interested party for postponement or continuance. The presence of the Zoning Enforcement Officer, or other issuing official shall be required at the hearing if requested by the person who was issued the citation. A person wishing to contest liability shall appear at the hearing and may present evidence in his or her behalf. The Zoning Enforcement Officer, or other issuing official may present evidence on behalf of the Town. If the person who received the citation fails to appear, the Hearing Officer may enter an assessment by default against him or her upon a finding of proper notice and liability under the applicable provisions of the Zoning Regulations of the Town of Middlebury. The Hearing Officer may accept written information by mail from the person who received the citation and may determine hereby that the appearance of such person is unnecessary. The Hearing Officer shall conduct the hearing in the order and from and with such methods of proof as he or she deems fair and appropriate. The rules regarding the admissibility of evidence shall not be strictly applied, but all testimony shall be given under oath or affirmation. The Hearing Officer shall announce his or her decision at the end of the hearing. If the Hearing Officer determines that the person who received the citation is not liable, the Hearing Officer shall dismiss the matter and enter that determination in writing accordingly. If the Hearing Officer determines that the person who received the citation is liable for the violation, the Hearing Officer shall forthwith enter and assess the fines against such person as provided by this Ordinance.

8. If such assessment is not paid on the date of its entry, the Hearing Officer shall send by first class mail a notice of the assessment to the person found liable and shall file, not less than thirty days nor more than twelve months after such mailing, a certified copy of the notice of assessment with the Clerk of the Superior Court for the Geographical Area Number 4, together with an entry fee of eight dollars. Further proceedings may then be held pursuant to the applicable provisions of the Connecticut General Statutes.

9. The Board of Selectmen shall appoint one or more citation Hearing Officers to conduct the hearings provided by this Ordinance. Neither the Zoning Enforcement Officer, any other official authorized to serve citations for violations of this Ordinance, nor any employee of the Town of Middlebury may be appointed as a Hearing Officer pursuant to this Ordinance.

In accordance with Connecticut General Statute §7-157, this Ordinance shall become effective fifteen (15) days after publication of this legal notice.

This ordinance appeared in the SUNDAY VOICES March 30, 1997 and is effective April 14, 1997.

Recorded in Vol. 8, Pg. 39

## TOWN OF MIDDLEBURY

The following Ordinance was approved at a Town Meeting of the Town of Middlebury on Monday, October 6, 1997 and shall become effective fifteen days after publication:

### **ORDINANCE CONCERNING DELINQUENT TAXES AND DENIAL OF PERMITS, TOWN CONTRACTS AND VENDOR PAYMENTS**

BE IT ORDAINED by the Town of Middlebury, Connecticut, at a Town Meeting duly assembled, that the following ordinance is adopted;

SECTION 1. For the purposes of this ordinance, the following definitions shall apply: a) "Delinquent amounts" shall refer to any delinquent real or personal property taxes, any delinquent sewer assessments or usage charges, or any delinquent water assessments or usage charges, and any interest, fees and charges thereon or related thereto. b) "Person" shall mean any individual, firm, company, partnership, association, society, corporation, group, or other entity.

#### SECTION 2:

(a) No official or agent of the Town of Middlebury, or any member of any board, office, department, commission or agency thereof shall issue a certificate of occupancy, zoning, building, inland wetlands, driveway or any other permit for the use of or improvements to real property to any owner thereof or other applicant from whom any delinquent amounts are owed to the Town of Middlebury or for any real property for which any delinquent amounts are owed to the Town, except as provided in Section 4 below.

(b) At the time any such application for a certificate or permit is filed, the applicant shall submit to the appropriate Town official having authority to issue such certificate or permit, sufficient written evidence from the Middlebury Tax Collector that there are no delinquent amounts due to the Town from the owner of the real or personal property for which said application is made or from the applicant if other than the owner.

(c) This section shall not be deemed to apply to those applications for permits which involve repair or construction work ordered by a public agency or for emergency work to be performed for public health and/or safety concerns, nor shall it apply to those applicants who are making improvements to their real property with loans or grants received under any State and/or Federal rehabilitation programs.

SECTION 3: No payment shall be made by the Finance Director of the Town of Middlebury or by any other Town official, department head, employee, board, commission or agency to any person who has sold goods or provided services to the Town or to any board, office, department, commission or agency thereof, if, at the time said payment is due, it is determined that said person owes delinquent amounts to the Town, provided that no such payment to be withheld shall exceed the delinquent amounts owed at the time of withholding. Any such sums withheld pursuant to this

section shall be paid to the Tax Collector and applied against the outstanding delinquent amounts owed by such person, first to any outstanding interest, fees and charges and then to the outstanding principal balance. This section shall not apply to the payment of wages to employees of the Town of Middlebury or any board, office, department, commission or agency thereof.

#### SECTION 4:

(a) Notwithstanding anything provided hereinbefore to the contrary, no certificate or permit under Section 2 hereof shall be withheld if the person owing said delinquent amounts has entered into a written agreement with the Town of Middlebury, by and through the Middlebury Tax Collector, which shall provide for an immediate payment to the Town of all outstanding interest, fees and charges included in said delinquent amounts and at least one half of the principal balance owed, and a payment plan requiring the installments over a period of no greater than twenty-four months from the date of said agreement. In the event any person owing delinquent amounts is unable to enter into such agreement with the Tax Collector as a result of severe financial hardship, such person may propose to said Tax Collector an alternate method for paying said delinquent amounts which, if acceptable to the Tax Collector, shall be subject to the approval of the Board or Selectmen. In either event, interest shall continue to accrue on said delinquent amounts at the rate allowed by law. Any such payment agreement shall be in addition to, and not in lieu of, any and all other collection methods and remedies available to the Tax Collector as allowed by law.

(b) In the event any person enters into a written agreement with the Tax Collector as provided hereinbefore, or proposes an alternate method of paying said delinquent amounts which proposal is acceptable to the Tax Collector and approved by the Board of Selectmen, proof of any such agreement or approval shall be delivered to the appropriate Town Official having authority to issue such certificate or permit prior to the issuance of such certificate or permit.

(c) The exception provided in paragraph (a) of this section and any agreement entered into pursuant thereto shall be for the sole purpose of allowing a person owing delinquent amounts to obtain a certificate or permit and shall not in any way constitute, or to be construed to constitute, an agreement by the Town of Middlebury or the Tax Collector to forebear the collection of said delinquent amounts during the period of the approved monthly payment plan. The Tax Collector shall continue to have the right to exercise all powers allowed by law to collect said delinquent amounts sooner than set forth in said agreement and at no time shall the Town be required to stay or forestall any other collection methods or remedies during such period.

SECTION 5: The Finance Director and Tax Collector of the Town of Middlebury shall coordinate their activities so that the purpose and intent of this ordinance may be carried out. All other officials, department heads and employees of the Town shall coordinate their activities with those of the Tax Collector and Finance Director in a like manner.

SECTION 6: Any person entering into any contract with the Town of Middlebury or doing business with the Town shall be deemed to have expressly consented and agreed to the terms of Section 3 of this ordinance which terms shall become an integral part of the contract or agreement between such person and the Town, even if not specifically set forth in said contract or agreement.

SECTION 7: All invitations to bid extended to prospective bidders in the award of municipal contracts subject to the public bidding procedure as provided for in the Connecticut General Statutes and / or the Town of Middlebury Charter shall include a reference to this ordinance provided, however, that the failure of any invitation to bid to include such reference shall in no way affect the validity of the invitation or the applicability of this ordinance.

SECTION 8. If any provision of this ordinance is declared invalid, the remaining provisions hereof shall continue in full force and effect.

SECTION 9: This ordinance shall be effective fifteen (15) days after publication as required by §7-157 of the Connecticut General Statutes, as amended

Dated at Middlebury, Connecticut this 7th day of October, 1997.

Alicia H. Ostar, C.M.C. Town Clerk of Middlebury

This Ordinance appeared in the SUNDAY VOICES October 12, 1997 and became effective October 27, 1997.

Recorded in Volume 8, Page 46.

## **ORDINANCE CONCERNING JUSTICES OF THE PEACE**

Whereas, Chapter II, Section 204 of the Charter of the Town of Middlebury, Revision date: November, 1993, calls for a total of fifty-four (54) Justices of the Peace to be chosen in the manner provided in Section 9-252 of the General Statutes, each for a term of four (4) years commencing on the first Monday of January succeeding their nomination, and

Whereas, Public Act 94-230 modifies the method for selecting Justices of the Peace to provide for members of minor parties and those not enrolled in political parties to serve as Justices of the Peace, and

Whereas, Public Act 94-230 requires that one-third (1/3) of the total number of Justices of the Peace be selected from electors who are not members of major political parties, as defined in Section 9-372 of the General Statutes, with the remaining two-thirds (2/3) selected from among the major parties,

Now therefore, Be It Ordained

That Chapter II, Section 204 of the Charter of the Town of Middlebury is hereby superseded and the total number of Justices of the Peace authorized is hereby increased to eighty-one (81) with fifty-four (54) to be selected by the major political parties as defined in Section 9-372 of the General Statutes and in the same manner as previously provided, and twenty seven (27) to be selected from electors who are not members of major political parties as set forth in Public Act 94-230 and by the means set forth therein.

Effective Date

In accordance with Connecticut General Statute 7-157, this Ordinance shall become effective fifteen (15) days after publication of this Legal Notice.

This Ordinance is effective as of June 24, 1996.

Recorded in Vol. 8, Page 33.

**ORDINANCE CONCERNING TAX EXEMPTION**  
**FOR CERTAIN AMUBLANCE-TYPE MOTOR VEHICLES**

BE IT ORDAINED by the Town of Middlebury, Connecticut, at a Town Meeting duly assembled, that the following ordinance is adopted;

Pursuant to Section § 12-81c of the Connecticut General Statutes the following motor vehicles are exempt from personal property taxes:

- a. Any ambulance-type motor vehicle which is used exclusively for the purpose of transporting any medically incapacitated individual, except any such vehicle used to transport any such individual for profit.

Any owner of a motor vehicle claiming said exemption shall certify to the Tax Assessor, by affidavit, that the use of said vehicle is strictly in conformance with the terms set forth herein.

Effective Date: In accordance with Connecticut General Statute §7-157 this Ordinance shall become effective fifteen (15) days after publication of this Legal Notice.

Effective March 1, 1999.

Recorded in Volume 8, Page 63.

# **TOWN OF MIDDLEBURY**

## **Scenic Road Ordinance**

Preamble

- I. Authority
- II. Designation Criteria
- III. Procedure for Designation
- IV. Rescission and Appeal
- V. Application for Alterations
  - A. Preservation Objective
  - B. Hearing and Decision Responsibility
  - C. Routine Road Maintenance
  - D. Natural Disasters
  - E. Standards for Alteration
  - F. Paving Criteria
  - G. Rights of Landowners
- VI. Enforcement
- VII. Severability
- VIII. Effective Date

## **SCENIC ROAD ORDINANCE**

### **PREAMBLE**

The scenic and rural roads of the Town of Middlebury are an irreplaceable resource.

The scenic values of some rural roads in Middlebury have been reduced or are in danger of destruction because of past or potential alterations to their rights-of-way. Such alterations have had, and could continue to have, a significant adverse impact on the quality of the Town's environment in general, and, in particular, on aesthetic and historic values that are of great but immeasurable benefit to residents and visitors alike.

As explicitly expressed in Section 7-149a of the Connecticut General Statutes, the preservation of the scenic or historic values of rural roads is essential to the welfare of the people of Connecticut. It is the purpose of this Ordinance to balance that need in Middlebury with the traditional need to provide, in transportation matters, for common convenience and public safety.

Therefore be it ordained by the Town of Middlebury that, pursuant to the authority granted by Section 7-149a of the Connecticut General Statutes, the Town of Middlebury provide for the designation of Town roads ("highways") or portions thereof as Scenic Roads, and further in order to maintain the scenic nature of highways so designated, or portions thereof, the Town of Middlebury is authorized to regulate, in accordance with this Ordinance, the future alternation or improvement of roads so designated, including, but not limited to, widening of the right-of-way or of the traveled portion of the highway, paving, changes of grade, straightening, removal of stone walls and removal of mature trees.

### **Section I**

Authority: The authority to designate a highway or any portion of any highway as a Scenic Road is hereby delegated to the Planning and Zoning Commission of the Town of Middlebury.

### **Section II**

Designation Criteria:

- (a) No highway or portion of a highway shall be designated as a Scenic Road if the abutting property contains intensive commercial development or if the highway itself has intensive vehicular traffic. Prior to designating a highway or portion thereof as a Scenic Road, the Planning and Zoning Commission must first specifically find that at least one of the following criteria is met:
  - (1) the highway is unpaved;
  - (2) the highway is bordered by mature trees or stone walls;
  - (3) the traveled portion of the highway is no more than 20 feet in width;
  - (4) the highway offers scenic views;
  - (5) the highway blends naturally into the surrounding terrain; or
  - (6) the highway parallels or crosses over brooks, streams, lakes, or ponds.
- (b) No highway or portion thereof may be designated as a Scenic Road by the Planning and

Zoning Commission pursuant to this Ordinance unless the owners of the majority of the lot frontage abutting the highway or portion thereof agree to the designation of the highway as a Scenic Road by filing a written statement of approval with the Town Clerk of the Town of Middlebury.

### **Section III**

#### **Procedure for Designation**

- (a) The Planning and Zoning Commission on its own initiative may consider a highway or portion thereof for Scenic Road designation. Property owners may petition the Planning and Zoning Commission for a designation of a highway or portion thereof as a Scenic Road. The petition shall state what road or portion of road is requested to be designated as a Scenic Road and describe those characteristics of the road which qualify it for Scenic Road status, as well as other characteristics which enhance the scenic character of the road. The petition shall be signed by the owners of a majority of lot frontage abutting the road or portion of road in question (such ownership shall be verified by the Town Assessor), stating that they approve of designating the road or portion of road a Scenic Road, and indicating, to the best of their knowledge, their lot frontage along the road or portion of the road in question. Each signer of the petition shall indicate his or her address. The petition circulator shall also include the names and addresses of the owners of lot frontage abutting the road or portion of road in question who did not sign the petition. The petition must contain the name, address and signature of the circulator of the petition, who must be a resident of Middlebury. Said petition shall also have a signed statement by the circulator that the circulator either knows each individual who signed the petition or that the signer satisfactorily identified himself or herself to the circulator.

The original petition shall be filed with the Town Clerk, who will make a copy to retain and forward the original to the Planning and Zoning Commission.

- (b) In order to designate a highway or portion thereof a Scenic Road, the Planning and Zoning Commission shall first hold a Public Hearing regarding the designation of such road as a Scenic Road. Notice of the public hearing shall be given by publication in a newspaper of general circulation in the Town of Middlebury at least twice in intervals of not less than two days, the first not more than 15 days, nor less than 10 days, and the last not less than two days prior to the date of such hearing and by sending a copy thereof by registered or certified mail to the owners of lots fronting the highway or portion of the highway proposed to be designated as a Scenic Road. The Planning and Zoning Commission shall act upon the designation within the period of time permitted under Section 8-26d of the Connecticut General Statutes, as amended. Notice of the decision of the Commission shall be published in a newspaper having a substantial circulation in the Town of Middlebury and addressed by certified mail to the owners of lots fronting on that highway or portion of highway thereof proposed to be designated as a Scenic Road, by its secretary or clerk, under his signature in any written, printed, typewritten or stamped form, 15 days after such decision has been rendered. Such notice shall be a simple statement that the highway or a portion thereof was or was not designated as a Scenic Road by the Planning and Zoning Commission, together with the date of such action.

The grounds for the designation or non-designation shall be stated in the records of the Commission and shall include in as much detail as possible the special features which make the highway so designated scenic, or the reasons for denying designation.

## **Section IV**

### **RESCISSION AND APPEAL**

- (a) The designation of a highway or a portion thereof as a Scenic Road may be rescinded by the Planning and Zoning Commission, using the above procedures.
- (b) Any person aggrieved by a decision of the Planning and Zoning Commission designating or refusing to designate a highway or portion of a highway as a Scenic Road, or rescinding, or refusing to rescind, a designation of a highway or portion of a highway as a Scenic Road, may appeal such decision in the manner and utilizing the same standards of review provided for appeals from the decisions of planning and zoning commissions under Section 8-8, as amended, of the Connecticut General Statutes.

## **Section V**

### **APPLICATION FOR ALTERATIONS**

- (a) **Preservation Objective.** Routine maintenance and the regulation of future alterations and improvements of designated highways shall be carried out so as to preserve the scenic characteristics of the highway which are indicated in the records of the Planning and Zoning Commission as the basis for the designation.
- (b) **Hearing and Decision Responsibility.** The alteration or improvement of a designated Scenic Road shall be determined by the Board of Selectmen. Any proposal for alteration or improvement, whether by public or private applicant, shall be submitted to the Planning and Zoning Commission, which shall hold a public hearing and submit findings of fact and a recommendation to the Board of Selectmen. The determination by the Board of Selectmen shall be based on the findings of fact of the Planning and Zoning Commission and shall give important weight to the Commission's recommendation, which may be modified or rejected only by a unanimous vote of the Board.
- (c) **Routine Road Maintenance.** Such maintenance within the right-of-way shall include removal of dead and seriously diseased or damaged trees and branches of trees; trimming of the tree branches that encroach on the traveled portion of the highway below the height needed to allow school buses and emergency vehicles to pass; trimming or removal of brush and removal of boulders or other obstacles that encroach on the traveled portion of the road; necessary trimming for utility lines; trimming of brush to enhance and protect scenic views, stone walls, mature trees and other characteristics of the Scenic Road set forth in the decision designating it a Scenic Road; correction of drainage problems; and graveling, retreatment and repair of existing roadway surfaces.
- (d) **Natural Disasters.** In the case of a natural disaster in which a road becomes impassable or unsafe for public travel, and access must be provided, emergency repairs may be made as needed.
- (e) **Standards for Alteration.** When contemplating alterations to a Scenic Road for common

convenience and necessity, including, without limitation, safety reasons and Fire and Police consideration, the following procedures shall be followed by the Planning and Zoning Commission:

1. Review of a suitable map, and where deemed necessary by the Planning and Zoning Commission, of a technical report documenting the cited hazard and offering alternative solutions.
2. Holding a Public Hearing to allow full public participation.
3. A decision making process that not only reviews the specific safety features, but also takes into account the overall impact of the possible change in a Scenic Road as well as the public response.
4. The final decision shall reflect the least damage to the character of the Scenic Road. If stone walls or portions thereof must be removed, they shall be rebuilt along the untraveled portion of the Scenic Road.
5. If alterations to a Scenic Road are required, then they shall be planned with due regard to the following parameters:
  - a. Speed Limits. Scenic values are correlated with lower speeds. The lower speed shall be posted and suitably enforced.
  - b. Curves. Scenic values are correlated with the existence of curves, which allow a constant unfolding of new and changing views. Curves shall not be eliminated until they are found to be a definite hazard within the concept of the specific road.
  - c. Grades. Hills and valleys are correlated with scenic values. They shall not be destroyed by cuts and fills unless absolutely essential for road safety.
  - d. Widths. A narrow road is correlated with high scenic beauty. Designated highways should not be widened unless the amount of traffic, as determined by a factual study, demands it. For some rural roads, the amount of traffic that can be handled can be greatly increased by wide bypasses and turnouts, constructed at intervals where they do least damage to scenic and other values.
  - e. Side Slopes. Existing steepness of side slope is preferable to reduction of gradient by extensive removal of soil and rock. This is especially true where the slope is fully stabilized and where it is rich with existing ground cover, shrubs and trees.
  - f. Vistas. Vistas of distant landscapes shall be preserved by suitable Vegetation Management techniques.
  - g. Utility Lines. Wherever possible, utility lines should be put underground. Where they are overhead the utility corporations should cooperate by implementing suitable vegetation management techniques, which preserve the wild flowers and the shrubs.
  - h. Vegetation. Vegetation on the side of the road shall be managed in such a way as to preserve wild flowers, shrubs or ornamental wildlife values, and trees. Overarching isolated trees, and the canopy of a closed forest, can have extremely high scenic value.
  - i. Billboards, sand, gravel and salt piles, refuse disposal, and other unsightly structures or situations shall be forbidden. Where possible, scenic and

preservation easements should be acquired from adjacent owners to insure the continuance of natural relief, desirable features, and scenic and historic values in the Public Interest.

Any action under Section V, subparagraphs A, B, C and D, shall be taken in a manner which will avoid or reduce adverse effects on the characteristics of the designated highway specified in the decision designating it a Scenic Road. Any reconstruction of a designated highway shall be done in similar manner with a view to restoring the road to the extent possible to its scenic character at the time of designation.

- (f) Paving Criteria. Paving of the unpaved traveled portion of a Scenic Road shall be permitted only if the owners of a majority of lot frontage along the unpaved portion of the road indicate their approval of the paving by signing a written statement agreeing to the paving and filing it with the Town Clerk.
- (g) Rights of Landowners. Nothing in this Ordinance shall be deemed to prohibit a person owning or occupying land abutting the highway or portion thereof designated as a Scenic Road by the Planning and Zoning Commission from (1) maintaining and repairing the land which abuts the road so designated if the maintenance occurs on land not with the right-of-way, paved or unpaved, of the Scenic Road; or (2) having access to his property by driveway or subdivision road by encroachment within the rights-of-ways, provided that such encroachment is constructed so as to safeguard the highway's scenic features as recorded by the Planning and Zoning Commission.

Nothing herein shall prohibit a landowner from permanently removing a portion of a stone wall in order to construct or improve a driveway or, in the case of a subdivision, to connect a subdivision road with a designated Scenic Road.

## **Section VI**

### **ENFORCEMENT**

The Ordinance shall be enforced by the Planning and Zoning Commission, acting through its designated enforcement official(s).

Violation of this Ordinance shall be subject to a fine not exceeding \$100.00 per day for each day the violation continues, and such other legal remedies as may be available to the Commission.

## **Section VII**

### **SEVERABILITY**

If any portion of this Ordinance is determined by a court of competent jurisdiction to be invalid or unenforceable in any respect, and such determination has not been reversed or overruled, that portion shall be deemed severed from this Ordinance, and the remainder of this Ordinance shall be treated as if it had been enacted separately without the inclusion of the portion determined to be invalid or unenforceable.

## **Section VIII**

### **EFFECTIVE DATE**

In accordance with Section 7-157 of the Connecticut General Statutes, this Ordinance shall become effective fifteen (15) days after publication of the Legal Notice.

Effective March 29, 2001

Recorded in Volume 8, Page 84.

### **AN ORDINANCE ESTABLISHING ADDITIONAL VETERAN PROPERTY TAX EXEMPTION**

1. Any veteran or surviving spouse entitled to an additional exemption from property tax in accordance with subdivision (19) and (22) of Connecticut General Statute §12-81, which is applicable to the assessed value of property up to the amount of ten thousand dollars provided such veteran's qualifying income does not exceed the qualifying income as defined by the State of Connecticut Circuit Breaker Program: \$26,100.00 for a single veteran, or \$31,900.00 for a married veteran.

This exemption is in addition to other veteran's tax exempt programs previously adopted by the Town of Middlebury.

2. The income requirements set fourth in paragraph (1) shall be automatically reviewed for income adjustment each calendar year following the adoption of this Ordinance by an amount equal to the periodic increase, if any, in qualifying income under the State of Connecticut Circuit Breaker Program.
3. The Assessor for the Town of Middlebury shall be responsible for administering the veteran's tax exempt program as set forth in Connecticut General Statute §12-81(f) as amended by Public Act 03-44.

Approval of the aforementioned Ordinance results in Middlebury increasing the \$4,000.00 VETERAN'S income qualifying exemption, to an additional \$10,000.00 exemption for a total of \$14,000.00 exemption assessment;

#### WHO IS ELIGIBLE?

Active duty members of the armed services, qualified veterans, severely disabled veterans or spouses of deceased qualified veterans who meet qualifying income standards.

#### HOW IS ELIGIBILITY DETERMINED?

The maximum income qualifications are single- up to \$26,500, married - up to \$32,300.00.

#### HOW DOES ONE APPLY?

Applications should be made to the Assessor for the Town of Middlebury at 758-1447.

#### TO QUALIFY

A VETERAN must be:

- A Connecticut resident.
- Be a record owner, have life use, or be a beneficiary of a true estate with respect to real property in the Town of Middlebury.
- Be honorably discharged and served at least 90 days during war or a recognized military conflict or retired after 30 years form a branch of the US armed services.
- Be a surviving spouse of a qualifying veteran in accordance with Connecticut General Statute §12-81.

In accordance with General State Statutes, Section 7-157, this Ordinance shall become effective fifteen (15) days after publication of this Legal Notice.

Voted and adopted December 1, 2004. Effective December 27, 2004. Vol. 8, Page 133.

**ORDINANCE ESTABLISHING FEES**  
**FOR MUNICIPAL LAND USE APPLICATIONS**

**SECTION I – Authorization and Purposes**

To establish a schedule of fees, pursuant to Section 8-1c of the Connecticut General Statutes, allowing land use applications to fund the actual municipal administrative costs of reviewing, evaluating and processing such applications.

**SECTION II – Fee Schedules**

Fee schedules established by the Zoning Commission, Planning Commission, Zoning Board of Appeals and Conservation Commission (hereafter “land use agencies”) are hereby ratified, and incorporated into this ordinance as the minimum fee schedule for land use agencies.

**SECTION III – Reimbursement for Expenses**

When the actual cost of processing a municipal land use application exceeds the minimum fee, the land use agencies shall bill the applicant for the actual excess amount, based on actual expenditures for technical review by consultants to the Town of Middlebury, with expertise including but not limited to engineering, traffic, environmental, planning and law.

Expenses for such consultants as can be reasonably anticipated may be estimated by the land use agencies upon receipt of the application, and this reasonable estimate, together with the application fee from the fee schedule, shall be paid forthwith, and the application shall be deemed incomplete until these fees have been submitted. Any consultant fees not expended on review of the application shall be refunded to the applicant upon conclusion of the application process.

In the event that consultant costs are in excess of any estimated amount paid by the applicant, the land use agencies shall bill the applicant, who shall pay such additional costs prior to issuance of any permit or license sought. No application shall be deemed filed unless accompanied by the appropriate application fees.

**EFFECTIVE DATE:** In accordance with Connecticut General Statutes s 7-157, this Ordinance shall become effective fifteen (15) days after publication of this Legal Notice.

**Effective Date:** August 16, 2007

**Adopted at the July 24, 2007 Town Meeting / See Vol. 8, Pg. 183 of the Middlebury Town Records Book.**

## **Town of Middlebury Ordinance**

### **Declaration of a Local Disaster Emergency**

#### **1. Definitions**

Local Disaster Emergency shall mean an emergency declared by the First Selectman in the event of a serious disaster affecting the Town of Middlebury or in the event of the imminence thereof.

Civil Emergency shall mean an emergency declared by the Governor of the State of Connecticut, under the provisions of the Title 28 of the Connecticut General Statutes, in the event of a serious disaster or of an enemy attack, sabotage or other hostile action within the State or a neighboring state, or in the event of the imminence thereof.

#### **2. Authority**

The First Selectman of Middlebury is duly authorized to declare a local disaster emergency in accordance with the terms of Connecticut General Statute 28-8a(a).

#### **3. Effect**

Upon declaration of a local disaster emergency by the First Selectman of the Town of Middlebury, the First Selectman and the Local Emergency Management Director shall exercise all powers and authority granted to the Town of Middlebury and its First Selectman under Title 28 of the Connecticut General Statutes.

#### **4. Activation of the Emergency Operations Center**

In times of a local disaster or civil emergency, the First Selectman of Middlebury is authorized to activate the local Emergency Operations Center.

#### **5. Determining the Need to Declare a Local Disaster Emergency**

The Chief of the Middlebury Police Department, the Chief of the Middlebury Volunteer Fire Department, the Local Health Director, the Local Emergency Management Director or their duly appointed representatives shall assist the First Selectman in evaluating the need to declare a local disaster emergency.

#### **6. Area Coordination**

In times of a local disaster or civil emergency, the First Selectman of the Town of Middlebury will coordinate his or her response activities with the appropriate Area Coordinator from the Department of Emergency Management and Homeland Security.

**Effective Date: August 16, 2007**

**Adopted at the July 24, 2007 Town Meeting / See Vol. 8, Pg. 183 of the Middlebury Town Records Book.**

## **ORDINANCE GOVERNING SALONS, NAIL PARLORS, AND BARBER SHOPS**

Pursuant to Section 19a-243 of the General Statutes of the State of Connecticut, as amended, be it ordained by the Town of Middlebury, Connecticut that:

### **Section 1      Definition:**

- (a) “Shop, Salon or Studio” as used in this regulation means any place where the art or practice of dressing, arranging, curling, waving, weaving, cutting, styling, bleaching or coloring the hair, beards are trimmed or shaved, and/or treating the scalp by massaging, cleansing, stimulating, antiseptics, tonics, lotions, creams, powders, oils, or clay and doing similar work on the face, neck, arms and manicuring the nails, both hands and feet, of any person for compensation, provided that, nothing in this definition shall prohibit an unlicensed person from performing facials, eyebrow arching and manicuring of the fingernails.
- (b) “Shop, Salon or Studio” includes but is not limited to the following: Barber Shops, Beauty Salons or Studios, Coiffures and Hair Designers, Fashioners and schools for same.

#### **Purpose:**

The purpose of this Ordinance is to safeguard the health and well-being of persons who patronize barber shops, beauty salons, day-spas, manicurist/pedicurist establishments and the like, in the Town of Middlebury through a system of inspection, regulation, education and licensing of said establishments, their owners and employees.

### **Section 2      Licenses:**

- (a) All operators shall have and display an appropriate current license or Registration to practice, from the State of Connecticut, as required.
- (b) It shall be unlawful for any person, firm, corporation, etc. to operate a shop, salon or studio, or offer services of same within the Town of Middlebury without a valid License issued by the Director of Health. Only a person who complies with the requirements of this Ordinance and the General Statutes of the State of Connecticut shall be entitled to receive or retain such license. Licenses are not transferable. A valid license shall be conspicuously posted in every shop, salon or studio.

### **Section 3      Issuance of Licenses:**

- (a) Any person, firm, corporation, etc., desiring to operate a shop, salon or Studio, shall at least thirty (30) days prior to opening or change of ownership of such establishment, make written application for a license on forms provided by the Director of Health. Such application shall include, but not be limited to, the name and address of each applicant, the location and type of establishment and the signature of each applicant.

- (b) The application shall be accompanied by the appropriate licensing fee and a set of plans for the establishment.
- (c) Prior to the issuance of final approval for a license, the Director of Health or his authorized agent, shall inspect the proposed establishment to determine compliance with the provisions of this regulation, the General Statutes of the State of Connecticut and any other applicable statutes, ordinances, or rules and regulations.
- (d) If the Director of Health fails or refuses to issue a license to the applicant under this section of the Ordinance, the applicant may appeal pursuant to Section 6, herein.

**Section 4 Fees:**

Up to Three (3) Stations, bays or chairs:.....\$50.00  
 Each Additional Station, bay or chair (over 3).....\$10.00  
 Late fee for Annual License Filing.....\$25.00

**Section 5 Expiration of License:**

All licenses shall expire one year after the date of issuance and may be renewed for another year upon application and payment of annual fee, provided the establishment is in compliance with this Ordinance, the General Statutes of the State of Connecticut and any other applicable statutes, Ordinances, or rules and regulations.

**Section 6 Suspension of License:**

- (a) The Director of Health may suspend any license to operate a shop, salon or studio if the license holder does not comply with the requirements of this Ordinance or the General Statutes of the State of Connecticut. If the Director of Health finds unsanitary or other conditions which in his judgment constitutes an immediate and substantial hazard to public health, he may immediately issue a written notice to the license holder or operator citing such conditions, specifying the reasonable period of time within which such action shall be taken and, if deemed necessary, order immediate correction. If correction is not made in the stated time, the license shall be suspended. Suspension is effective upon service of a notice as stated in Section 8 of this Ordinance. When a license is suspended, operations shall immediately cease.
- (b) Whenever a license is suspended, the license holder or person in charge or applicant may, within forty-eight (48) hours after issuance of such order, appeal to the Commissioner of Health of the State of Connecticut pursuant to Connecticut General Statute Section 19a-229, who shall therefore immediately notify the authority from whose order the appeal was taken, and examine the merits of such case and may vacate, modify or affirm such order.
- (c) During the process of any appeal, the license shall remain suspended.

**Section 7 Revocation of License:**

- (a) The Director of Health may revoke a license for repeated or serious violations of the Ordinance or for interference with the Director of Health or his authorized agent in the performance of their duties. Prior to revocation, the Director of Health shall notify the license holder or person in charge of the establishment in writing of the reasons for which the license is subject to revocation and, that the license shall be

- revoked at the end of fourteen (14) days following service of such notice.
- (b) Whenever a license is revoked, the license holder or person in charge or applicant may, within forty-eight (48) hours after issuance of such order, appeal to the Commissioner of Health, State of Connecticut, pursuant to Connecticut General Statutes, Section 19a-229, who shall thereupon immediately notify the authority from whose order the appeal was taken and examine the merits of the case and may vacate, modify or affirm such order.
  - (c) During the process of any appeal, the license shall remain revoked.

**Section 8      Service of Notices:**

A notice provided for in this Ordinance is properly served when it is delivered to the license holder or person in charge, or when it is sent by Registered or Certified mail, return receipt requested, to the last known address of the license holder. A copy of any notice shall be filed in the records of the Director of Health.

**Section 9      Reapplication:**

- (a) Suspension – Whenever a license has been suspended, the holder of the suspended license, whether there is an appeal pending or not, may make a written request for reinstatement of the suspended license. Within ten (10) days following receipt of a written request, including a statement signed by the applicant that, in his/her opinion the conditions causing the suspension have been corrected, the Director of Health or his authorized agent shall make re-inspection. If the applicant is complying with the requirements of this Ordinance, the General Statutes of the State of Connecticut and other applicable statutes, ordinances, rules or regulations, the license shall be re-instated.
- (b) Revocation - Whenever a license has been revoked, the holder of a license may, after a period of ten (10) days from the date of revocation, make written application for reinstatement of a license as provided in Section 3 of this Ordinance and payment of the annual fee, whether or not an appeal is pending. Within ten (10) days following receipt of a written request for reinstatement of a revoked license, including a statement signed by the applicant that, in the opinion of the applicant, the conditions causing the revocation have been corrected, the Director of Health or his authorized agent shall make a re-inspection. If the applicant is in compliance with the requirements of this Ordinance, the General Statutes of the State of Connecticut and any other applicable statutes, ordinances, rules or regulations, the license shall be re-instated upon payment of the fee.

**Section 10      Submission of Plans:**

Whenever a shop, salon or studio is constructed or remodeled and Whenever an existing structure is converted to use as such an establishment, properly prepared plans showing in particular, plumbing fixtures and schedules of equipment, station areas and specifications for construction, remodeling or alteration of same, shall

be submitted to the Director of Health or his authorized agent for review and approval before construction, remodeling or alteration is begun. The plans and specifications shall indicate the proposed layout, arrangement and construction materials of work areas, expansion of the subsurface sewage disposal system, if necessary, protection of water supply as necessary. A statement of the type and model of proposed fixed equipment and facilities shall be provided along with the plans. The Director of Health or his authorized agent shall approve the plans and specifications if they meet the requirements of this Ordinance, prior to the issuance or renewal of a license.

**Section 11 Pre-operational Inspection**

Whenever plans and specifications are required by Section 10 of this Ordinance are to be submitted to the Director of Health or his authorized agent, he shall inspect the establishment prior to its commencing operation, to determine compliance with the approved plans and specifications and within the requirements of this Ordinance.

**Section 12 Inspection, Enforcement and Access:**

- (a) The Director of Health or his authorized agent, as required in Connecticut General Statutes, Section 19a-231, shall make inspections and reinspections as necessary to enforce this Ordinance, but not less than once per year and shall be permitted to enter any establishment licensed, or applying for a license under this Ordinance, during regular working hours.
- (b) Compliance with this Ordinance shall not relieve the Owner or Operator of responsibility to conform to all applicable regulations and procedures, under the Connecticut Building Code and Fire Safety Code, as well as municipal zoning and land use Ordinances and regulations.

**Section 13 Location, Equipment and Facilities:**

- (a) A barber shop, beauty salon, nail parlor etc. located in a residence must be confined to a separate room, separated with ceiling-high partitions and provided with a door, to be closed at all times when not in use.
- (b) The area within a home, operated as a barber shop, beauty parlor, etc. must be equipped with the equipment and instruments required in all separate or free-standing facilities.
- 1. Water Supply: An adequate supply of hot (minimum 120 degrees F.) and Cold water must be provided for customers, cleanliness of employees And for washing floors, walls, ceilings and equipment.
- 2. Sewage and Waste Disposal: Waste water shall be discharged into Municipal sewers where available or into an approved subsurface sewage disposal system. Solid wastes and/or refuse shall be kept in containers with tight fitting lids and/or covers and liners. They shall be disposed of on a regular basis to keep the establishment neat, clean and free of litter and vermin, or at such intervals as directed by the Director of Health.

3. Plumbing Fixtures: Plumbing fixtures shall be of impervious material readily cleanable and free from cracks, chipping, crazing, etc. All plumbing shall be protected against back siphonage, cross connection or backflow.
4. Floors: Floors in work areas shall be of smooth, nonporous, easily cleanable materials. Carpeting is permitted in reception, drying and waiting areas.
5. Lighting and Ventilation: Lighting shall be sufficient so as to provide adequate illumination in the work area. Overhead lights in work areas shall be shielded against breakage. The establishment shall be properly ventilated so as to remove excess moisture, heat and odors.
6. Cabinets and Attached Fixtures: Cabinets shall be provided for clean linen, towels and supplies. They shall have tight fitting doors which shall be kept closed, when not in use, to protect contents from dust, dirt, etc.
7. Used Towels: A covered, lined receptacle, which can be readily emptied and cleaned, shall be provided for soiled towels and linens exclusively.
8. Toilet Facilities: Adequate toilet and handwashing facilities shall be provided for patrons and employees. Such facilities shall be kept in clean, sanitary and good working order. Handwashing facilities shall be provided with hot (minimum 120 degrees F.) and cold water, sanitary soap dispenser and single-service towels. The use of common soap for more than one person is prohibited.
9. Walls, Ceilings and Fixtures: Walls, ceilings and fixtures shall be kept in good repair and clean at all times. Cracks and seams shall be filled or covered to prevent rodent and/or insect harborage. In work areas, walls shall be constructed of smooth, non-pervious materials.

#### Section 14 Sanitation:

1. General Cleanliness: the licensee/ owner of said establishment shall keep it in clean and sanitary condition at all times.
2. Fixtures:
  - (a) Cabinets, shelves, furniture and other fixtures shall be kept free of dust, dirt, hair or nail droppings. Arms, seats and rests on chairs shall be wiped of hair or nail droppings after serving each patron.
  - (b) The head rest of a chair shall be covered by a properly laundered towel or disposable paper cover for each patron before the patron is permitted to recline in said chair.
3. Equipment and Supplies:
  - (a) A towel shall in no case be used for more than one person, without being properly laundered before each use.
  - (b) Hair brushes, combs and all other implements used on a patron shall be kept clean and sanitary at all times and shall undergo thorough cleansing after each use.
  - (c) Sanitary, covered containers shall be provided and maintained, which shall contain a fumigant for mandatory storage of implements when not in use.
  - (d) Shaker top containers must be provided for dispensing lotions or powders.
  - (e) The use of finger bowls is allowed; however, separate sanitary liners or cups must be used for each patron and discarded immediately after use.

- (f) Alum or other materials used to stop the flow of blood shall only be applied in liquid or powdered form.
  - (g) Any blood-tainted or bodily-fluid tainted waste must be disposed of in an acceptable manner.
4. Prohibited Practices:
- (a) Reuse of single service items.
  - (b) Use of Shaving brushes or shaving mugs.
  - (c) Use of brush, neck dusters, powder puffs and sponges.
  - (d) Food and beverages in the work area.
  - (e) Smoking in the work area.
  - (f) Ultraviolet disinfection methods.
5. Operators:
- (a) The hands of each operator shall be thoroughly washed before serving each patron.
  - (b) No operator, known to be infected with a communicable disease While in an infectious stage of the disease, shall engage in barbering, hair dressing, cosmetology, manicure, pedicure, body massage or patron contact in any manner, during the infectious stage.
  - (c) While attending, operators shall wear clean, washable outer Clothing.
6. Animals and Pets:
- No pets or animals are permitted in salons or shops, with the exception of trained, service dogs.

#### Section 15 Acceptable Methods of Disinfection:

1. The following chemical methods constitute satisfactory disinfection of Implements. No method is considered effective without prior thorough cleaning with hot water and detergent.
  - (a) Quaternary compounds – Ammonia ( $\text{-NH}_4$ ), 1:1000 dilution for 30 seconds.
  - (b) Boiling water or oil – 5 minutes.
  - (c) Lysol (compound cresol solution or phenolic compound) – 5% Solution for 3 minutes or 3% solution for 10 minutes.
  - (d) Commercial formalin – 10% solution for 1 minute.
  - (e) Alcohol – 70% Ethyl or 99% Isopropyl for 3 minutes.
  - (f) Carbolic Acid – 5% Solution for 10 minutes.
  - (g) Solutions of other chemicals provided the disinfecting ingredient shall be equal in potency to a 5% carbolic acid solution as determined by the phenol-coefficient method.
  - (h) Lubricant germicide for electric clippers 10 second contact time, 10 minute drain time.
2. All instruments and accessories having been disinfected shall be rinsed thoroughly in clean, flowing tap water before use.

Section 16 Penalties:

1. Unless otherwise provided, any person who violates any provision of this Ordinance shall be fined not more than One Hundred (100.00) dollars each violation.
2. It shall be the responsibility of the offender to abate any violation as ordered by the Director of Health.
3. Each day's violation shall be deemed a separate offense.

Section 17 Unconstitutional Clause:

Should any section, paragraph, sentence, clause or phrase of this Ordinance be declared unconstitutional or invalid for any reason, The remainder of said Ordinance shall not be affected thereby.

**Effective Date: August 16, 2007**

**Adopted at the July 24, 2007 Town Meeting / See Vol. 8, Pg. 183 of the Middlebury Town Records Book.**

**MODEL ILLICIT DISCHARGE AND  
CONNECTION STORMWATER ORDINANCE**

SECTION 1. PURPOSE/INTENT.

The purpose of this ordinance is to provide for the health, safety, and general welfare of the citizens of the Town of Middlebury through the regulation of non-stormwater discharges to the storm drainage system to the maximum extent practicable as required by federal and state law. This ordinance establishes methods for controlling the introduction of pollutants into the municipal separate storm sewer system (MS4) in order to comply with requirements of the National Pollutant Discharge Elimination System (NPDES) permit process. The objectives of this ordinance are:

- (1) To regulate the contribution of pollutants to the municipal separate storm sewer system (MS4) by stormwater discharges by any user
- (2) To prohibit Illicit Connections and Discharges to the municipal separate storm sewer system
- (3) To establish legal authority to carry out all inspection, surveillance and monitoring procedures necessary to ensure compliance with this ordinance

SECTION 2. DEFINITIONS.

For the purposes of this ordinance, the following shall mean:

- (1) Authorized Enforcement Agency. Employees or designees of the director of the municipal agency designated to enforce this ordinance.
- (2) Best Management Practices (BMPs). Schedules of activities, prohibitions of practices, general good house keeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to stormwater, receiving waters, or stormwater conveyance systems. BMPs also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.

- (3) Clean Water Act. The federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.), and any subsequent amendments thereto.
- (4) Construction Activity. Activities subject to NPDES Construction Permits. These include construction projects resulting in land disturbance of 1 acre or more. Such activities include but are not limited to clearing and grubbing, grading, excavating, and demolition.
- (5) Hazardous Materials. Any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.
- (6) Illegal Discharge. Any direct or indirect non-stormwater discharge to the storm drain system, except as exempted in Section 7 of this ordinance.
- (7) Illicit Connections. An illicit connection is defined as either of the following:
  - Any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the storm drain system including but not limited to any conveyances which allow any non-stormwater discharge including sewage, process wastewater, and wash water to enter the storm drain system and any connections to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by an authorized enforcement agency or,
  - Any drain or conveyance connected from a commercial or industrial land use to the storm drain system which has not been documented in plans, maps, or equivalent records and approved by an authorized enforcement agency.
- (8) Industrial Activity. Activities subject to NPDES Industrial Permits as defined in 40 CFR, Section 122.26 (b)(14).
- (9) National Pollutant Discharge Elimination System (NPDES) Stormwater Discharge Permit. means a permit issued by EPA (or by a State under authority delegated pursuant to 33 USC § 1342(b)) that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.
- (10) Non-Stormwater Discharge. Any discharge to the storm drain system that is not composed entirely of stormwater.
- (11) Person. Any individual, association, organization, partnership, firm, corporation or other entity recognized by law and acting as either the owner or as the owner's agent.
- (12) Pollutant. Anything that causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes, and solvents; oil and other automotive fluids; non-hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordinances, and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; and noxious or offensive matter of any kind.
- (13) Premises. Any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.
- (14) Storm Drainage System. Publicly-owned facilities by which stormwater is collected and/or conveyed, including but not limited to any roads with drainage systems, municipal streets, gutters, curbs, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and human-made or altered drainage channels, reservoirs, and other drainage structures.

- (15) Stormwater. Any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation.
- (16) Stormwater Pollution Prevention Plan. A document which describes the Best Management Practices and activities to be implemented by a person or business to identify sources of pollution or contamination at a site and the actions to eliminate or reduce pollutant discharges to Stormwater, Stormwater Conveyance Systems, and/or Receiving Waters to the Maximum Extent Practicable.
- (17) Wastewater. Any water or other liquid, other than uncontaminated stormwater, discharged from a facility.

### SECTION 3. APPLICABILITY.

This ordinance shall apply to all water entering the storm drain system generated on any developed and undeveloped lands unless explicitly exempted by an authorized enforcement agency.

### SECTION 4. RESPONSIBILITY FOR ADMINISTRATION.

The Board of Selectman of the Town of Middlebury shall administer, implement, and enforce the provisions of this ordinance. Any powers granted or duties imposed upon the authorized enforcement agency may be delegated in writing by the Director of the authorized enforcement agency to persons or entities acting in the beneficial interest of or in the employ of the agency.

### SECTION 5. SEVERABILITY.

The provisions of this ordinance are hereby declared to be severable. If any provision, clause, sentence, or paragraph of this Ordinance or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this Ordinance.

### SECTION 6. ULTIMATE RESPONSIBILITY.

The standards set forth herein and promulgated pursuant to this ordinance are minimum standards; therefore this ordinance does not intend nor imply that compliance by any person will ensure that there will be no contamination, pollution, nor unauthorized discharge of pollutants.

### SECTION 7. DISCHARGE PROHIBITIONS.

#### Prohibition of Illegal Discharges.

No person shall discharge or cause to be discharged into the municipal storm drain system or watercourses any materials, including but not limited to pollutants or waters containing any pollutants that cause or contribute to a violation of applicable water quality standards, other than stormwater.

The commencement, conduct or continuance of any illegal discharge to the storm drain system is prohibited except as described as follows:

- (1) The following discharges are exempt from discharge prohibitions established by this ordinance providing they contain no pollutants: water line flushing, landscape irrigation or lawn watering,

diverted stream flows, rising ground water, ground water infiltration to storm drains, uncontaminated pumped ground water, foundation or footing drains (not including active groundwater dewatering systems), crawl space pumps, air conditioning condensation, springs, natural riparian habitat or wetland flows, fire fighting activities, and any other water source not containing Pollutants.

- (2) Discharges specified in writing by the authorized enforcement agency as being necessary to protect public health and safety.
- (3) Dye testing is an allowable discharge, but requires a verbal notification to the authorized enforcement agency prior to the time of the test.
- (4) The prohibition shall not apply to any non-stormwater discharge permitted under an NPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the Federal Environmental Protection Agency or the Connecticut Department of Environmental Protection, provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted for any discharge to the storm drain system.

#### Prohibition of Illicit Connections.

- (1) The construction, use, maintenance or continued existence of illicit connections to the storm drain system is prohibited.
- (2) This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.
- (3) A person is considered to be in violation of this ordinance if the person connects a line conveying sewage to the MS4, or allows such a connection to continue.

### SECTION 8. SUSPENSION OF MS4 ACCESS.

#### Suspension due to Illicit Discharges in Emergency Situations

The Board of Selectman of the Town of Middlebury may, without prior notice, suspend MS4 discharge access to a person when such suspension is necessary to stop an actual or threatened discharge which presents or may present imminent and substantial danger to the environment, or to the health or welfare of persons, or to the MS4 or Waters of the United States. If the violator fails to comply with a suspension order issued in an emergency, the authorized enforcement agency may take such steps as deemed necessary to prevent or minimize damage to the MS4 or Waters of the United States, or to minimize danger to persons.

#### Suspension due to the Detection of Illicit Discharge

Any person discharging to the MS4 in violation of this ordinance may have their MS4 access terminated if such termination would abate or reduce an illicit discharge. The authorized enforcement agency will notify a violator of the proposed termination of its MS4 access. The violator may petition the authorized enforcement agency for a reconsideration and hearing.

A person commits an offense if the person reinstates MS4 access to premises terminated pursuant to this Section, without the prior approval of the authorized enforcement agency.

## SECTION 9. INDUSTRIAL, COMMERCIAL OR CONSTRUCTION ACTIVITY DISCHARGES.

Any person subject to an industrial, commercial or construction activity NPDES stormwater discharge permit shall comply with all provisions of such permit. Proof of compliance with said permit may be required in a form acceptable to the Board of Selectman of the Town of Middlebury prior to the allowing of discharges to the MS4.

## SECTION 10. MONITORING OF DISCHARGES

### 1. Applicability.

This section applies to all facilities that have stormwater discharges associated with industrial, commercial or construction activity.

### 2. Access to Facilities.

- (1) The Board of Selectman of the Town of Middlebury shall be permitted to enter and inspect facilities subject to regulation under this ordinance as often as may be necessary to determine compliance with this ordinance. If a discharger has security measures in force that require proper identification and clearance before entry into its premises, the discharger shall make the necessary arrangements to allow access to representatives of the authorized enforcement agency.
- (2) Facility operators shall allow the Board of Selectman of the Town of Middlebury ready access to all parts of the premises for the purposes of inspection, sampling, examination and copying of records that must be kept under the conditions of an NPDES permit to discharge stormwater, and the performance of any additional duties as defined by state and federal law.
- (3) The Board of Selectman of the Town of Middlebury shall have the right to set up on any permitted facility such devices as are necessary in the opinion of the authorized enforcement agency to conduct monitoring and/or sampling of the facility's stormwater discharge.
- (4) The Board of Selectman of the Town of Middlebury has the right to require the discharger to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the discharger at its own expense. All devices used to measure stormwater flow and quality shall be calibrated to ensure their accuracy.
- (5) Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the operator at the written or oral request of the Board of Selectman of the Town of Middlebury and shall not be replaced. The costs of clearing such access shall be borne by the operator.

- (6) Unreasonable delays in allowing the Board of Selectman of the Town of Middlebury access to a permitted facility is a violation of a stormwater discharge permit and of this ordinance. A person who is the operator of a facility with a NPDES permit to discharge stormwater associated with industrial, commercial or construction activity commits an offense if the person denies the authorized enforcement agency reasonable access to the permitted facility for the purpose of conducting any activity authorized or required by this ordinance.
- (7) If the Board of Selectman of the Town of Middlebury has been refused access to any part of the premises from which stormwater is discharged, and he/she is able to demonstrate probable cause to believe that there may be a violation of this ordinance, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with this ordinance or any order issued hereunder, or to protect the overall public health, safety, and welfare of the community, then the authorized enforcement agency may seek issuance of a search warrant from any court of competent jurisdiction.

#### SECTION 11. REQUIREMENT TO PREVENT, CONTROL, AND REDUCE STORMWATER POLLUTANTS BY THE USE OF BEST MANAGEMENT PRACTICES.

The Board of Selectman of the Town of Middlebury will adopt requirements identifying Best Management Practices for any activity, operation, or facility that may cause or contribute to pollution or contamination of stormwater, the storm drain system, or waters of the state. The owner or operator of a commercial or industrial establishment shall provide, at their own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the municipal storm drain system or watercourses through the use of these structural and non-structural BMPs. Further, any person responsible for a property or premise, which is, or may be, the source of an illicit discharge, may be required to implement, at said person's expense, additional structural and non-structural BMPs to prevent the further discharge of pollutants to the municipal separate storm sewer system. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of stormwater associated with industrial or commercial activity, to the extent practicable, shall be deemed compliance with the provisions of this section. These BMPs shall be part of a stormwater pollution prevention plan (SWPPP) or stormwater management plan (SMP) as necessary for compliance with requirements of the NPDES permit.

#### SECTION 12. WATERCOURSE PROTECTION.

Every person owning property through which a watercourse passes, or such person's lessee, shall keep and maintain that part of the watercourse within the property free of trash, debris, excessive vegetation, and other obstacles that would pollute, contaminate, or significantly retard the flow of water through the watercourse. In addition, the owner or lessee shall maintain existing privately owned structures within or adjacent to a watercourse, so that such structures will not become a hazard to the use, function, or physical integrity of the watercourse.

## SECTION 13. NOTIFICATION OF SPILLS.

Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting or may result in illegal discharges or pollutants discharging into stormwater, the storm drain system, or water of the state said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of hazardous materials said person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of non-hazardous materials, said person shall notify the authorized enforcement agency in person or by phone or facsimile no later than the next business day. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the Board of Selectman of the Town of Middlebury within three business days of the phone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years.

## SECTION 14. ENFORCEMENT.

### 1. Notice of Violation.

Whenever the Board of Selectman of the Town of Middlebury finds that a person has violated a prohibition or failed to meet a requirement of this Ordinance, the authorized enforcement agency may order compliance by written notice of violation to the responsible person. Such notice may require without limitation:

- (a) The performance of monitoring, analyses, and reporting;
- (b) The elimination of illicit connections or discharges;
- (c) That violating discharges, practices, or operations shall cease and desist;
- (d) The abatement or remediation of stormwater pollution or contamination hazards and the restoration of any affected property; and
- (e) Payment of a fine to cover administrative and remediation costs; and
- (f) The implementation of source control or treatment BMPs.

If abatement of a violation and/or restoration of affected property is required, the notice shall set forth a deadline within which such remediation or restoration must be completed. Said notice shall further advise that, should the violator fail to remediate or restore within the established deadline, the work will be done by a designated governmental agency or a contractor and the expense thereof shall be charged to the violator.

## SECTION 15. APPEAL OF NOTICE OF VIOLATION.

Any person receiving a Notice of Violation may appeal the determination of the authorized enforcement agency. The notice of appeal must be received within 15 days from the date of the

Notice of Violation. Hearing on the appeal before the appropriate authority or his/her designee shall take place within 15 days from the date of receipt of the notice of appeal. The decision of the municipal authority or their designee shall be final.

#### SECTION 16. ENFORCEMENT MEASURES AFTER APPEAL.

If the violation has not been corrected pursuant to the requirements set forth in the Notice of Violation, or, in the event of an appeal, within 30 days of the decision of the municipal authority upholding the decision of the authorized enforcement agency, then representatives of the authorized enforcement agency shall enter upon the subject private property and are authorized to take any and all measures necessary to abate the violation and/or restore the property. It shall be unlawful for any person, owner, agent or person in possession of any premises to refuse to allow the government agency or designated contractor to enter upon the premises for the purposes set forth above.

#### SECTION 17. COST OF ABATEMENT OF THE VIOLATION.

Within 30 days after abatement of the violation, the owner of the property will be notified of the cost of abatement, including administrative costs. The property owner may file a written protest objecting to the amount of the assessment within 15 days. If the amount due is not paid within a timely manner as determined by the decision of the municipal authority or by the expiration of the time in which to file an appeal, the charges shall become a special assessment against the property and shall constitute a lien on the property for the amount of the assessment.

Any person violating any of the provisions of this article shall become liable to the town by reason of such violation. The liability shall be paid in not more than 12 equal payments.

#### SECTION 18. INJUNCTIVE RELIEF.

It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this Ordinance. If a person has violated or continues to violate the provisions of this ordinance, the authorized enforcement agency may petition for a preliminary or permanent injunction restraining the person from activities which would create further violations or compelling the person to perform abatement or remediation of the violation.

#### SECTION 19. COMPENSATORY ACTION.

In lieu of enforcement proceedings, penalties, and remedies authorized by this Ordinance, the authorized enforcement agency may impose upon a violator alternative compensatory actions, such as storm drain stenciling, attendance at compliance workshops, creek cleanup, etc.

SECTION 20. VIOLATIONS DEEMED A PUBLIC NUISANCE.

In addition to the enforcement processes and penalties provided, any condition caused or permitted to exist in violation of any of the provisions of this Ordinance is a threat to public health, safety, and welfare, and is declared and deemed a nuisance, and may be summarily abated or restored at the violator's expense, and/or a civil action to abate, enjoin, or otherwise compel the cessation of such nuisance may be taken.

SECTION 21. CRIMINAL PROSECUTION

Any person that has violated or continues to violate this ordinance shall be liable to criminal prosecution to the fullest extent of the law, and shall be subject to a criminal penalty of \$100.00 dollars per violation per day and/or imprisonment for a period of time not to exceed 30 days.

The authorized enforcement agency may recover all attorneys' fees court costs and other expenses associated with enforcement of this ordinance, including sampling and monitoring expenses.

SECTION 22. REMEDIES NOT EXCLUSIVE

The remedies listed in this ordinance are not exclusive of any other remedies available under any applicable federal, state or local law and it is within the discretion of the authorized enforcement agency to seek cumulative remedies.

SECTION 23. ADOPTION OF ORDINANCE

**Effective Date: August 16, 2007**

**Adopted at the July 24, 2007 Town Meeting / See Vol. 8, Pg. 183 of the Town of Middlebury Town Records Book.**

**AMENDMENT TO ORDINANCE CONCERNING BURGLAR, FIRE HOLD-UP AND  
AUTOMATIC DIALER ALARM SYSTEMS**

To amend the Town of Middlebury Ordinance concerning Burglar, Fire, Hold-up and Automatic Dialer Alarm Systems, Section 8. False Alarm Limitation to state: "A maximum of three (3) false alarms per town fiscal year (July 1 to June 30) shall be allowed from any alarm system to any person, firm or corporation. Upon receipt of the fourth false alarm during the fiscal year, a use fee shall be assessed by the Chief of Police in the amount of Fifty Dollars (\$50.00); upon the fifth false alarm, a use fee shall be assessed in the amount of Seventy-Five Dollars (\$75.00); and upon the sixth and each additional false alarm calls within the fiscal year, a use fee shall be assessed in the amount of One Hundred Dollars (\$100.00). Alarms originating from any building owned or operated by the Town of Middlebury shall be exempt from the user fee requirements".

**EFFECTIVE DATE**

In accordance with Connecticut General Statute §7-157, this Ordinance shall become effective

fifteen (15) days after publication of the legal notice in the August 2, 2009 Sunday Voices.

**Effective Date: August 17, 2009**

**Adopted at the July 29, 2009 Special Town Meeting / See Vol. 8, Pgs. 265-268 of the Middlebury Town Records Book.**

**ORDINANCE ESTABLISHING PAYMENT SCHEDULE FOR ANNUAL REAL ESTATE TAX, PERSONAL PROPERTY TAX AND MOTOR VEHICLE TAX**

To enact a Town of Middlebury Ordinance establishing payment schedule for annual Real Estate Tax, Personal Property Tax, and Motor Vehicle Tax to state:

“Pursuant to Section 12-142 et seq. of the Connecticut General Statutes,

- a. All taxes due and payable to the Town of Middlebury shall be in two semi-annual installments except for any tax of One Hundred Dollars (\$100.00) or less and all motor vehicle taxes, regardless of amount due.
- b. All taxes due and payable of One Hundred Dollars (\$100.00) or less and all motor vehicle taxes, regardless of amount due, are payable on the **1<sup>st</sup> day of July** of each year following the annual approval of the general fund budget with the exception of the first installment of real estate taxes which are due on the **1<sup>st</sup> day of July** of each year.
- c. All other taxes shall be due and payable in TWO installments; the first installment due and payable on the **1<sup>st</sup> day of July** of each year and the second installment on the **1<sup>st</sup> day of January** following the annual approval of the general fund budget.
- d. Except as established by action of a Town Meeting, each of the two installments of a tax due shall be equal; any taxpayer may pay the two installments when the first is due”.

EFFECTIVE DATE: In accordance with Connecticut General Statutes §7-157, this Ordinance shall become effective fifteen (15) days after publication of this legal notice in the August 2, 2009 Sunday Voices.

**Effective Date: August 17, 2009**

**Adopted at the July 29, 2009 Special Town Meeting / See Vol. 8 Pgs. 265-268 of the Middlebury Town Records Book**

## **ORDINANCE TO CREATE AND BECOME A MEMBER OF THE CENTRAL CONNECTICUT SOLID WASTE AUTHORITY**

### **Section One: Statement of Purpose**

Section 7-273aa of the Connecticut General Statutes Annotated provides that any two or more Connecticut municipalities may, by concurrent ordinances of their legislative bodies, create a regional solid waste authority under the provisions of Sections 7-273aa to 7-273oo, inclusive ("Chapter 103b") to jointly manage solid waste disposal and recycling services on behalf of its members to be known as the Central Connecticut Solid Waste Authority.

Upon adoption of this Ordinance by two or more municipalities, the Central Connecticut Solid Waste Authority ("CCSWA") shall be created.

### **Section Two: Creation of the Regional Solid Waste Authority**

CCSWA is hereby created as a regional authority under the provisions of Chapter 103b and shall have all the rights, powers, duties and obligations of a regional authority pursuant to Chapter 103b and Chapters 446d and 446e of the Connecticut General Statutes Annotated ("Chapters 446d and 446e").

### **Section Three: Designation of Regional Solid Waste Authority**

The Municipality hereby designates CCSWA as its regional solid waste authority, including its regional resource recovery authority, and adopts the provisions of Chapter 103b in connection with this election to become a member of CCSWA.

### **Section Four: Purpose and Authority**

The purpose of CCSWA shall be to solicit and jointly manage solid waste disposal and recycling services on behalf of its members, including the Municipality.

### **Section Five: Principal Address of the Authority**

The principal address of CCSWA shall be 241 Main Street, Hartford, CT 06106, c/o the Capitol Region Council of Governments.

### **Section Six: Members of the Authority**

The members of CCSWA shall be the municipalities, including the Municipality, which adopt this Model Ordinance.

### **Section Seven: Voting Method for Authority Governance**

The number of votes to be cast by each municipal member of CCSWA shall be based on a multi-tiered voting system to be based on the population of such municipal member compared to the populations of CCSWA's other municipal members, to be specifically determined in a manner consistent with the by-laws of CCSWA as the same shall be adopted after the formation of CCSWA.

### **Section Eight: Appointments, Removal and Terms of Office**

The method of the appointment and removal and the terms of office of the

municipal members of CCSWA (including individual municipal member representatives appointed by municipal members who serve on any board, committee, subcommittee or other body of CCSWA) shall be determined in a manner consistent with the by-laws of CCSWA as the same shall be adopted after the formation of CCSWA; provided however, that not more than half of such terms shall expire within any one year.

#### **Section Nine: Annual Meeting of the Authority**

There shall be at least one annual meeting of all municipal members of CCSWA, all as provided in the by-laws of CCSWA to be adopted after its formation.

#### **Section Ten: Prohibition Against Monetary Compensation**

The members of CCSWA shall receive no monetary compensation solely for their service as members of CCSWA; provided, however, that the ability of CCSWA to pay host community compensation to members which agree to host solid waste facilities within their municipal borders shall not be affected by this prohibition.

#### **Section Eleven: Executive Committee of the Authority**

The members of CCSWA shall have the option to elect an executive committee to manage the operations of CCSWA, provided, however, that the specific division of responsibilities for such management between the executive committee, the full membership of CCSWA and any other body or officer of CCSWA shall be consistent with the by-laws of CCSWA to be adopted after its formation. The members of such executive committee shall constitute an odd number, shall include at least one representative of each CCSWA voting tier based on population and shall also be determined by considerations of geographical representation, all such matters and the terms of office and appointment of such executive committee members and other matters pertaining thereto to be specifically determined in a manner consistent with the by-laws of CCSWA to be adopted after its formation.

#### **Section Twelve: Powers of the Authority**

In addition to its role as a regional solid waste authority under Chapters 103b, 446d and 446e, CCSWA may also provide and/or solicit for the provision of other municipal services on a collective basis for the benefit of such of its members as may wish to make an individual municipal election to participate in such additional service opportunities.

#### **Section Thirteen: Adoption**

This Model Ordinance is hereby adopted pursuant to and in compliance with all laws governing the Municipality's adoption of ordinances and shall take effect immediately upon its passage.

This ordinance is effective fifteen days (15) after publication (Section 904G of the Middlebury Charter).

**Effective Date: February 6, 2010**  
**Adopted at the January 14, 2010 Special Town Meeting / See Vol. 8 Pgs. 278 – 281 of the**  
**Middlebury Town Records Book**

## **PROPERTY MAINTENANCE ORDINANCE**

### **SECTION 1. PURPOSE**

**(a) It is found and declared that properties with residential and nonresidential structures that are substandard with respect to structural integrity or maintenance; that vacant, blighted, dilapidated or disorderly homes, buildings and other real property, located within the Town of Middlebury, contribute to the decline of neighborhoods, that the existence of such homes, buildings or real property adversely affects the economic well-being of the Town, and is inimical to the health, safety and welfare of the residents and visitors of the Town.**

**(b) This Ordinance is enacted by the Town of Middlebury, pursuant to the authority granted it under Connecticut General Statutes §7-148 (c) (7) and Connecticut General Statutes § 29-253.**

### **SECTION 2. DEFINITIONS**

**(a) "Blighted Property" - any building, structure or parcel of real property where at least one of the following conditions exists:**

**(1) It has been determined by the Town Building Official, Health Official, Sanitarian, Zoning Enforcement Officer or other appropriate official, acting within the scope of his or her authority, that a condition exists, which poses a serious or immediate threat to the health, safety or general welfare of the community.**

**(2) The Fire Marshal has determined that a building or structure is a fire hazard.**

**(3) The property is in a state of disrepair or is becoming dilapidated.**

**(4) The property is unfit for human habitation.**

**(5) The property has an unsafe structure or structures.**

**(6) The overall condition of the property causes an unreasonable impact on the enjoyment of, or value of, neighboring properties, as may be expressed by complaints from adjoining property owners, and citizens of the Town of Middlebury.**

**(7) The quality of life of others is significantly impacted by the state of disrepair or dilapidation of the property.**

**(b) "State of Disrepair" or "Becoming Dilapidated" – a physically deteriorating condition, causing unsafe or unsanitary conditions or one which has become unsightly or a nuisance to the General Public and is evidenced by one or more of the following conditions:**

**(1) Missing, broken or boarded up windows and doors.**

**(2) Collapsing or missing walls and roof.**

**(3) Seriously damaged or missing siding.**

**(4) Unrepaired fire, water or wind damage.**

**(5) Rodent or other infestation, having the potential to cause disease.**

**(6) Persistent accumulation(s) of garbage or trash in or on the property.**

**(7) Two or more inoperative or abandoned, unregistered vehicles; or inoperative marine vessels or unregistered trailers; kept or stored on the premises, unless garaged or the premises is properly permitted as a junk yard.**

**(8) Overgrown grass, weeds and other vegetation, that has an adverse impact on the enjoyment of, or value of, neighboring properties, and/or creates infestation having the potential to cause disease, except undeveloped or farming fields.**

**(9) Felled or fallen trees or parts thereof, visible from the road or neighboring properties, that present a safety situation and/or have an adverse impact on the enjoyment of, or value of, neighboring properties.**

**(10) Parking locations left in a state of disrepair or abandonment.**

**(11) Abandoned swimming pools or accumulations of stagnant water, which would promote the breeding of mosquitoes or other potentially harmful insects.**

**(12) Any other exterior condition reflecting a level of maintenance which is not in keeping with community standards or which constitutes a blighting factor for adjacent property owners or occupiers or which is an element leading to the progressive deterioration of the**

neighborhood.

(c) "Unfit for Human Habitation" – any home, building or other real property, which, by virtue of its blighted or dilapidated condition, poses a serious, immediate or long-term threat to the health, well-being, safety and/or welfare of its inhabitants.

(d) "Unsafe Structure" - A structure which becomes unsanitary or deficient because of inadequate means of egress, inadequate facilities, inadequate light or ventilation, or which constitutes a fire hazard, or is otherwise dangerous to human life or the public welfare, or which involves illegal or improper occupancy or inadequate maintenance, or which is not secured against entry.

### **SECTION 3. PROHIBITION**

No owner, agent, tenant or person in control of real property located within the Town of Middlebury shall allow, maintain or cause to be maintained a blighted property.

### **SECTION 4. NOTICE**

(a) The Town of Middlebury, through its designated enforcement personnel, shall serve written notice to an owner, agent, tenant and/or person responsible, of a violation of this ordinance. This notice may be hand delivered or sent by certified mail, return receipt requested, to the last known address of the responsible person(s).

(b) Such notice shall state: (1) the violation(s); (2) the corrective action(s) demanded; (3) the time frame for rectifying the noted violation(s), and (4) the amount of the fines, penalties, costs or fees that may be imposed for noncompliance. If the person(s) responsible fail to correct the violations the Town of Middlebury may issue an enforcement citation as specified hereafter.

### **SECTION 5. DESIGNATED ENFORCEMENT PERSONNEL**

The Zoning Enforcement Officer, Building Official, Health Official, Fire Marshal or other individual designated by the Board of Selectmen is charged with the enforcement of this ordinance. Each of the above is specifically authorized to take such enforcement actions as delineated in this ordinance.

### **SECTION 6. PENALTIES FOR VIOLATIONS**

Violations of the provisions of this ordinance shall be punishable by a fine of one hundred dollars (\$100.00) for each day in which a violation exists and is allowed to continue.

### **SECTION 7. ENFORCEMENT CITATIONS**

If any violation of this ordinance remains unabated after thirty (30) days, or as otherwise extended by action of enforcement personnel, any Police Officer, the Zoning Enforcement

**Officer, Building Official, Health Official or Fire Marshal, or other person authorized by the Board of Selectmen, as applicable, is hereby authorized to issue a citation to the violator, in accordance with this ordinance.**

## **SECTION 8. CITATION PROCEDURES**

**(a) Procedures established in the existing Town Ordinance entitled: " Ordinance Establishing a Hearing Procedure for Citations" will apply to this Ordinance.**

**(b) The final period for uncontested payment of any citation under this Chapter shall be thirty (30) days after certified mailing return receipt or by hand delivery with proof of delivery.**

## **SECTION 9. RECORDING OF LIEN**

**Any unpaid fine imposed under this ordinance shall constitute a lien upon the real property in question, in accordance with Connecticut General Statutes § 7-148aa. Each such lien shall be continued, recorded and released as provided in that Statute.**

## **SECTION 10. MUNICIPAL PERFORMANCE**

**In the event any owner, agent, tenant or person in control of real property within the Town of Middlebury shall fail to abate or correct any violation specified in any notice, after issuance of an enforcement citation for such failure, which citation has become final through the failure of such owner, agent, tenant or person in control of real property to appeal from issuance of said citation, or by such appeal being sustained, the Town of Middlebury, acting through its designated enforcement officer, issuing such notice of violation, may cause or take such action as is necessary to correct such violation. The costs of taking such action shall constitute a civil claim by the town, against such owner, agent, tenant or person in control of such property and the Town may bring action to recover such costs and expenses incurred in the pursuit of such claim.**

## **SECTION 11. EXCEPTIONS**

**(a) Any blighted property for which a special exception or site application for improvements to real property is pending shall be exempt from the provisions of this ordinance for a period of 90 days ,and any extensions as granted consistent with Connecticut law, from the date of submittal of a complete application to the Town Planning and Zoning Commission.**

**(b) Farms, open fields, open space, and forest land (all as defined, and provided for in Chapter 203 and related sections of the Connecticut General Statutes) are exempt from Section 2 (b) (8) of this Ordinance concerning overgrown vegetation, except if there is the presence of toxic materials.**

## **SECTION 12. EMERGENCY**

Whenever, in the judgment of the town's Health Official, an emergency exists which requires immediate action to protect the public health, safety or welfare, an order may be issued, without hearing or appeal, directing the owner, agent, tenant or person in control of any blighted or dilapidated property to take such action as is appropriate to correct or abate the emergency situation. If circumstances warrant, the Health Official may immediately act to correct or abate the emergency.

## **SECTION 13. HIGHER STANDARD TO PREVAIL IN CASE OF CONFLICT WITH OTHER LAWS OR ORDINANCES, PREEMPTION BY THE STATE**

In any case where the provisions of this ordinance impose a higher standard than set forth in any other Town ordinances or under the laws of the state or federal governments, then the standards as set forth herein shall prevail. If the provisions of this ordinance impose a lower standard than any other Town ordinance or under the laws of the state or federal governments, then the higher standard set forth therein shall prevail. The provisions of This Ordinance shall not apply to any case where the state has the exclusive right to bring an action to abate a public nuisance involving any real property or portion thereof for the purposes enumerated in Sections 19a-343 et seq. of the Connecticut General Statutes or any duly adopted amendments thereto.

Effective date: June 16, 2012

Adopted at a referendum held May 22, 2012 / See Vol. 9, Pgs. 13-15 of the Middlebury Town Records Book.

### **ORDINANCE REGARDING ADOPTION OF CONNECTICUT GENERAL STATUTE §4-124i - 4-124p PERTAINING TO CREATING AND JOINING THE NAUGATUCK VALLEY COUNCIL OF GOVERNMENTS**

**WHEREAS**, the Town of Middlebury has heretofore been a designated municipality within the Central Naugatuck Valley Planning Region; and,

**WHEREAS**, as an eligible member the Town adopted an ordinance, entitled “Regional Council of Elected Officials of Central Naugatuck Valley”, effective December 27, 1970, joining the Council of Governments for the Central Naugatuck Valley (“COGCNV”) as a regional council of elected officials and remains a member at the present time; and,

**WHEREAS**, the State of Connecticut has determined that a reorganization and resignation of planning districts shall be completed on or before 1 January 2015; and,

**WHEREAS**, said reorganization recommended the consolidation of the Central Naugatuck Valley Planning Region (comprised of the following municipalities: Beacon Falls, Bethlehem, Cheshire, Middlebury, Naugatuck, Oxford, Prospect, Southbury, Thomaston,

**Waterbury, Watertown, Wolcott and Woodbury) and Valley Planning Region (comprised of the following municipalities: Ansonia, Derby, Seymour and Shelton) into a Naugatuck Valley Planning District; and,**

**WHEREAS, said Naugatuck Valley Planning District may additionally include the City of Bristol and Town of Plymouth; and,**

**WHEREAS, on or about 11 October 2013 COGCNV and on 17 December 2013 the Valley Council of Governments both approved the voluntary consolidation of the two regions; and,**

**WHEREAS, on or about 24 December 2013 the Office of Policy and Management approved the requested and redesignated the Central Naugatuck Valley and Valley Planning Regions into the Naugatuck Valley Planning Region; and**

**WHEREAS, the Naugatuck Valley Council of Governments (“NVCOG”) operating within the newly established Planning Region will commence operations on 1 January 2015; and,**

**WHEREAS, the Town of Middlebury would like to participate in the creation of NVCOG as the council of governments for the Naugatuck Valley Planning Region by (1) approving an ordinance pursuant to C.G.S. §4-1 24j adopting C.G.S. §4-1 24i-4-1 24p; (2) filing a certified copy of the adopting ordinance with the Office of Policy and Management of the State of Connecticut (“OPM”); and, (3) upon certification by the Secretary of OPM participating in the operation of the transitional executive committee of NVCOG, which transitional period shall conclude on 31 December 2014 at 11:59:59 PM; and,**

**WHEREAS, the Town of Middlebury (1) shall remain a member of COGCNV as it continues to operate and wind down as a council of elected officials until December 31, 2014 and participates in the negotiation of the terms and conditions pertinent to the operation of NVCOG prior to January 1, 2015; and, (2) recognizes the necessity of the current members of COGCNV to remain in operation as an unincorporated association of municipalities in order to wind down the affairs and assets of COGCNV that are either not assigned to and integrated within the operations of NVCOG and which the municipalities believe need to remain separate and distinct from NVCOG.**

**NOW THEREFORE BE IT ORDAINED, AS FOLLOWS:**

**Sec. 1. Creation of Naugatuck Valley Regional Council of Governments. The Town of Middlebury hereby joins with such municipalities of the Naugatuck Valley Planning Region, as designated by the Secretary of the Office of Policy and Management of the State of Connecticut, to create a regional council of governments to be known as the Naugatuck Valley Regional Council of Governments by adopting the provisions of C.G.S. §4-1 24i – 4-1 24p.**

**Sec. 1a. Transitional Provision. Certification by the Secretary of the Office of Policy and Management; Transitional Executive Committee and Transitional Period.**

- (a) Upon certification by the Secretary of said Office of Policy and Management that at least sixty percent of the municipalities in the planning region have adopted ordinances creating a regional council of government, as required by the Connecticut General Statutes, the Naugatuck Valley Regional Council of Governments shall be established.
- (b) Upon such certification, the Transitional Period shall commence. Said Transitional Period shall conclude on 31 December 2014 at 11:59:59 PM. During such period the Town of Middlebury shall participate on the Transitional Executive Committee for the purposes set forth in the Connecticut General Statutes. The First Selectman shall be a member of the Transitional Executive Committee. In the absence of the First Selectman, the legislative body of the Town shall appoint an elected official to serve as a member. The First Selectman may send a representative in his or her stead; however, such representative shall not be a member of said executive committee.
- (c) This section shall expire at the conclusion of the Transitional Period and thereafter be void and of no force and effect.

**Sec. 2. Membership in the Naugatuck Valley Regional Council of Governments.** On and after 1 January 2015, the Town of Middlebury shall be a member of the Naugatuck Valley Council of Governments.

**Sec. 3. Powers and Duties of the Naugatuck Valley Council of Governments.** The Naugatuck Valley Council of Governments shall have such powers, purposes, rights, duties and responsibilities as shall be set forth in the Connecticut General Statutes.

**Sec. 4. Representative to the Naugatuck Valley Council of Government.** The First Selectman shall be the representative of the Town of Middlebury to the council of governments. In the absence of the First Selectman, the legislative body of the Town shall appoint an elected official to serve as a member. The First Selectman may send an alternate in his or her stead; however, such alternate shall be entitled to such rights as may be established by the council of governments. The Town shall be entitled to one vote in the affairs of the council of governments.

**Sec. 5. The Council of Governments of the Central Naugatuck Valley. Successor Association.** The Town of Middlebury shall remain a member of Council of Governments for the Central Naugatuck Valley as it continues to operate and wind down as a council of elected officials until December 31, 2014. The Town shall also participate with the current members of council of elected officials in an unincorporated association of such municipalities in order to wind down the affairs and assets of the Council of Governments of the Central Naugatuck Valley that are either not assigned to and integrated within the operations of Naugatuck Valley Council of Governments.

**Sec. 6. Repeal of Prior Ordinances.** Effective on and after 1 January 201 5 the following Town of Middlebury ordinances regarding regional planning organizations and the council of elected officials are hereby repealed:

(a) The ordinance entitled “Central Naugatuck Valley Regional Planning Agency”, voted and adopted on March 11, 1960, and recorded in the Middlebury Town Clerk’s office in Vol. 7, Page 135.

(b) The ordinance entitled “Regional Council of Elected Officials of Central Naugatuck Valley”, passed at a Special Town Meeting on November 23, 1970, effective December 27, 1970, and recorded in the Middlebury Town Clerk’s office in Vol. 7, Page 222.

**Ordinance was adopted by the Board of Selectmen on April 21, 2014.**

## **LEASH ORDINANCE**

### **1. Control of Dogs on Town Property.**

**In addition to any requirements and restrictions set forth in the laws of the State of Connecticut, and unless restrained within a vehicle or facility for that purpose, the Town of Middlebury hereby requires that all dogs must be leashed when in Town Parks and Recreation Areas (including the Town Greenway), and when on other town property on which a Town Building or Facility is located.**

### **2. Violations and penalties.**

**Any person who violates any provision of this article shall be deemed guilty of an infraction and shall be punished by a fine of not less than \$90 nor more than \$250.**

### **3. Procedures.**

**The procedures for infractions, as set forth in Connecticut General Statutes Section 51-164n, shall be applicable to infractions hereunder.**

**Effective date: May 31, 2014**

**Adopted at a referendum held May 7, 2014 / See Vol. 9 Pgs. 52-53 of the Middlebury Town Records Book.**

# **CODE OF ETHICS**

## **1. Establishment: Purpose**

The proper operation of the Town government requires that public officers, officials and employees be independent, impartial and responsible to the people, that governmental decisions and policies be made in the proper channels of the governmental structure, that public office and employment not be used for personal gain and that the public has confidence in the integrity of its government. The purpose of this code is to set forth standards of ethical conduct; to assist public officers, officials and employees in establishing guidelines for their conduct; and to develop and maintain a tradition of responsible and effective public service. In recognition of these goals, and under the authority of Connecticut General Statutes (CGS) §7-148(b)(10)(B), there is hereby established for the Town the following Code of Ethics.

## **2. Definitions**

As used in this chapter, the following words or phrases, unless a different meaning is required by the context or is specifically prescribed, shall have the meanings indicated:

### **AGENCY**

Includes all departments, boards, commissions, committees and the Board of Selectmen of the Town.

### **CODE**

The Code of Ethics, as adopted by the Town of Middlebury, and promulgated by the Ethics Commission per Section 506-O of the Town Charter.

### **COMPLAINANT**

The person, or persons, who brings forward the alleged violation of the Code.

### **CONFIDENTIAL INFORMATION**

Means information, whether transmitted orally, by E-mail or in writing, which is obtained by reason of the public position or office held, and is of such nature that it is not, at the time of transmission, a matter of public record or of public knowledge.

### **CONFLICT OF INTEREST**

A conflict between one's obligation to the public good and one's self-interest.

### **FINANCIAL INTEREST**

Shall be deemed to exist if any officer, member or employee might, directly or indirectly, derive financial gain or suffer loss from any purchase, contract, transaction or decision involving any such Town office, board, commission, authority or committee and shall also be deemed to exist if a business or professional enterprise in which the officer, employee, member or commissioner has any financial interest as owner, member, partner, officer, employee or stockholder or has

any other form of participation which will be affected by the outcome of the matter under consideration.

#### **MATERIAL CONFLICT OF INTEREST**

A conflict of interest shall be deemed to be material where a reasonable person would conclude the financial or private interest is incompatible with the proper discharge of official duties or would tend to impair independence of judgment and action, in the performance of official duties.

#### **OFFICER, OFFICIAL OR EMPLOYEE OF THE TOWN**

Members of the Board of Selectmen, boards, commissions, committees, departments or other agencies, whether the officers, officials and members are elected or appointed, whether paid or unpaid, but shall not mean Justices of the Peace.

#### **PERSONAL INTEREST**

As distinguished from financial interest or private financial interest, a personal interest shall be deemed to exist if any officer, member or employee shall have an interest by reason of relationship within the fourth degree by blood or marriage, or close business relationship or prejudicial relationship with a person involved in any such contract, transaction or decision.

#### **PROBABLE CAUSE**

The existence of facts and circumstances within one's knowledge and of which one has reasonably trustworthy information, sufficient in itself to warrant a person of reasonable caution to believe that a violation of the Code has occurred.

#### **RESPONDENT**

The person or persons against whom the complaint is brought.

### **3. Standard of Service**

All officers, officials and employees of the Town should be loyal to the objectives and purposes of the Town as expressed by the electorate, the Charter and the ordinances and the programs developed to attain those objectives. All should adhere to the rules and regulations of performance and work established as the standards for their positions by the appropriate authority. They should not exceed their authority nor seek to have others do so, and they shall work in full cooperation with other public officers, officials and employees unless prevented from so doing by law, by good conscience or by the officially recognized confidential nature of their work.

### **4. Use of Public Property by Town Personnel Restricted**

No officer, official or employee shall request or permit himself or herself or others the use of Town-owned or -leased vehicles, equipment, materials or property for personal convenience or profit, except when such services are available to the public generally or are provided in conformance with established Town policies for the use of such officers, officials or employees in the conduct of Town business.

**5. Special Consideration Prohibited**

No officer, official or employee shall grant any special consideration, treatment or advantage to any citizen beyond that which is available to every other citizen.

**6. Conflict of Interest Prohibited**

*Editor's Note: See C.G.S. § 7-479.* No officer, official or employee of the Town shall engage in any business or transaction or shall have a private financial interest or personal interest, direct or indirect, which is incompatible or in conflict with the proper discharge of his or her official duties in the public interest or would tend to impair the independence of judgment or action in the performance of the official duties of the officer, official or employee of the Town.

Any elected officer, town employee, commissioner, authority or committee member who shall have a conflict of interest as defined herein shall disclose such interest causing such conflict in writing to the Ethics Commission.

**7. Financial Interest Restricted**

No member of the Board of Selectmen or any other officer or employee of the Town shall be financially interested, directly or indirectly, either as principal, surety, officer, partner or otherwise, except as a minority stockholder or except as a director in a corporation, in any contract with sales to or purchases from the Town. The provisions of this section shall not apply to any contract awarded to the lowest responsible bidder after public advertisement.

**8. Disclosure of Confidential Information**

Except as may be required by law, no officer, official or employee of the Town shall disclose any confidential information concerning the property, government business or affairs of the Town, and neither shall such officer, official or employee use such information to advance the private financial interest of himself or herself or others.

**9. Acceptance of Gifts, Gratuities and Favors Restricted**

No officer, official or employee shall accept or solicit any valuable gift, whether in the form of service, loan, thing, promise or any other form, from any person who, to his or her knowledge, is interested, directly or indirectly, in any manner whatsoever, in business dealings with the Town, or which gift may tend to influence such officer, official or employee in the discharge of his or her official duties, in granting any improper favor, service or thing of value.

**10. Appearance on Behalf of Private Interest**

No officer, official or employee shall appear in behalf of private interests before any agency of the Town, nor shall such officer, official or employee represent private interests in any action or proceeding against the Town when said appearance or representation would be in conflict with or would tend to impair his or her independence of judgment and action in the performance of official duties as such officer, official or employee. An officer, official or employee may appear before a Town agency in the performance of official, public or civic obligations.

## **11. Disclosure of Interests Required**

- A. Any officer, official or employee who has a private financial interest in any action, legislative or otherwise, by any Town agency and who is a member of, participates in discussion with or gives an official opinion to such Town agency shall disclose on the written records of such agency the true nature and extent of such interest. This section shall not apply to:
1. Contracts awarded to the lowest responsible bidder after public advertisement.
  2. Unpaid appointed officials during a declared state of emergency
  3. Matters requiring disclosure to or approval by a court.
  4. Interests by virtue of ownership of stock in a publicly held corporation in an amount less than 10% of all issued and outstanding stock.
  5. The Town Attorney, Town Engineer or similar Official, who is participating in or offering an opinion on behalf of said agency, and whose financial interest is merely in being paid for such services.
- B. Every elected official, excluding Justices of the Peace and Selectmen, shall, on or before January 1 each year, file with the Town Clerk, on a form to be prepared by the Town Attorney, a statement, under oath, containing the following information:
1. All real estate located within the Town of Middlebury owned by such elected official or held under a lease for a term exceeding five years, excluding, however, his or her principal residence. The foregoing shall also apply to real estate owned or leased, as aforesaid, by a corporation, trust or partnership in which any such elected official is the legal or equitable holder of at least 5% of the legal or equitable interests in said corporation, trust or partnership.
  2. The names of any firm, proprietorship, partnership or corporation of which said elected official is an employee or in which such elected official holds at least a five-percent interest and which firm, proprietorship, partnership or corporation has sold or supplied goods or services in excess of \$10,000 per annum to the Town of Middlebury during the two years immediately preceding such official's election to office.
  3. Any income, fees, salary or wages directly or indirectly received by such elected official from the Town of Middlebury or its political subdivisions during the two years immediately preceding such official's election to public office.

- C. Every member of the Zoning Board of Appeals and the Town Plan and Zoning Commission shall file a statement containing the information required in Subsection B(1) above on or before January 1 each year.

## **12. Ethics Commission**

- A. As included in the Charter of the Town of Middlebury, there is hereby established an Ethics Commission consisting of five (5) members, to be appointed by the Board of Selectmen for a term of five (5) years on a rotating basis as terms expire. The initial members shall be appointed to staggered terms, one (1) for one (1) year, one (1) for two (2) years, one (1) for three (3) years, one (1) for four (4) years and one (1) for five (5) years. Inaugural members shall be eligible to serve one (1) additional five (5) year term beyond his/her initial appointment. The Commission shall promulgate and update as necessary, a Code of Ethics for the Government of the Town of Middlebury. As herein provided.
- B. In the event of a disclosure or a claim of a conflict of interest with respect to a Town officer, employee, member of a Town board, commission, authority or committee, the Commission shall inquire into the facts of the matter and determine whether or not a conflict of interest exists. And, if so, whether it is material to the matter under consideration.
- C. If a vacancy occurs before the end of a term, a member shall be appointed by the Board of Selectmen for the unexpired portion of the term.
- D. The Commission shall elect a Chairperson and a Vice Chairperson, as well as its own Recording Secretary, annually.
- E. When an officer, official or employee has doubt as to the applicability of a provision of this chapter to any specific situation, he or she may apply to the Ethics Commission for an advisory opinion and shall be guided thereby. (See Section 13 f, below)

## **13. Powers and Duties of Commission**

- A. The Ethics Commission as established by Town Charter shall have the power and duty to enforce §§ 3 through 11 of this Code;
- B. to hear and decide specific cases in which a violation of this Code is alleged in a complaint. Pursuant to CGS §7-148h, the processing of complaints shall comply with CGS §1-82a;

- C. to provide a fair and respectful Hearing, protecting the rights and interests of all parties to a complaint;
- D. to adopt rules and regulations for the administration of this Code, which shall be available to any elector of the Town upon request of the Commission;
- E. To administer oaths.
- F. The Commission may render advisory opinions as to the applicability of this Code of Ethics, at its sole discretion, to any agency of the Town and to officers, officials and employees pursuant to a written request or upon its own initiative. All requests for such advisory opinions and opinions rendered therein shall be confidential and shall not be open to public inspection or disclosure. The Commission, in its discretion, may make public, opinions, which do not invade an individual's privacy to the extent of the law, and which it believes will be in the public interest. But no such opinion shall be made public until redactions as may be necessary have been made to prevent disclosure of the identity of the officer, official or employee involved.

#### **14. Statute of Limitations**

There shall be a Statute of Limitations of two (2) years for filing complaints after violations of this Code are alleged to have occurred. A complaint regarding an alleged violation of this code must be filed with the Town Clerk within six (6) months of discovery, that is, from the date the person filing the complaint knew or should have known of the alleged violation.

#### **15. Applicability**

In the application of this Code of Ethics, care will be given to distinguish between concerns of management of Town employees and violations of the public trust. The daily management of employee performance is the responsibility of Town managers. Personnel policies should be the first guide in those areas where applicable. Similarly, the routine activities of the Commission should be governed by its rules and regulations.

#### **16. Confidentiality**

In accordance with CGS §1-82a, all persons subject to this Code are required to keep complaints, allegations, information supplied to or received from the Commission, information learned from any review or evaluation discussions, decisions and records strictly confidential, until such time as the Commission makes a finding of probable cause, except upon the request of the Respondent.

## **17. Violations and Penalties**

Any disciplinary action that the Ethics Commission recommends to the Board of Selectmen shall be appropriate to the findings of fact, the position of the offender and the gravity of the offense. The Ethics Commission may recommend any action, which it is lawfully permitted to, including, but not limited to, any one or a combination of the following:

- A. Public Admonition or Reprimand.
- B. Suspension or demotion.
- C. Forfeiture of or removal from appointed office.
- D. Termination of Employment.
- E. Cease and Desist orders, which must be enforced by a court of competent jurisdiction.
- F. A fine up to the maximum amount permitted by law.
- G. Restitution of any pecuniary benefits received because of the violation committed.

The Board of Selectmen may prescribe penalties for violation of this Ordinance, as authorized in CGS §7-479, including the avoidance of any municipal purchase, contract or ruling adopted in contravention thereof. In the case of an Ethics violation by a member of the Board of Selectmen, the Commission will prescribe the appropriate penalty(s) as permissible under the Law, and its decision will be binding upon said Selectman, after Appeal.

## **18. Appeals**

Once the Commission has determined that the Respondent has violated a provision(s) of this Code and has filed its Memorandum of Decision and Recommended Action with the Board of Selectmen, the Respondent has the right to appeal the Commission's decision and recommendation. The Respondent may present to the Board of Selectmen as appropriate, any facts, documents or other evidence that he/she deems relevant, in order to establish that the Commission's decision and recommendation should be amended. The Board of Selectmen decision will be final and binding upon both the respondent and the Ethics Commission.

## **19. Interpretation**

The provisions of this ordinance are to be construed liberally, to the end that the public interest be fully protected. This ordinance shall be construed in a manner consistent with all applicable federal and state laws and applicable to the provisions of the Charter. In the event a conflict exists between this ordinance and a federal or state law or the Charter, the federal or state law or the Charter shall control.

**20. Sections of AD 2000 Charter excluded**

Upon adoption of this Code of Ethics by the Town of Middlebury, Section 801 of the AD 2000 Charter shall be null and void as of the effective date of the adoption of this Code.

**Effective Date: December 4, 2014**

**Adopted at an election held November 4, 2014 / See Vol. 9 Pg. 65 of the Middlebury Town Records Book.**

**ORDINANCE CONCERNING  
REQUIREMENTS FOR STREET OPENING/LATERAL TRENCHES  
OR UTILITY SERVICE CUTS ON EXISTING TOWN STREETS & ROWs**

**BE IT ORDAINED:**

**Street Opening Permit Requirements:**

Any construction or excavation, mechanical or otherwise, within the Town Right-of-Way requires a Street Opening Permit.

The two exceptions to this are as follows:

1. Utility pole replacement in the same location; or
2. Installation of mailboxes utilizing a wood post, meeting the Post Office requirements.

**Street Opening Permit Fees:**

1. A standard permit application fee of \$100 will be charged per individual service lateral trench, excavation or for a main line utility repair work within the Town's right-of-way, up to 25 feet in length. All lateral service trenches included in the project shall be included under the permit but all must be depicted on the drawing submitted for the permit or additional fees will be charged.
2. Main line utility project work within the Town's right-of-way, over 25 feet in length shall be charged a permit fee of \$100 plus an inspection fee equal to 10% of the cost of all work performed within the Town's right-of-way. Inspection fee shall be based on cost estimates supplied by the Contractor and approved by the Board of Selectmen. This fee must be paid in full prior to issuance of a permit.

**All excavations, mechanical or otherwise, require a Call-Before-You-Dig confirmation number.** Permits are required for all work in the Town's right-of-way; permit fees will be only waived for work performed for the Town and certain other situations.

Permits are valid for one full year from the date of the permit however, winter work is not permitted. The full construction season is considered to be April 15 to October 15. At the discretion of the Board of Selectmen construction finish work may be allowed until asphalt plants are shut down for the season or startup work may be allowed before April 15.

A permit may be granted under emergency conditions for winter work when no other alternative exists. Note that a permit granted under emergency conditions for winter work will expire 10 days from date of issue if work has not begun.

The Contractor is responsible for himself/herself and for anyone working directly or indirectly under his/her supervision. In order to obtain a permit, Contractors performing work in the Town of Middlebury must have all of the following:

1. The permit application is to be filled out completely and signed.
2. Permit fee of \$100.00 is to be paid in full.
3. Inspection fee equal to 10% of the cost of the streets, drainage and other improvements within the Town's right-of-way, based on cost estimates approved by the Board of Selectmen is to be paid in full. (if applicable)

4. A valid Street Opening Performance Guarantee covering 100% of the cost of the work to be performed within the town's right-of-way for 2 years following the date of filing of said bond. NOTE - Some projects may require a higher bond amount as determined by the Board of Selectmen.
5. An engineered drawing depicting sufficient grades and computations, existing utilities, storm and sanitary sewers and the proposed work must be submitted although an accurate sketch may be accepted for minor work.
6. A clear, detailed scope of the proposed work, outlining all of the proposed work areas shall be included with the drawings.
7. A valid Certificate of Liability Insurance and Worker's Compensation Insurance, meeting Town of Middlebury requirements shall remain on file at the Middlebury Public Works Department office.
8. The Tax Collector's signature will be required on the top of the application page indicating all applicable taxes are paid up to date before a permit is issued.
9. A valid Call Before-You-Dig confirmation number.
10. Contractor must not be on list of contractors with trenches or patches needing repair.
11. If sewer or water work is planned, a valid signed WPCA or Water Company connection permit shall be required.
12. A Town fee of \$300.25 shall be prepaid to the Tax Collector for all connections to public water. See additional fees below:

Residential – single or double unit	\$300.25 per unit
Multifamily – more than 3 (senior discount 15%)	\$0.203 per sq. ft.
Commercial	\$0.203 per sq. ft.

### **Working Without a Permit:**

With the exception of emergency work, no work requiring a permit will be allowed until a permit is obtained. In the event emergency work is required, a permit shall be obtained within 24 hours of performing the emergency work. Work performed without a permit will be shut down immediately.

### **Guidelines:**

The following guidelines shall be implemented when any Street opening permit, lateral trench or utility service cut is approved within a Town of Middlebury right-of-way.

### **Road/Trench Repairs in Town Roads:**

It is the intent of the Town that the existing Town roads shall be restored equal to or better than that in which they were prior to construction.

Paving requirements for road/trench repairs shall be as follows:

1. For roads that have been resurfaced within the last five (5) years, milling and paving of the entire roadway from curb to curb shall be required.
2. For roads that have been resurfaced more than five (5) years ago but ten (10) or less years ago or if any damage or pavement disturbance occurs to more than 1/3 of the

road surface including the required pavement cutbacks, milling and paving of the entire roadway will be required. The pavement surrounding and including the excavation shall be milled to a depth of two (2) inches from edge of pavement to edge of pavement. When determining the starting and ending points for the milling, consideration will be given to existing pavement joints and intersection streets. The milled edges shall be vertically faced and not tapered. The entire milled area including the edges shall be swept clean and tack coated. Pavement for overlays shall be Class 2.

3. For roads that have been resurfaced more than ten (10) years ago or if there is any damage or pavement disturbance that occurs to more than 1/3 of the road surface including the required pavement cutbacks, milling and paving of 1/2 the roadway (the impacted lane) shall be required.
4. For roads that had been resurfaced more than ten (10) years ago and if the Contractor's work is completed without pavement disturbance or any damage to the remaining road surface (including, but not limited to track marks) and if the Contractor's work impacts less than 1/3 of the road surface width including the required pavement cutbacks, the Board of Selectmen may allow the Contractor to provide a Permanent Pavement Trench Repair instead of milling and paving.
5. Infrared technology may be required for Permanent Pavement Trench Repairs.
6. If any pavement markings are affected by the Contractor's work, they shall be replaced in-kind by a pre-approved pavement marking company at the expense of the Contractor.

### **Standard Road/Trench Repair Requirements**

#### **Pipe Line Projects:**

Non-emergency pipe line projects will not be approved or allowed to continue construction during the winter months when asphalt plants are closed.

#### **Payment in lieu of Final Pavement:**

The Town of Middlebury may accept payment in lieu of final paving for large pipeline projects. The amount shall be agreed upon by the Town of Middlebury and the Contractor or Utility. The funds collected shall be put aside and used to repave the same road in the future. The Contractor shall provide an acceptable pavement base and trench pavement as approved by the Town of Middlebury. This does not in any way release the Contractor from their responsibility to maintain the trench pavement for a minimum period of 3 years following their final inspection.

#### **Backfill:**

The excavation shall be filled with suitable material and compacted in lifts not to exceed Twelve (12) inches, a minimum of 95% compaction must be achieved for each lift. Twenty four (24) inch lifts may be approved provided it is compacted by means of a hoe-pack to achieve a 95% modified proctor density. Each layer shall be carefully and thoroughly tamped with approved tools in such a manner as to prevent settlement after the backfill has been completed and to achieve a 95% modified proctor density. Emergency winter work will require that all backfill be processed aggregate. If physical evidence suggests to the inspector that compaction of the backfilled trench is not suitable, compaction tests will be required to verify that proper compaction was achieved. The independent materials testing

contractor will be selected by the Town and all costs for compaction tests will be borne by the Contractor. The Town may require an inspector to be on-site for larger projects. The additional cost of an inspector for larger jobs shall be borne by the Contractor. If settlement occurs, the Public Works Director may require test pits to determine the character of the backfill and process materials and order appropriate repairs to be made.

**Saw Cutting:**

The utility and/or contractor will be required to saw cut the pavement edges in a neat straight line to a depth necessary to remove the pavement to the sub base. Cut backs of 2 feet minimum around the entire excavation are required.

**Temporary Trench Repair:**

All excavations occurring during the construction season shall be plated or temporarily paved with hot mix asphalt (HMA) at the end of each day, unless pre-approved by the Town. Emphasis must be placed on the backfilling and compaction of the trench to avoid any future settlement. Temporary repairs shall include processed gravel to a depth as required to obtain 10 inches following permanent repair (also read Permanent Pavement Trench Repair). After compaction of process gravel, the excavated area shall be paved with 2.5 inches (after compacted) of bituminous concrete Class 1. Cold patch (if approved) shall be Class 5A, and shall only be allowed for emergency work during the asphalt plant winter shutdown when hot material is not available. Road plates are not allowed from November 15 to April 1. All compaction and paving shall be completed in accordance with the most recent edition of the State of Connecticut Department of Transportation, Standard Specifications for Roads, Bridges and Incidental Construction, Form 816.

**Permanent Pavement Trench Repair:**

Following a settlement period minimally of 6 to 10 weeks, the final trench repair shall be completed. This process will include the removal of temporary pavement, the compaction of the base material and the placement of five (5) inches of bituminous concrete in two lifts (2.5 inches Class 1 and 2.5 inches of Class 2). Original pavement edges shall be saw cut to two neat, straight lines to a depth necessary to remove all pavement, cut backs of 2 feet minimum around the entire excavation is required. Full depth replacement is required for pavement removed during the excavation that exceeds 5". If the surrounding pavement exceeds 5" in depth the Contractor shall be required to make up the additional depth using Class 4 bituminous concrete installed in 3" lifts and compacted. Prior to paving, the Contractor shall verify that the 10" processed gravel layer is present. If the processed gravel layer is missing or is less than 10" deep, the contractor shall install the processed gravel layer to Town specifications and compact the area as required. Permanent paving is to be completed prior to the end of the construction season. The Contractor shall schedule paving early enough in the autumn to avoid delays due to weather or other conditions, which could affect the outcome of the paving. All compaction and paving shall be completed in accordance with the most recent edition of the State of Connecticut Department of Transportation, Standard Specifications for Roads, Bridges and Incidental Construction, Form 816.

**Joints:**

Pavement joints shall be sealed with an approved asphaltic material filling with a nozzle from the bottom up in accordance with the most recent edition of the State of Connecticut Department of Transportation, Standard Specifications for Roads, Bridges and Incidental Construction, Form 816.

**Safety:**

The Contractor shall be responsible to follow all applicable OSHA Regulations.

**Inspections:**

All road work must be inspected. Inspections must be scheduled with the Public Works Department a minimum 48 hours in advance of the start of work. Cut back limits must be painted by the Contractor and approved by the Director of Public Works prior to the Permanent Trench Repair. Non-emergency work shall not occur before 7:00am or after 3:30 PM. All disturbed areas within the Town's Right-of-Ways shall be restored to the satisfaction of the Director of Public Works. Excavations performed without a permit or that have not been inspected are subject to a requirement that test pits be performed by the Contractor in the presence of the Director of Public Works or his designee, to verify proper installation of piping, structures and trench materials.

**Traffic Control:**

The Contractor shall prepare and execute a Temporary Traffic Control Plan, which conforms to the latest edition of the Manual on Uniform Traffic Control Devices for Streets and Highways (MUTCD), Part 6, Temporary Traffic Control, as published by the US Department of Transportation, Federal Highway Administration. The Temporary Traffic Control Plan shall be developed to provide safety for motorists, bicyclists, pedestrians, workers, enforcement/emergency officials, and equipment, and shall be understood by all responsible parties before the site is occupied. The Contractor understands:

1. The Town of Middlebury, through the Board of Selectmen or its designee, has final authority concerning the method of traffic control to be employed on the jobsite.
2. Uniformed police officers may be required for traffic control.
3. Roads shall not be closed unless prior permission is granted by the Town.
4. All Detours shall be pre-approved by the Police Department.
5. All lanes of traffic shall be opened at the end of each work day unless pre-approved by the Police Department.
6. Traffic control devices such as sign patterns, cones, lights and barriers shall be displayed as required in the Manual on Uniform Traffic Control Devices for Streets and Highways, most current edition.

**Maintenance:**

The Contractor is responsible to repair and maintain work within the ROW, including curbs, trenches and sidewalks for a minimum period of three (3) years. Work shall be free from defects including cracking, heaving and/or sinking. Contractors must perform emergency maintenance within four (4) hours and minor maintenance within 24 hours of notification by the Public Works Department. Any work not completed within the time specified or work that does not meet Town of Middlebury requirements will be repaired by the Town of Middlebury at the Contractor's

expense. A minimum fee of \$500 will be charged for any required work. Cold patch, when allowed shall be Class 5A. It is the Contractor's responsibility to notify the Town's Public Works Department for an inspection 24 hours prior to completing work covered by the permit. The Contractor's limit of responsibility for work can not be determined and proper credit will not be granted until the Public Works Department has been notified in writing of the permanent repair and the work has been inspected.

**As-Built Information:**

It is the contractor's/utility's responsibility to provide as-built construction information and mapping, data and/or information to appropriate authorities to ensure protection of underground utilities, sewers and drainage and the safety of the general public.

**Curbs:**

Curbing shall match the type of curbing existing in the immediate vicinity and shall be constructed as follows:

1. Bituminous concrete curbing shall be machine formed and shall be constructed on the pavement, with a standard cross section approved by the Director of Public Works and having a height matching the type of curbing existing in the immediate vicinity. The material shall conform to the requirements of Section 8.15, "Bituminous Concrete Lip Curbing", of the State of Connecticut Department of Transportation, Standard Specifications for Roads, Bridges and Incidental Construction, Form 816. The surface of the pavement where the bituminous concrete curb is to be constructed shall have been cleared of all loose and foreign material, shall be perfectly dry and shall be coated with an RC-2 tack coat or other approved bitumen just before placing the material. The material shall be properly compacted to the required cross-section by use of a suitable machine specifically designed for that purpose. After completion of the curbing, traffic shall be kept at a safe distance for a period of not less than 24 hours and until the curbing has set sufficiently to prevent injury to the work.
2. Portland cement concrete curbs shall be precast, cast in place concrete or slip formed and constructed in a manner approved by the Director of Public Works. Curbs shall conform to Section 8.11, "Concrete Curbing", of the State of Connecticut Department of Transportation, Standard Specifications for Roads, Bridges and Incidental Construction, Form 816.

**Bituminous Concrete:**

1. Bituminous Concrete Base (Binder) Course: On the prepared and approved processed aggregate base course hot mix bituminous concrete (asphalt) base course pavement shall be machine laid in maximum lifts not exceeding 2.5-inches in thickness. Bituminous Concrete Base (Binder) Course shall conform to Section M.04, Class 1, of the State of Connecticut Department of Transportation, Standard Specifications for Roads, Bridges and Incidental Construction, Form 816. The placement methods shall conform to Section 4.06, Bituminous Concrete", of the State of Connecticut Department of Transportation, Standard Specifications for Roads, Bridges and Incidental Construction, Form 816.
2. Bituminous Concrete Base Surface (Wearing) Course: On the prepared and approved bituminous base course, hot mix bituminous concrete (asphalt) surface course pavement shall be machine laid in maximum lifts not exceeding 2.5-inches in thickness. Bituminous Concrete Base (Wearing) Course shall conform to Section M.04, Class 2, of the State of Connecticut Department of Transportation, Standard Specifications for Roads, Bridges and Incidental

Construction, Form 816. The placement methods shall conform to Section 4.06, "Bituminous Concrete", of the State of Connecticut Department of Transportation, Standard Specifications for Roads, Bridges and Incidental Construction, Form 816.

**Bituminous Concrete Cold Patch:**

Cold Patch shall only be allowed for emergency work during the asphalt plant winter shutdown when hot material is not available. Cold Patch Bituminous Concrete shall conform to Section M.04, Class 5A, of the State of Connecticut Department of Transportation, Standard Specifications for Roads, Bridges and Incidental Construction, Form 816. The placement methods shall conform to the State of Connecticut Department of Transportation, Standard Specifications for Roads, Bridges and Incidental Construction, Form 816.

**Sidewalk Design and Construction:**

All sidewalks and walkways shall conform to Town construction and design standards and shall be concrete and as required herein. All sidewalks shall include ramps at all pedestrian crosswalks for the handicapped in accordance the Connecticut General Statutes and constructed to the current standards of the Americans with Disabilities Act (ADA).

1. Sidewalks shall be a minimum of four (4) feet in width and shall be located within the street ROW. All sidewalks shall be laid on six (6) inch processed gravel base, watered and rolled to optimum moisture content and compacted prior to pouring.
2. The sidewalks shall be constructed of concrete (4) inches thick with 6x6-6/7 wire mesh reinforcement in the middle of the slab. The concrete shall have an ultimate 28 day compressive strength of 4,000 pounds per square inch and having expansion joints with pre-molded fillers spaced not more than 25 feet apart and with suitable weakened plain joints every five (5) feet. The walk shall have a cross slope of ¼ inch per foot, shall be poured in one pour and shall be finished with the use of a wood float.
3. Sidewalks shall continue through driveway aprons unless otherwise approved by the Public Works Commission. At driveways the thickness shall be increased to six (6) inches with an eight (8) inch base and a 6 x 6-6/6 wire mesh reinforcement shall be placed in the middle of the slab.

**THIS ORDINANCE BECAME EFFECTIVE UPON ADOPTION BY THE BOARD OF SELECTMEN ON AUGUST 3, 2015. \***

\*SUPPLEMENT TO ORDINANCE APPROVED BY THE BOARD OF SELECTMEN ON MAY 1, 2017 / See Page 119

## **SUPPLEMENT TO REQUIREMENTS FOR STREET OPENING/LATERAL TRENCHES OR UTILITY SERVICE CUTS ON EXISTING TOWN STREETS AND RIGHT-OF-WAY (ROW)**

### **TRENCH REPAIR AND ROADWAY OVERLAY FOR UTILITY INSTALLATIONS**

All work shall conform to Town of Middlebury standards and details. Where Town standards and/or details do not exist, construction materials and methods shall conform to the State of Connecticut Department of Transportation Standard Specifications for Roads, Bridges and Incidental Construction, Form 816 (2004) and supplements thereto dated or latest version thereof.

#### **Hours of Work:**

1. Hours of work on all local roads shall be set by the Board of Selectmen.

#### **Cutting of Pavement:**

1. The Contractor shall make every effort to keep the amount of pavement damage to a minimum. Pavement shall be saw-cut in a rectangular shape to ensure a proper repair.
2. Prior to paving the trench the pavement edges shall be trimmed back in two neat parallel lines, neatly aligned with the centerline of the trench so as to expose twenty-four (24) inches of undisturbed subgrade on all sides of the trench.

#### **Excavation:**

1. All excavations within the Town's ROW's shall have a current CBYD Ticket.
2. Any pavement, curbing or property damage created by Contractor's excavation or equipment shall be repaired by the Contractor at the contractor's expense, to the satisfaction of the Board of Selectmen.
3. The construction season is considered to be April 15th – October 15th. An extension may be granted at the discretion of the Board of Selectmen so that construction work may allowed to finish, until the hot asphalt plants in the area close for the season.

#### **Backfilling:**

1. The excavation shall be filled with suitable material and compacted in lifts not to exceed twelve (12) inches; a minimum of 95% compaction must be achieved for each lift.
2. Twenty-four inch (24) lifts may be approved provided it is compacted by means of a hoe-pack; a minimum of 95% compaction must be achieved for each lift.
3. Emergency winter work shall require that all backfill material be processed aggregate. Aggregate size shall be determined by the Board of Selectmen
4. If physical evidence suggests to the Director of Public Works or the site inspector that compaction of the backfilled trench is not suitable, compaction tests will be required to verify that proper compaction was achieved.
5. The independent materials testing contractor shall be selected by the Town and all costs for compaction testing will be borne by the contractor.
6. The Town may require an inspector to be on-site for larger projects. The additional cost of an inspector for larger jobs shall be borne by the contractor.
7. If settlement occurs, the Board of Selectmen may require test pits to determine the character

of the backfill and process materials and order appropriate repairs to be made.

**Temporary Asphalt Trench Repairs: (settlement period of 6-8 weeks)**

1. Temporary trench paving shall be made up of Class 1 hot-mixed asphalt (HMA), cold patch is not allowed except in emergencies. All materials, placement, compaction and workmanship shall be in accordance with Section 4.06 of CDOT Standard Specifications, Form 816.
2. All temporary pavement shall be installed a minimum two and one-half (2.5) inches thick and shall be compacted in one lift meeting the minimum requirement of ninety-two (92) percent compaction of standard laboratory maximum theoretical density for the specific material as described in Section 4.06 of the CDOT Standard Specifications, Form 816. Compaction certification may be required at the discretion of the Board of Selectmen.
3. Mechanical compactors will be permitted for repairs less than ten (10) square yards in area. Repairs exceeding ten (10) square yards shall be rolled with an appropriately sized, power driven, steel-wheeled, vibratory roller to obtain the specified density.
4. Hot-mixed asphalt materials for temporary trench repairs shall be laid upon an approved clean, dry, properly compacted surface, spread and struck off to the established grade and elevation with regard to the loss in depth between loose and compacted mixtures. Immediately after the bituminous mixture has been spread, struck off, and surface irregularities adjusted, it shall be thoroughly and uniformly compacted.
5. The placing temperature of the hot-mixed asphalt (HMA) shall be between 325°F and 265°F. The compaction rolling shall be completed before the mixture cools below 175°F. HMA that is placed below 265°F will be rejected.
6. The Contractor shall be responsible for the proper placement and maintenance of the temporary and permanent pavement and shall maintain the pavement level with the surface of the surrounding existing pavement and in proper repair and condition until the end of the temporary settlement period (6-8 weeks).

**Permanent Asphalt Trench Repairs: (after allowing 6-8 weeks for settlement)**

1. All pavement used for temporary trench patching shall be removed and the base material compacted again to achieve a minimum of ninety-five percent (95%) compaction density before re-paving will be allowed.
2. Permanent trench pavement repairs shall be made up of the placement of five (5) inches or more of hot-mixed asphalt (HMA) placed in at least two lifts and compacted meeting the requirement of ninety-two (92) percent minimum compaction of standard laboratory maximum theoretical density for the specific material. Thickness of the HMA patch will be determined by the thickness of the existing asphalt surrounding the trench. If the surrounding asphalt material exceeds five inches in depth, the contractor shall be required to make up the additional depth using Class 4 bituminous concrete installed in 3" lifts and compacted. All materials, placement, compaction and workmanship shall be in accordance with Section 4.06 of CDOT Standard Specifications, Form 816.
3. Mechanical compactors will be permitted for repairs less than ten (10) square yards in area. Repairs exceeding ten (10) square yards shall be rolled with an appropriately sized, power driven, steel-wheeled vibratory roller to obtain the specified density.
4. Hot-mixed asphalt materials shall be laid upon an approved clean, dry, and properly compacted surface, spread and struck off to the established grade and elevation with regard to the loss in depth between loose and compacted mixtures. Immediately after the bituminous mixture

has been spread, struck off, and surface irregularities adjusted, it shall be thoroughly and uniformly compacted.

5. The placing temperature of the hot-mixed asphalt mixture shall be between 325°F and 265°F. HMA that is placed below 265°F will be rejected. The compaction rolling shall be completed before the mixture cools below 175°F.

6. All vertical surfaces joints between the pavement repair and the existing pavement are to be sealed, with an approved asphaltic emulsion (tack coat), by swabbing or brushing a minimum three (3) inch width paint-like application prior to pavement installation. Any asphalt surfaces that have been subjected to dust, dirt and debris shall be thoroughly cleaned prior to being tack coated.

7. The Contractor shall be responsible for the proper placement and maintenance of the temporary and permanent pavement and shall maintain the pavement level with the surface of the surrounding existing pavement and in proper repair and condition for a minimum period of three (3) years following the final inspection acceptance of the job by the Town.

#### **Extension of Trench Repair:**

1. Where the edge of the pavement cut is within two (2) feet of the curbed gutter line or a longitudinal joint of the roadway, or within two (2) feet of the unpaved shoulder line, the pavement shall be removed to the back of the curb or to the longitudinal joint or the edge of the shoulder and replaced.

2. Where any part of the pavement cut is within two (2) feet of the edge of a paved portion of a roadway without curb and gutter, the pavement shall be removed to the edge of the roadway and restored. The Contractor shall be required to repair pavement adjoining the trench area where pavement cuts result in small floating sections of the existing pavement that may be unstable, in which case, the Contractor shall remove the unstable portion of pavement and the area shall be treated as part of the excavation.

#### **Single Lateral Trench Cut:**

1. A Single Perpendicular Cut in the street is defined as a single cut in the road way consisting of two perpendicular lines, one pavement cut for example being for a lateral utility service to a house. All excavations require both a temporary pavement repair and then after a waiting period of six to eight (6-8) weeks a permanent trench repair.

#### **Multiple Lateral Trench Cuts:**

1. Multiple Perpendicular Cuts shall be defined as two or more cuts in the same street, whether anticipated or unanticipated.

2. Multiple Perpendicular Cuts initiated by a contractor or utility company for one property: When a utility service is to be installed or replaced with a new service and the old utility service is to be abandoned or terminated at that time or at a later date, the replacement service shall be installed as close as possible to the original service, unless there are unforeseen physical circumstances. In either case the pavement repair for the replacement service shall include the area of the old service trench and the new service trench area/patch resulting in one complete newly patched area.

3. Multiple Perpendicular Cuts to Multiple Properties is defined as two or more cuts to multiple properties made in the same street, by a utility, contractor or property owner within a three (3) year period, whether anticipated or unanticipated. The method of pavement repair for multiple

perpendicular cuts that are spaced less than or equal to 200' apart shall include the area from the first trench cut/patch to the last trench cut/patch resulting in one complete newly patched area. Distances shall be measured between the inner most edges of the trench cuts/patches.

**Permanent Pavement Restoration:**

1. Longitudinal cuts greater than twenty linear feet (20') as measured generally in the same direction to the center line of the roadway will require milling and paving to complete permanent restoration.
2. Permanent restorations shall not be allowed to commence until at least six (6) months have passed since the installation of approved temporary hot-mixed asphalt patch unless approved by the Board of Selectmen.
3. After at least six (6) months have passed and providing the permanent trench patch is intact without signs of base failures, cracking or settlement during that time, restoration of the longitudinal trench by milling and paving may proceed. The pavement surrounding and including the excavation shall be milled off to a depth of two (2) inches for the width of the traffic lane in which the excavation was made or for a width of ten (10) feet, whichever is greater. The milled area shall extend a minimum of ten (10) feet beyond the beginning and end of the excavation. The milled edges shall be vertically faced and not tapered.
4. The entire milled area, including the edges, shall be swept clean and tack coated and paved with Class II bituminous in accordance with Section 4.06 of Form 816.
5. Mechanical compactors will be permitted for repairs less than ten (10) square yards; repairs exceeding ten (10) square yards shall be rolled with an appropriately sized, power driven, steel-wheeled roller to obtain specification density.
6. Hot-mixed asphalt (HMA) materials shall be laid upon an approved clean, dry and tack coated surface, spread and struck off to the established grade and elevation giving regard to the loss in depth between loose and compacted mixtures. Immediately after the bituminous mixture has been spread, struck off, and surface irregularities adjusted, it shall be thoroughly and uniformly compacted in accordance with Section 4.06 of Form 816.
7. The placing temperature of the hot-mixed asphalt mixture shall be between 325°F and 265°F. All compaction rolling shall be completed before the mixture cools below 175°F. This can be checked using a thermometer suitable for this type of work and HMA that is placed below 265°F will be rejected.
8. Pavement structure base and sub-base will be checked for compliance with ninety- five (95) percent compaction requirement if the Contractor elects or is required to remove the trench patching bituminous material. If compaction is found to be less than ninety-five (95) percent, trench must be re-compacted to meet specifications before paving will be allowed.
9. Each layer of hot-mixed asphalt is to be compacted separately meeting the requirement of ninety-two (92) percent minimum compaction of standard laboratory maximum theoretical density for the specific material.

**Tack Coating:**

All vertical surfaces joints between the pavement repair and the existing pavement are to be sealed, with an approved asphaltic emulsion (tack coat), by swabbing or brushing a minimum three (3) inch width paint-like application prior to pavement installation. Milled surfaces shall be tack coated at an application rate of 0.10 gals per square yard in accordance with Section 4.06.03

of the CDOT Standard Specifications, Form 816. Any milled asphalt surfaces that have been subjected to dust, dirt and debris shall be thoroughly cleaned prior to being tack coated.

**Warranty of Work:**

The Contractor shall, for a period of three (3) years thereafter, be fully liable for all defects in materials and workmanship relating to such excavations and shall promptly repair or replace the same upon notice of the Town and to the satisfaction thereof. All street excavation repair warranty periods shall begin on the date the permanent pavement repair is approved and accepted in writing.

This Supplement modifies the Ordinance, of the same name, adopted by the Board of Selectmen on August 3, 2015, only to the extent provided herein. All other provisions of said ordinance remain in full force and effect.

**THIS SUPPLEMENT TO ORDINANCE (CONCERNING REQUIREMENTS FOR STREET OPENING/LATERAL TRENCHES OR UTILITY SERVICE CUTS ON EXISTING TOWN STREETS & ROWs) BECAME EFFECTIVE UPON ADOPTION BY THE BOARD OF SELECTMEN ON MAY 1, 2017.**

**THIS ORDINANCE BECAME EFFECTIVE UPON ADOPTION BY THE BOARD OF SELECTMEN ON MAY 1, 2017**

Legal Notice /Voices / May 7, 2017

## ***ORDINANCE ON TAX REFUNDS LESS THAN \$5.00***

Pursuant to Connecticut General Statutes, §12-129, the Tax Collector is authorized to retain any payment in excess of the amount due of any property tax, interest or lien fee payment which is less than five dollars (\$5.00).

Connecticut General Statutes, §12-129 reads as follows:

Sec. 12-129. Refund of excess payments. Any person, firm or corporation who pays any property tax in excess of the principal of such tax as entered in the rate book of the tax collector and covered by his warrant therein, or in excess of the legal interest, penalty or fees pertaining to such tax, or who pays a tax from which the payor is by statute exempt and entitled to an abatement, or who, by reason of a clerical error on the part of the assessor or board of assessment appeals, pays a tax in excess of that which should have been assessed against his property, or who is entitled to a refund because of the issuance of a certificate of correction, may make application in writing to the collector of taxes for the refund of such amount. Such application shall be delivered or postmarked by the later of (1) three years from the date such tax was due, (2) such extended deadline as the municipality may, by ordinance, establish, or (3) ninety days after the deletion of any item of tax assessment by a final court order or pursuant to subdivision (3) of subsection (c) of section 12-53 or section 12-113. Such application shall contain a recital of the facts and shall state the amount of the refund requested. The collector shall, after examination of such application, refer the same, with his recommendations thereon, to the board of selectmen in a town or to the corresponding authority in any other municipality, and shall certify to the amount of refund, if any, to which the applicant is entitled. The existence of another tax delinquency or other debt owed by the same person, firm or corporation shall be sufficient grounds for denying the application. Upon receipt of such application and certification, the selectmen or such other authority shall draw an order upon the treasurer in favor of such applicant for the amount of refund so certified. Any action taken by such selectmen or such other authority shall be a matter of record, and the tax collector shall be notified in writing of such action. Upon receipt of notice of such action, the collector shall make in his rate book a notation which will date, describe and identify each such transaction. Each tax collector shall, at the end of each fiscal year, prepare a statement showing the amount of each such refund, to whom made and the reason therefor. Such statement shall be published in the annual report of the municipality or filed in the town clerk's office within sixty days of the end of the fiscal year. Any payment for which no timely application is made or granted under this section shall permanently remain the property of the municipality. Nothing in this section shall be construed to allow a refund based upon an error of judgment by the assessors. Notwithstanding the provisions of this section, the legislative body of a municipality may, by ordinance, authorize the tax collector to retain payments in excess of the amount due provided the amount of the excess payment is less than five dollars.

Approved by the Board of Selectmen  
October 17, 2016

## **Placement of Obstructions onto Public Roadways, Streets or Highways**

It shall be a violation of this ordinance for property owners, their agents or any other person, to throw, place, plow or deposit or cause to be thrown, placed, plowed or deposited any ice, snow or any other type of debris into a public roadway, street or highway from private lands and property without first obtaining written authority or permission of the Board of Selectman.

It shall be a violation of this ordinance for property owners, their agents or any other person, to intentionally discharge, or allow to be intentionally discharged, any water onto a public roadway, street or highway which then causes an accumulation of ice or creates a safety hazard or nuisance without first obtaining written authority or permission of the Board of Selectman. It shall be the duty of the Middlebury Police Department to enforce the provisions of this ordinance.

A property owner shall, upon notice by the Police Department of a violation of this ordinance, cause said snow, ice or other type of debris to be removed from the public roadway, street or highway, returning it same to a safe condition for public travel. Any property owner who shall fail, upon notice, cure said violation, shall be subject to a fine not to exceed one hundred dollars (\$100.00) for each violation. Each twenty four (24) hour period that said public roadway, street or highway is not cleared or returned to a safe condition for public travel shall be considered a separate violation and fined as such.

The Board of Selectmen may cause said snow, ice or other type of debris to be removed from the public roadway, street or highway and the expenses thereof may be collected by the town in an action of debt against the property owner and shall continue to be a lien and real encumbrance in favor of the town and upon such land or building. The certificate of lien shall be recorded within sixty (60) days thereafter unless such expenses shall be previously paid.

Any property owner so fined for violation of this ordinance may submit a written appeal to the Board of Selectman within thirty (30) days of the violation date. Said appeal shall be heard by the Board of Selectmen within thirty (30) days and a ruling shall be issued within an additional twenty (20) days.

Nothing shall prevent the Town of Middlebury from bringing an action in a court of original jurisdiction on behalf of the Town of Middlebury to enforce this ordinance and/or to recover any and all fines as hereinbefore set forth, as well as any costs and attorney's fees incurred, in pursuing said court action.

The provisions of this section shall not apply to the official snow removal operations of the Town of Middlebury or to the State of Connecticut.

If any section, subsection clause or phrase of this Ordinance is found to be invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portion.

Approved by the Board of Selectmen  
October 5, 2020  
Effective November 30, 2020

## **ORDINANCE PROHIBITING USE OF CANNABIS ON TOWN PROPERTY**

### **Section 1 - Authority**

This ordinance is adopted pursuant to General Statutes Sections 7-148 (c)(7)(H), as amended by Public Act 21-1 (June 2021 Special Session), Section 84, which allows municipalities to regulate activities deemed harmful to public health, including smoking, on municipality owned or controlled property. Said law further allows a municipality to control smoking of tobacco or cannabis, including cannabis e-cigarette use (i.e., electronic delivery systems and vapor products), as well as other types of cannabis use or consumption.

### **Section 2 - Ordinance Prohibitions of Cannabis Use on Town Property**

#### **A. Article I. Definitions; Cannabis Use on Town Property**

For purposes of this Chapter, the Town of Middlebury adopts the definitions used in Public Act 21-1 (June 2021 Special Session), Section 1.

#### **B. Cannabis Product Use Prohibited on Town Property**

It shall be unlawful for any person to use cannabis or cannabis-derived products, regardless of form or manner of ingestion, on any property owned or controlled by the Town of Middlebury. This prohibition includes but is not limited to: the lighting or carrying of a lighted cannabis or marijuana cigarette or cigar or pipe, use of a vaping device producing vapor of any cannabis product, or carrying or ingestion of a cannabis edible substance. Violation of this section shall be punishable by a fine of \$50.00 per offense.

#### **C. Sale, Gift, or Transfer of Cannabis Products on Town Property Prohibited**

It shall be unlawful for any person, organization, entity, or any other party to sell, give, trade, or in any other way transfer cannabis products of any sort to another person, organization, entity, or other party on property owned or controlled by the Town of Middlebury. Such products include but are not limited to: cannabis or marijuana cigarettes or cigars or pipes, vaping devices and vaping substances, and edible substances. Violation of this section shall be punishable by a fine of \$50.00 per offense.

### **Section 3**

This ordinance shall take effect fifteen (15) days after publication of a summary of its provisions pursuant to Connecticut General Statutes, §7-157(b).

Approved by the Board of Selectmen 12/20/2021

See Also Board of Selectmen Minutes 1/18/2022

Legal Notice Published 1/5/2022 – Voices

Effective Date: 1/20/2022

## **Unlawful Operation of Motorized Recreational Vehicles & Sales and Fueling Regulation**

The following words, terms, and phrases, when used in this article, shall have the meanings as described to them in this section:

*All-terrain vehicle* means a self-propelled vehicle designed to travel over unimproved terrain as defined in Conn. Gen. Stat. § 14-379 and which has been determined by the commissioner of motor vehicles to be unsuitable for operation on the public highways.

*Dirt bike* means a two-wheeled motorized recreational vehicle designed to travel over unimproved terrain and not designed for travel on a highway, as defined in Conn. Gen. Stat. § 14-1. "Dirt bike" does not include an all-terrain vehicle, as defined in Conn. Gen. Stat. § 14-379, or a motor-driven cycle, as defined in Conn. Gen. Stat. § 14-1.

*EPAMD* shall mean any electric personal assistive mobility device (hereinafter "EPAMD") that is self-balancing, has two (2) non-tandem wheels, is designed to transport one (1) person, and has an electric propulsion system that produces an average power output of no more than 750 watts.

*Mini cycle* means pocket bikes, miniature (hereafter "mini") bikes, mini cycles, mini sport bikes, mini motorcycles, chopper scooters, and any other similar wheeled vehicle designed to transport one (1) or more persons that is powered by any type of motor.

*Motor-driven cycle* means any motorcycle, motor scooter, or bicycle with an attached motor, with a seat height of not less than twenty-six (26) inches, and a motor having a capacity of less than fifty (50) cubic centimeters of piston displacement.

*Motorized recreational vehicle* shall mean a wheeled vehicle, with a motor, intended to be rode by one (1) or more persons and shall include "all-terrain vehicle," "minibike," "dirt bike," "motor-driven cycle," "snow mobile," and "mini-cycle," all as defined herein.

Motorized recreational vehicle shall not be deemed to include any of the following:

1. Any registered "motorcycle" as defined in the Conn. Gen. Stat. § 14-1(59);
2. Any registered "motor vehicle" as defined in Conn. Gen. Stat. § 14-1(58);
3. Any moped that meets Federal Department of Transportation guidelines for use on streets and is approved by the State of Connecticut Department of Motor Vehicles for use on streets, provided, however, the moped is operated pursuant to all applicable state laws, rules, and regulations and all Town of Middlebury ordinance
4. Any wheelchair or similar mobility assisting device utilized by a person with a physical disability or whose ambulatory mobility has been impaired due to age or physical ailment;
5. Any self-propelled snowplow, snow blower, or lawn mower when used for the purpose for which it was designed and operated at a speed not to exceed four (4) miles per hour;

6. Any vehicle owned or leased by the Town of Middlebury;
7. Any EPAMD as defined herein;
8. Any "Electric bicycle" as defined in Conn. Gen. Stat. Sec. 14-1
9. Any bicycle or trail bike without a motor;
10. Any golf cart;
11. Any agricultural equipment-such as tractors and farm implements;
12. Any construction machinery; and
13. Any vehicle that is used solely for amusement, or as a novelty display item, and is operated during a parade or any other special event that is properly permitted and approved by the Town of Middlebury.

*Motorized recreational vehicle dealer* means any person engaged in the business of manufacturing or selling any motorized recreational vehicles, having an established place of business for the manufacture, sale, trade, and display of such vehicles.

*Snowmobile* means a vehicle with a motor, with runners in the front and caterpillar tracks in the rear, intended to be used by one (1) or more persons for travelling over ice and snow.

## Section 2. - Operations prohibited.

- (a) It shall be unlawful for any person to operate a motorized recreational vehicle or for any owner of a motorized recreational vehicle to knowingly permit the operation of such vehicle on any street or sidewalk in the Town of Middlebury or on any public property, including but not limited to school property, playgrounds, and parks within the Town of Middlebury.
- (b) It shall be unlawful for any person to ride as a passenger on a motorized recreational vehicle or for any owner of a motorized recreational vehicle to knowingly permit any person to ride as a passenger on such vehicle operated in violation of subsection (a) above
- (c) It shall be unlawful for any person to operate a motorized recreational vehicle, ride as a passenger on a motorized recreational vehicle, or for any owner of a motorized recreational vehicle to knowingly permit its operation on any private property within the Town of Middlebury without first obtaining the written permission of the property owner, if the property is not owned by the operator, passenger, or owner of such vehicle.
- (d) It shall be unlawful for any person to operate an EPAMD or for any owner of an EPAMD to knowingly permit the operation of an EPAMD on any street in the Town of Middlebury, except as provided herein. An EPAMD may be operated on any designated bike line or sidewalk and/or crosswalk. Such

operator must adhere to the regulations of such travel lane as defined by the Traffic Commission and in no instance shall the speed of operations exceed five (5) miles per hour on any sidewalk. Where no such bike lane or sidewalk exists, an EPAMD may be legally operated on the far-right side of the street. An operator of an EPAMD shall yield to pedestrians and any wheelchair or similar mobility assisting device as defined in subsection 2 above and shall comply with any applicable State of Connecticut laws or regulations.

### Sec. 3. - Penalty.

- (a) Any person who operates any motorized recreational vehicle in violation of subsection 2(a) or 2(c) above, or any owner of any motorized recreational vehicle who knowingly permits its operation in violation of subsection 2(a) or 2(c) above, shall be fined one thousand dollars (\$1,000.00) for a first violation, fined one thousand five hundred dollars (\$1,500.00) for a second violation, and shall be fined two thousand (\$2,000.00) for a third or subsequent violation.
- (b) Any person age sixteen (16) or older who rides as a passenger on any motorized recreational vehicle in violation of subsection 2(c) above, or any owner of a motorized recreational vehicle who knowingly permits a passenger to ride on his/her motorized recreational vehicle in violation of Subsection 2(b), shall be fined two hundred fifty dollars (\$250.00).
- (c) Any person in violation of this ordinance may be detained by a police officer for purposes of enforcing the provisions of this ordinance. Any motorized recreational vehicle used in violation of this ordinance, seized by any police officer, shall be forfeited to the Town of Middlebury, subject to any bona fide lien, lease, or security interest in the motorized recreational vehicle, including, but not limited to, a lien under Conn. Gen. Stat. § 14-66c.
- (d) Any person who operates an EPAMD in violation of subsection 2(d) above or is the owner of an EPAMD who knowingly permits its operation in violation of subsection 2(d) above that has been previously issued one (1) warning as the result of a previous violation of subsection 2(e) above, shall be fined two hundred fifty dollars (\$250.00).

### Sec. 4. - Seizure of motorized recreational vehicles; disposal.

- (a) Any person who operates a motorized recreational vehicle in violation of subsection 2(a) above or is the owner of any such vehicle who knowingly permits its operation in violation of subsection 2(a) above will be subject to seizure of said vehicle(s) pursuant to Conn. Gen. Stat. Sec. 54-33g which allows for seizure of property. A police officer who observes any motorized recreational vehicle being operated in violation of subsection 2(a), (b), (c), or (d) above may detain such person for purposes of enforcing the provisions of this article and may remove or tow such motorized recreational vehicle to a secure location for impoundment. Before the owner of any such impounded property may remove the vehicle from a

vehicle pound, he/she shall furnish to the operator of such pound or such other person as the chief of police shall designate evidence of registration and ownership, shall sign a receipt for such property, and shall pay the cost of towing, plus the cost of storage for each day or portion of a day that such property is stored in excess of the first twenty-four (24) hours after seizure. The operator of such pound shall refuse the release of any such property lawfully seized that the chief of police has authorized to hold as evidence in a criminal investigation or proceeding. Such operator shall obtain written permission from the chief of police on any form or document prescribed by the chief of police prior to the release of such property held for evidence.

- (b) Any such motorized recreational vehicle that is not claimed by its owner under the terms of this section for a period of forty-five (45) days after seizure or in the case of a vehicle being held as evidence not claimed by its owner within forty-five (45) days of the cessation of such investigation or disposition of such criminal proceeding, whichever is later, may be disposed of at the direction of the chief of police after serving notice in the same manner as that required for the disposal of abandoned vehicles under Conn. Gen. Stat. § 14-150(e), except in the case that a vehicle that is not registered, such notice shall not require mailing to persons whose names are registered with the state department of motor vehicles.

#### Sec. 5. - Hearing prior to forfeiture of motorized recreational vehicle.

- (a) A hearing officer shall be appointed by the First Selectmen, subject to the approval of the Board of Selectmen, to conduct hearings authorized by this section. Such hearing officer shall work with the chief of police in the scheduling of hearings held pursuant to this chapter. The chief of police or his or her designee shall represent the police department at such hearing. A sworn police incident report shall be considered prima facie proof of the violation. The owner or lienholder may cross examine any witness and present evidence and argument in opposition to the Town's claim. After the hearing as provided by this section, the hearing officer may order the forfeiture of any motorized recreational vehicle that has been seized upon proof of conduct amounting to probable cause for a violation of section 2 or any other Town ordinance or state law pursuant to the process provided herein. Written notice advising the recipient of the right of the owner or lienholder of the motorized recreational vehicle to a hearing prior to the disposal of the motorized recreational vehicle will be delivered on a form approved by corporation counsel and board of alders to any lienholder and to the owner of the motorized recreational vehicle, or if no owner can be identified, to the rider, within thirty (30) days of the seizure. A written request for a hearing before a hearing officer, must be received, by hand delivery or certified mail, return receipt requested, to Hearing Officer, in care of the Chief of Police, Middlebury Police Department, 200 Southford Road, Middlebury, Connecticut 06762 within thirty (30) days of receipt of the notice. Said request for a hearing by an owner must be submitted with proof of ownership or by a lienholder with proof of lien or other security

interest in the motorized recreational vehicle.

- (b) Said hearing shall be conducted by the hearing officer and shall be held not more than thirty (30) days after the receipt of the written request, except that written requests for an extension of time may be granted for good cause shown. Notice of the date and time of said hearing shall be provided to the owner or lienholder no later than ten (10) days before the date of the hearing by electronic delivery and/or by certified mail, return receipt requested, at the email or residential address provided by the owner or lienholder in the written request for a hearing.
- (c) Any party to the hearing may, at his/her expense, record the hearing. Any party to the hearing may be represented by counsel.
- (d) A motorized recreational vehicle may be ordered forfeited upon a finding of any, but not limited to, of the following:
  - There is probable cause to believe that the motorized recreational vehicle was possessed, controlled, or designed for use, or is or has been or is intended to be used, to violate, or in violation of any Town ordinance or the motor vehicle or criminal laws of this state; or
  - There is probable cause to believe that the motorized recreational vehicle was operated with reckless and wanton disregard for the welfare or property of others.
- (e) Following the hearing, the hearing officer who conducted the hearing, shall issue a written decision ordering the forfeiture of the motorized recreational vehicle or ordering the return of the motorized recreational vehicle to its owner, except that the hearing officer who conducted the hearing, shall not order the release of any motorized motor vehicle that is required to be kept as evidence in any investigation or legal proceeding related to any criminal or motor vehicle offense.
- (f) Any motorized recreational vehicle that is subject to a bona fide mortgage, assignment of lease or rent, lien, or security interest shall not be ordered forfeited in violation of the rights of the holder of such mortgage, assignment of lease or rent, lien, or security interest.
- (g) Any motorized recreational vehicle ordered forfeited shall be disposed of consistent with applicable law.
- (h) If within thirty (30) days of the delivery of the notice of the right to a hearing under this section, no owner or lienholder of the motorized recreational vehicle has requested a hearing, the vehicle will be considered abandoned and disposed of under applicable law.

#### Sec. 6. - Posting by motorized recreational vehicle dealer.

Each motorized recreational vehicle dealer offering for sale, lease, or rental any motorized recreational vehicle shall post this article in a prominent location at the motorized recreational vehicle dealer's place of business.

Any such motorized recreational vehicle dealer who violates any provision of this

section shall have committed an infraction. For a first violation, the chief of police or his/her authorized agent shall issue a written warning providing notice of the specific violation and the time period within which it shall be corrected. If the dealer receiving the written warning fails to correct the violation within the time period specified in the warning, the chief of police or his or her authorized agent shall issue a fine of one hundred dollars (\$100.00). Any continuing violation that is discovered during any subsequent reinspection shall result in a fine of one hundred dollars (\$100.00). Each reinspection at which a violation is discovered shall constitute a separate violation.

#### Sec. 7. – Sale of Gasoline for Illegal Purposes

- (a) No owner or employee of any retail dealer of gasoline shall sell, offer for sale, or attempt to sell any article or product represented as gasoline for use in any motorized recreational vehicle as defined in this article, unless that vehicle is conveyed to and from the retailer's premises by a registered motor vehicle, as defined in Conn. Gen. Stat. § 14-1 as may be amended, and no individual shall purchase or attempt to purchase gasoline for use in any motorized recreational vehicle as defined in this article.
- (b) Signs with the words "FUELING OF ALL-TERRAIN VEHICLES, MINI-CYCLES, DIRT BIKES, OR OTHER UNAUTHORIZED VEHICLES PROHIBITED" in English and "PROHIBIDO DESPACHAR GASOLINA A ALL- TERRAIN VEHICLES, MINI-CYCLES O DIRT BIKES O A OTROS VEHICULOS NO AUTORIZADOS" in Spanish at least one (1) inch in height with a contrasting margin shall be posted at all dispensing locations. The location of warning signs shall be based on local conditions but shall be visible and legible from all gas pumps.
- (c) Any owner or employee of any retail dealer of gasoline who violates any provision of subsections (a) or (b) of this section who owns or is employed by a retail dealer that has been previously issued one (1) warning as the result of a previous violation of subsections (a) or (b) of this section shall be fined one hundred dollars (\$100.00) per occurrence. Each motorized recreational vehicle as to which an owner or employee of any retail dealer of gasoline sells, offers for sale, or attempts to sell gasoline shall be considered a separate violation of subsection (a) above.

Approved by the Board of Selectmen 2/22/2022  
See Also Board of Selectmen Minutes 2/7/2022  
Legal Notice Published 2/24/2022 - Bee-Intelligencer  
Effective Date 3/11/2022

## **Payment of Taxes on Motor Vehicles Registered in Another State**

### **Section 1**

#### **Statement of Purpose**

Residents of the Town of Middlebury are required to pay taxes on motor vehicles they own, which are utilized in this state, and most frequently used in, or remaining in, the Town of Middlebury, in accordance with Connecticut Statutes.

Connecticut Statutes Section 12-71, provides, in pertinent part:

...

(f) (1) Property subject to taxation under this chapter shall include each registered and unregistered motor vehicle and snowmobile that, in the normal course of operation, most frequently leaves from and returns to or remains in a town in this state, and any other motor vehicle or snowmobile located in a town in this state, which motor vehicle or snowmobile is not used or is not capable of being used.

(2) Any motor vehicle or snowmobile registered in this state subject to taxation in accordance with the provisions of this subsection shall be set in the list of the town where such vehicle in the normal course of operation most frequently leaves from and returns to or in which it remains. It shall be presumed that any such motor vehicle or snowmobile most frequently leaves from and returns to or remains in the town in which the owner of such vehicle resides, unless a provision of this subsection otherwise expressly provides. As used in this subsection, "the town in which the owner of such vehicle resides" means the town in this state where (A) the owner, if an individual, has established a legal residence consisting of a true, fixed and permanent home to which such individual intends to return after any absence, or (B) the owner, if a company, corporation, limited liability company, partnership, firm or any other type of public or private organization, association or society, has an established site for conducting the purposes for which it was created. In the event such an entity resides in more than one town in this state, it shall be subject to taxation by each such town with respect to any registered or unregistered motor vehicle or snowmobile that most frequently leaves from and returns to or remains in such town.

(3) Any motor vehicle owned by a nonresident of this state shall be set in the list of the town where such vehicle in the normal course of operation most frequently leaves from and returns to or in which it remains. If such vehicle in the normal course of operation most frequently leaves from and returns to or remains in more than one town, it shall be set in the list of the town in which such vehicle is located for the three or more months preceding the assessment day in any year, except that, if such vehicle is located in more than one town for three or more months preceding the assessment day in any year, it shall be set in the list of the town where it is located for the three months or more in such year nearest to such assessment day. In the event a motor vehicle owned by a nonresident is not located in any town for three or more of the months preceding the assessment day in any year, such vehicle shall be set in the list of the town where such vehicle is located on such assessment day.

...

Connecticut Statutes Section 12-71b, provides, in pertinent part:

...  
(g) Any motor vehicle which is not registered in this state shall be subject to property tax in this state if such motor vehicle in the normal course of operation most frequently leaves from and returns to or remains in one or more points within this state, and such motor vehicle shall be subject to such property tax in the town within which such motor vehicle in the normal course of operation most frequently leaves from and returns to or remains, provided when the owner of such motor vehicle is a resident in any town in the state, it shall be presumed that such motor vehicle most frequently leaves from and returns to or remains in such town unless evidence, satisfactory to the assessor in such town, is submitted to the contrary.  
...

It is a violation of Connecticut Statutes Section 14-12, and an infraction, such that:

...  
(2) a resident of this state who operates or parks a motor vehicle such resident owns with number plates issued by another state on any highway shall be fined two hundred fifty dollars, except that the fine shall be suspended for a first time violator who presents proof of registration for the motor vehicle subsequent to the violation but prior to the imposition of a fine.

## **Sec. 2 - Violation**

It shall be a violation of this ordinance for any Middlebury resident to fail to register his/her motor vehicle in Connecticut, and/or set such vehicle in the tax list in the Town of Middlebury, when required by, and in accordance with, Connecticut Statutes.

## **Sec. 3 - Penalty**

In addition to the penalties provided by Connecticut Statutes, any person who violates the provisions of this ordinance shall pay a fine of two hundred fifty dollars (\$250.00), to the Town of Middlebury. Said fine will be in addition to, and not a substitute for, any required payment of back taxes, plus interest and penalties, that may be owed on the motor vehicle(s) in question.

## **Sec. 3 – Citations and Appeal Authorized**

Pursuant to Connecticut General Statutes § 7-148(c)(10), the Town of Middlebury may enforce this ordinance by the issuance of a citation. Each citation shall be issued by a police officer or designated municipal employee who shall issue a written warning providing notice of the specific violation before issuing the citation. Such citation may be appealed through the citation appeal procedure established herein.

#### **Sec. 4. – Citation Appeal Procedure**

(a) *Applicability.* Unless otherwise expressly provided within this Code, this section shall apply upon the issuance of a citation for violation of any provision of this Ordinance.

(b) *Appointment of citation hearing officers.* The First Selectman, subject to approval of the Board of Selectmen, shall appoint one or more citation hearing officers, other than police officers or employees or other persons who issue citations, to conduct hearings authorized by this section.

(c) *Notice of violation.* Within twelve months from the expiration of the period for the uncontested payment of fines, penalties, costs or fees for citations issued under any provision of this Ordinance, the Town shall send notice to the person cited. The notice shall inform the person cited: (1) Of the allegations against him/her, and the amount of the fines, penalties, costs or fees due; (2) that he may contest his liability before a citation hearing officer by delivering in person or by mail written notice within ten days of the date thereof; (3) that if he does not demand such a hearing, an assessment and judgment shall be entered against him; and (4) that the judgment may issue without further notice.

(d) *Admission of liability.* If the person or entity who is sent notice pursuant to subsection (c) of this section wishes to admit liability for any alleged violation, he may, without requesting a hearing, pay the full amount of the fine, penalties, costs or fees admitted to in person or by mail to an official designated by the town. Such payment shall be inadmissible in any proceeding, civil or criminal, to establish the conduct of the person making the payment. Any person who does not deliver or mail written demand for a hearing within ten days of the date of the first notice provided for in subsection (c) above shall be deemed to have admitted liability, and the designated municipal official shall certify the person or entity's failure to respond to the citation hearing officer. The citation hearing officer shall thereupon enter and assess the fines, penalties, costs or fees as set forth herein, and shall follow the procedures set forth in subsection (g) of this section.

(e) *Right to hearing; notice; timing of hearing.* Any person who requests a hearing shall be given written notice of the date, time and place for the hearing. Such hearing shall be held not less than fifteen days nor more than thirty days from the date of the mailing of notice, provided the citation hearing officer shall grant upon good cause shown any reasonable request by any interested party for postponement or continuance.

(f) *Hearing procedure.* An original or certified copy of the initial notice of violation issued by the issuing official or police officer shall be filed and retained by the municipality, and shall be deemed to be a business record and evidence of the facts contained therein. The presence of the issuing official or police officer shall be required at the hearing if such person so requests. A person wishing to contest his liability shall appear at the hearing and may present evidence in his behalf. A designated municipal official, other than the hearing officer, may present evidence on behalf of the municipality. If such person fails to appear, the hearing officer may enter an assessment by default against him upon a finding of proper notice and liability under the applicable statutes or ordinances. The citation

hearing officer may accept from such person copies of police reports, investigatory and citation reports, and other official documents by mail and may determine thereby that the appearance of such person is unnecessary. The citation hearing officer shall conduct the hearing in the order and form and with such methods of proof as he deems fair and appropriate. The rules regarding the admissibility of evidence shall not be strictly applied, but all testimony shall be given under oath or affirmation. The citation hearing officer shall announce his decision at the end of the hearing. If the citation hearing officer determines that the person is not liable, he shall dismiss the matter and enter his determination in writing accordingly. If the citation hearing officer determines that the person is liable for the violation, he shall forthwith enter and assess the fines, penalties, costs or fees against such person as set forth in the statutes and/or ordinance.

(g) *Notice of assessment; filing in Superior Court; effect.* If such assessment is not paid on the date of its entry, the citation hearing officer shall send by first class mail a notice of the assessment to the person found liable and shall file, not less than thirty days or more than twelve months after such mailing, a certified copy of the notice of assessment with the clerk of the Superior Court for the Judicial District of Waterbury together with an entry fee of eight dollars. The certified copy of the notice of assessment shall constitute a record of assessment. Within such twelve-month period, assessments against the same person may be accrued and filed as one record of assessment. The clerk shall enter judgment, in the amount of such record of assessment and court costs of eight dollars, against such person in favor of the municipality. Notwithstanding any provisions of the Connecticut General Statutes, the hearing officer's assessment, when entered as a judgment, shall have the effect of a civil money judgment and a levy of execution on such judgment may issue without further notice to such person.

(h) *Right to judicial review.* A person against whom an assessment has been entered pursuant to this section is entitled to judicial review by way of appeal. An appeal shall be instituted within thirty days of the mailing of notice of such assessment by filing a petition to reopen assessment, together with an entry fee in an amount equal to the entry fee for a small claims case, at the Superior Court for the Judicial District of Waterbury, which shall entitle such person to a hearing in accordance with the rules of the judges of the Superior Court.

Approved by the Board of Selectmen 2/22/2022  
Legal Notice Published 2/24/2022 - Bee-Intelligencer  
Effective Date - 3/11/2022

## PROHIBITION OF RESIDENTIAL SHORT TERM RENTALS

### Section 1. Enabling Laws:

This Ordinance is authorized by Town Charter and Connecticut Statutes, including, but not limited to, Connecticut Statutes Sec. 7-148(b) and Sec. 7-148(c)<sup>1</sup>

### Section 2. Purpose and Intent:

The purpose and intent of this chapter is to prohibit the advertisement for, operation of, and/or establishment of, the short-term rental of any residential dwelling, dwelling unit, or room in a dwelling in residential areas, zones, and districts of the Town of Middlebury Connecticut.

### Section 3. Definitions:

a. As used in this Ordinance, “**short-term rental**” shall mean the rental of any residential dwelling, dwelling unit, or room in a dwelling (in whole or in part), accessory structure (in whole or in part), accessory dwelling unit (in whole or in part), and/or a recreational vehicle located upon a parcel or a portion thereof, by owner(s) or lessee(s) to another person or group of people for occupancy, dwelling, lodging, or sleeping purposes in any residential area, zone, or district of the Town of Middlebury for a period of less than 30 consecutive calendar days. A short-term rental includes any contract or agreement that initially defined the rental term to be greater than 30 consecutive calendar days and which was subsequently amended, either verbally or in writing, to permit the occupant(s) of the owners’ or lessees’ short-term rental to surrender the subject dwelling unit before the expiration of the initial rental term that results in an actual rental term of less than 30 consecutive calendar days. The rental of rooms or units within town-approved hotels, motels, and bed and breakfasts shall not be considered to be a short-term rental.”

### Section 4. Prohibitions:

a. It shall be a violation of this Ordinance for any person or entity to offer or make available for rent, or to rent (by way of a rental agreement, lease, license, or any other means, whether oral or written), for compensation or any consideration, a short-term rental.

b. It shall be a violation of this Ordinance for any person or entity to place or maintain any advertisement for a short-term rental prohibited by this chapter.

c. It shall be a violation of this Ordinance for any person or entity to occupy, pursuant to a rental agreement, lease, license, or any other means, whether oral or written, for compensation or any consideration, a short-term rental.

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<sup>1</sup> See, for example, Sec. 7-148 (c)(7)(B), concerning on-street residential parking regulation, and Sec. 7-148 (c)(7)(E), concerning the abatement of nuisances.

Section 5. Penalties for Violation of this Ordinance:

Any person or entity violating the provisions of Section 4. a. or b. above, of this ordinance, shall be fined \$250.00 (two hundred fifty dollars) for each offense. Any person or entity violating the provisions of Section 4. c., of this ordinance, by occupancy of a short-term rental, shall receive a written warning for a first violation, and progressive fines thereafter, up to, but not more than, \$250.00 (two hundred fifty dollars) for each subsequent offense.

Approved by the Board of Selectmen 11/20/2023

Legal Notice Published - R/A 11/28/2023

Effective Date - 12/13/2023

# PANHANDLING CONTROL

## Section 1. PURPOSE

The purpose of this chapter is to preserve the public order, to protect the citizens of the Town of Middlebury and to ensure the safe and uninterrupted passage of both pedestrian and vehicular traffic, without unconstitutionally impinging upon protected speech, expression or conduct.

## Section 2. DEFINITIONS.

The following terms shall apply to this chapter as written unless context indicates or requires a different meaning:

**ASK, BEG, OR SOLICIT ALMS.** Includes the spoken, written, or printed word or such other act conducted for the purpose of obtaining an immediate donation or money or thing of value.

**FALSE OR MISLEADING MANNER.** Includes, but is not limited to, the asking, begging, or soliciting of alms, including money and other things of value, through utilization of any of the following representations:

- (1) Stating or expressing that the donation is needed to meet a specific need, when the solicitor already has sufficient funds to meet that need and does not disclose that fact;
- (2) Stating that the solicitor is from out of town and stranded, when that is not true;
- (3) Wearing or displaying an indication of physical disability, when the solicitor does not suffer the disability indicated; or
- (4) Use of any makeup or device to simulate deformity.

## Section 3. PROHIBITED ACTS BY PERSON ASKING, BEGGING OR SOLICITING ALMS.

- A. Approaching, speaking to or following a person in a manner as would cause a reasonable person to fear bodily harm.
- B. Approaching, speaking to or following a person in a manner as would cause a reasonable person to fear the commission of a criminal act upon the person, or upon property in the person's immediate possession.
- C. Touching another person without that person's consent.
- D. Blocking or interfering with the safe or free passage of a person or vehicle in a way likely to cause bodily harm or property damage.
- E. Directing abusive or profane language toward any person.
- F. Asking, begging, or soliciting alms, including money and other things of value, in a false or misleading manner.
- G. Continuing to ask, beg, or solicit alms from a person after the person has made a negative response.
- H. Following the person solicited, before, after or while asking, begging or soliciting alms.

#### **Section 4. INTERPRETATION.**

No provision of this section shall be interpreted or construed to prohibit speech, expression or conduct protected by the laws or constitutions of the United States or of the State of Connecticut.

#### **Section 5. PENALTY.**

Any person who violates any provision of this ordinance, for which no other fine is provided, may be fined up to a maximum of \$250.00 and/or, depending on future availability, may be referred to the Waterbury Community Court pursuant to Conn. Gen. Stat. § 51-181c(d) and Court Policies and Procedures.

*Adopted by the Board of Selectmen - April 15, 2024  
Legal Notice Published - Voices 4/24/2024  
Effective Date – 5/24/2024*