

ORDINANCE OF THE
TOWN OF MIDDLETOWN, RHODE ISLAND

AN ORDINANCE AMENDING THE TOWN CODE OF THE
TOWN OF MIDDLETOWN
TITLE XV: LAND USAGE
Chapter 152, Zoning Code

NOW THEREFORE, BE IT ORDAINED AS FOLLOWS:

FIRST: That Town Code Title XV, Chapter 152, Entitled "Zoning Code" is amended as follows (language to be deleted is **[struck]** out within brackets; language to be added is **underlined**):

ARTICLE 14 – MOTELS AND HOTELS

§ 1401 PROCEDURE FOR PROPOSED DEVELOPMENT.

No building permit shall be granted for the construction of a motel or hotel until **a land development project application is approved in accordance with the procedures set forth in the Middletown Rules and Regulations Regarding the Subdivision and Development of Land.** ~~[the Zoning Board of Review shall grant a special use permit therefor in accordance with the provisions of this chapter. Upon receipt of a completed application as required by § 1403, the Zoning Board shall refer two copies of the application to the Middletown Planning Board for site plan review, who shall make a written report to the Zoning Board within 45 days of receipt of the application. The Zoning Board shall then hold a public hearing on the application for a special use permit. Where the decision of the Zoning Board of Review differs from the recommendations of the Planning Board, the reasons therefor shall be clearly stated in writing.]~~

§ 1402 [~~DEVELOPMENT PLAN REVIEW~~] **APPLICATION SUBMISSION REQUIREMENTS.**

An application for a **land development project** ~~[special use permit]~~ to construct a motel or hotel shall contain, **in addition to the items listed on the applicable land development project submission checklist,** ~~[as a minimum, development plans and supplementary information as required by § 305, plus]~~ the following:

- (A) Preliminary architectural drawings of all buildings;
- (B) Location, dimensions and nature of all signs which would require a building permit;
- (C) Description of proposed accessory uses and interior and exterior areas devoted to such uses;
- (C) Description of proposed method of sale or rental of units; duration of lease agreements; proposals for time share estate, if any.

ARTICLE 15 – MULTI-FAMILY DWELLINGS

§ 1501 PROCEDURES FOR PROPOSED DEVELOPMENT.

For multifamily structures or dwelling projects, no building permit shall be granted for the construction thereof until ~~[the Zoning Board of Review shall grant a special use permit or, for conservation developments, the Planning Board has approved a land development project in accordance with the provisions of this chapter.]~~ a land development project application is approved in accordance with the procedures set forth in the Middletown Rules and Regulations Regarding the Subdivision and Development of Land.

~~[(A) *Conventional development – special use permit required.* Upon receipt of a completed application as required by § 1502, the Zoning Board shall refer two copies of the application to the Middletown Planning Board for development plan review, who shall make a written report to the Zoning Board within 45 days of receipt of plans. The Zoning Board shall then hold a public hearing on the application for a special use. Where the decision of the Zoning Board of Review differs from the recommendations of the Planning Board, the reasons therefor shall be clearly stated in writing.~~

~~–(B) *Conservation development – land development project approval required.* Review of multifamily dwellings in conservation developments shall take place in accordance with the procedures set forth in Article 19 and with the Middletown Subdivision and Land Development Regulations.]~~

§ 1502 DEVELOPMENT PLAN REQUIREMENTS.

An application to construct a multifamily dwelling project or structure shall contain, ~~[at a minimum, development plans and supplementary information as required by the § 305, plus]~~ in addition to the items listed on the applicable land development project submission checklist, the following:

(A) Computation of projected sewage volumes and sewage flow calculations, along with a letter from the town's Director of Public Works, to be obtained by the applicant, rendering an opinion as to the adequacy of the proposed sewer size, design and the ability of the public sewer system to accept and adequately treat projected volumes and flows.

(B) Computation of water usage, along with a letter from the City of Newport Water Department, to be obtained by the applicant, rendering its opinion as to the adequacy of the supply of water and the pressure in the water system to serve the calculated needs of the project.

(C) Written comments from the Middletown Fire Department regarding adequacy of fire safety provisions.

ARTICLE 18 – SHOPPING CENTERS

§ 1801 PROCEDURE FOR PROPOSED DEVELOPMENT.

(A) No building permit shall be granted for the construction of a shopping center until ~~[the Zoning Board of Review grants a special use permit in accordance with the provisions of this subchapter.]~~ a land development project application is approved in accordance with the procedures set forth in the Middletown Rules and Regulations Regarding the Subdivision and Development of Land.

~~[(B) *Shopping center applications shall be subject to development plan review as described in §§ 300 through 321.*]~~

§ 1802 PERMITTED USES.

(A) Only those uses permitted in the General Business (GB) Zoning District, and listed below, are permitted as a principal use of land in a large scale or small scale shopping center in the GB district.

- (1) General merchandise retail activities, including department stores (storage areas not to exceed 30% of gross floor area);
- (2) Supermarkets;
- (3) Grocery stores, delicatessens, fish markets, fruit and vegetable markets, bakeries, dairy products stores;
- (4) Lunchrooms or restaurants (no alcoholic beverages);
- (5) Lunchrooms or restaurants (alcoholic beverages);
- (6) Taverns, cafes, clubs, bars or cocktail lounges (alcoholic beverages);
- (7) Packaged liquor stores;
- (8) Laundries or dry cleaners, pick-up only (no plant), or self-service laundromats;
- (9) Beauty or barber shops,
- (10) Duplicating, printing or photocopying services;
- (11) Miscellaneous repair shops and related services (non-vehicle);
- (12) General professional offices;
- (13) Bank or financial institutions;
- (14) Motion picture theaters;
- (15) Bowling alleys and billiard and pool parlors;
- (16) Exercise center, gymnasium, sauna or court games; and
- (17) Accessory uses customarily incidental to a use permitted in the district and located on the same lot as the principal use.

Only those uses listed in § 603 as permitted in the Limited Business (LB) Zoning District are permitted as a principal use of land in a small scale shopping center in the LB district.

(B) To prevent the operation of a principal use not permitted under division (A) on land adjacent to a shopping center in such manner that it appears to be a part of the shopping center:

- (1) All principal uses established on land adjacent to a shopping center, except uses specified in division (A), shall be separated by permanent barriers from direct access to the shopping center property and to any private road or right-of-way leading to said shopping center, with the exception of one defined access way, not more than 50 feet in width.

(2) No sign shall be displayed on either a shopping center property or on adjacent land, directing traffic between the shopping center and any principal use on the adjacent land that is not a permitted use or a use permitted in a shopping center by § ~~[4804]~~ 1802(A).

(3) Notwithstanding any other provision of this chapter, any land that was part of a shopping center, on or after September 17, 2001, may be used only for permitted uses in that district, (and not special uses), and those uses permitted in a shopping center pursuant to § ~~[4804]~~ 1802(A).

(4) Each of the requirements of this section is separate and independent and judicial invalidation of one or more of these requirements shall not invalidate the remainder.

ARTICLE 21 – RESIDENTIAL CARE AND ASSISTED LIVING FACILITIES

§ 2102 PROCEDURE FOR PROPOSED DEVELOPMENT.

No building permit for a residential care and assisted living facility shall be issued until ~~[the Zoning Board of Review has granted a special use permit in accordance with the provisions of this chapter. Upon receipt of a completed application, the Zoning Board shall refer two copies of the application to the Planning Board for development plan review. The Planning Board shall submit a written report to the Zoning Board within 45 days of receipt of application and plans. Upon receipt of the Planning Board's report, the Zoning Board shall hold a public hearing on the application. When the Zoning Board's decision differs from the recommendations of the Planning Board, reasons shall be clearly stated in writing.]~~ a land development project application is approved in accordance with the procedures set forth in the Middletown Rules and Regulations Regarding the Subdivision and Development of Land.

§ 2103 DEVELOPMENT PLAN REQUIREMENTS.

In addition to the items listed on the applicable land development project submission checklist, ~~[In additions to the information required by § 305,]~~ an application ~~[for a special use permit]~~ to construct a residential care and assisted living facility shall contain a development plan, including the following:

- (A) Building design and site layout shall show: public, semi-private and private spaces, ensuring a sense of protection and community identity; minimization of public barriers to handicapped residents; and provision of plantings and landscaping which adequately buffer abutting property;
- (B) Computation of projected sewage volumes and sewage flow calculations. The Town Engineer shall render an opinion as to the adequacy of the proposed sewer size and design of the proposed sewer system and its ability to accept the projected volumes and flows;
- (C) Computation of projected water use, along with a letter from the City of Newport Water Department, to be obtained by the applicant, rendering its opinion as to the adequacy of the water supply and pressure in the water system to serve the needs of the proposed facility;
- (D) Written comments from the Middletown Fire Department regarding adequacy of fire safety provisions;

~~[(E) Planning Board shall also be charged with reviewing and commenting on the architectural design of the project.]~~

ARTICLE 22 – SENIOR INDEPENDENT LIVING FACILITIES

§ 2202 PROCEDURE FOR PROPOSED DEVELOPMENT.

No building permit for a senior independent living facility shall be issued until ~~[the Zoning Board of Review has granted a special use permit in accordance with the provisions of the chapter. Upon receipt of the completed application, the Zoning Board shall refer two copies of the application to the Planning Board for development plan review. The Planning Board shall submit a written report to the Zoning Board within 45 days receipt of the application and plans. Upon receipt of the Planning Board's report, the Zoning Board shall hold a public hearing on the application. When the Zoning Board's decision differs from the recommendations of the Planning Board, reasons shall be clearly stated in writing.]~~ a land development project application is approved in accordance with the procedures set forth in the Middletown Rules and Regulations Regarding the Subdivision and Development of Land.

§ 2203 DEVELOPMENT PLAN REQUIREMENTS.

In addition to the items listed on the applicable land development project submission checklist ~~[In addition to the information required by § 305,]~~ an application ~~[for special use permit]~~ to construct a senior independent living facility shall contain a development plan, including the following:

(A) Building design and site layout shall show: public, semi-private spaces, ensuring a sense of protection and community identity; minimization of public barriers to handicapped residents; and provision for planting and landscaping which buffer abutting property by maintaining a landscaped area of at least one and one-half of the required setback;

(B) Computation of the projected sewage volumes and sewage flow calculations. The Town Engineer shall render an opinion as to the adequacy of the proposed sewer size and the design of the proposed sewer system and its ability to accept the projected volumes and flows;

(C) Computation of the projected water use, along with a letter from the City of Newport Water Department, to be obtained by the applicant, rendering its opinion as to the adequacy of the water supply and the pressure in the water system to serve the needs of the proposed facility;

(D) Written comments from the Middletown Fire Department regarding adequacy of fire safety provisions;

(E) Preliminary architectural drawings demonstrating that the buildings will have exteriors of traditional building materials used in New England, such as wood shingles and clapboards or materials closely resembling these materials. Buildings shall have traditional roofs such as gable, gambrel or hip. Roof pitches shall be greater than 8/10 for the majority of the buildings. The architectural design shall be subject to the development plan review and subject to the commercial development review standards of the Rules and Regulations Regarding the Subdivision of Land.

ARTICLE 23 – MOBILE HOME PARKS

§ 2301 PROCEDURES FOR PROPOSED DEVELOPMENT.

No building permit shall be granted for the construction of a mobile home park until ~~[the Zoning Board of Review shall grant a special use permit therefor in accordance with the provisions of this chapter. Upon receipt of a completed application as required by § 2302, the Zoning Board shall refer two copies of the application to the Planning Board for development plan review, who shall make a written report to the Zoning Board within 45 days of receipt of the application. The Zoning Board may then hold a public hearing on the application for a special use permit. Where the decision of the Zoning Board of Review differs from the recommendations of the Planning Board, the reasons therefor shall be clearly stated in writing.]~~ a land development project application is approved in accordance with the procedures set forth in the Middletown Rules and Regulations Regarding the Subdivision and Development of Land.

§ 2302 DEVELOPMENT PLAN REQUIREMENTS.

In addition to the items listed on the applicable land development project submission checklist an application ~~[for a special use permit]~~ to construct a mobile home park shall contain ~~[, as a minimum, development plans and supplementary information as required by § 902, plus]~~ the following:

- (A) A development plan showing the location and dimensions of streets and other roadways; lot or spaces intended for the placement of mobile homes, required buffer zones, recreation areas and open space, and the location and nature of all proposed land uses;
- (B) Typical lot improvements to include lot dimensions, required yards, setbacks and location of mobile homes, off- or on-street parking;
- (C) A plan or other description indicating all utilities and methods of sewage disposal and water supply;
- (D) Proposals for garbage and trash removal, and outdoor storage;
- (E) Evidence of compliance with all appropriate state laws and regulations, particularly those dealing with licensure of mobile home parks;
- (F) Preliminary architectural plans of any proposed permanent buildings, such as community buildings, recreation halls or service buildings.

ARTICLE 24 – TRANSIENT TRAILER PARKS

§ 2402 PROCEDURES FOR PROPOSED DEVELOPMENT.

No building permit shall be granted for the construction of a transient trailer park until ~~[the Zoning Board of Review shall grant a special use permit therefor in accordance with the provisions of this chapter. Upon receipt of a completed application as required by § 2403, the Zoning Board shall refer two copies of the application to the Planning Board for development plan review, who shall make a written report to the Zoning Board within 45 days of receipt of the application for a special use permit. Where the decision of the Zoning Board differs from the recommendations of the Planning Board, the reasons therefor shall be clearly stated in writing.]~~ a land development project application is

approved in accordance with the procedures set forth in the Middletown Rules and Regulations Regarding the Subdivision and Development of Land.

§ 2403 DEVELOPMENT PLAN REQUIREMENTS.

In addition to the items listed on the applicable land development project submission checklist, an application ~~[for a special use permit]~~ to construct a transient trailer park shall contain, as a minimum, ~~[development plans and supplementary information as required by § 305, plus the following.]~~ complete engineering plans and specifications of the proposed park showing:

- (A) The area and dimensions of the tract of land;
- (B) The number, location and size of all transient trailer spaces;
- (C) The location and width of streets and walkways;
- (D) The location of service buildings, sanitary stations, and any other proposed structures;
- (E) The location and area of required recreation areas;
- (F) The location of water and sewer line and riser pipes;
- (G) Plans and specifications of the water supply and refuse and sewage disposal facilities;
- (H) Plans and specifications of all buildings constructed or to be constructed within the transient trailer park;
- (I) The location and details of lighting and electrical systems; and
- (J) Evidence of compliance with all appropriate state laws and regulations, particularly those dealing with sanitation, sewage disposal and water supply.

ARTICLE 25 – WIRELESS TELECOMMUNICATIONS FACILITIES

§ 2502 PROCEDURE FOR PROPOSED DEVELOPMENT.

(A) ~~[Special use permit.]~~ No wireless telecommunications facility shall be established or substantially modified in any zoning district ~~[unless a special use permit is obtained from the Zoning Board of Review]~~ **until a land development project application is approved in accordance with the procedures set forth in the Middletown Rules and Regulations Regarding the Subdivision and Development of Land.** In addition, all facilities to be located on public property, such as pole-mounted antennas on structures on a public street, shall be approved by the Town Council ~~[, after the granting of a special use permit by the Zoning Board,]~~ and shall be maintained and operated under the terms of a license or lease approved by the Town Council.

~~[(B) Development plan review. Upon receipt of a completed application for a wireless telecommunications facility, the Zoning Board of Review shall refer two copies of the application to the Planning Board for development plan review, which shall make a written report to the Zoning Board within 45 days after receiving the application. The Zoning Board shall then hold a public hearing on the application for a special use permit. If the decision of the Zoning Board differs from the recommendations of the Planning Board the reasons therefor shall be clearly stated in writing.]~~

(C) *Notice.* All notice requirements for the land development project application and special use permit [of § 317,] shall apply to applications [~~for a special use permit~~] under the subchapter, except that applications to construct or substantially modify a communications tower shall also require notice by first class mail to:

- (1) All owners of real property located within 1,000 feet of the proposed tower site; and
- (2) The Rhode Island Airport Corporation.

(D) *Burden of proof.* The applicant shall have the burden of producing evidence to satisfy all applicable requirements and standards set out in the subchapter.

§ 2503 DEVELOPMENT PLAN REQUIREMENTS.

In addition to the items listed on the applicable land development project submission checklist, [In addition to the information required by §§ 303 and 305,] an application [~~for a special use permit~~] to construct or substantially modify a wireless telecommunications facility shall provide the following information.

(A) *All facilities.*

(1) Documentation by a qualified licensed engineer or other person qualified by education or experience to show why the proposed facility cannot, for technological, legal or economical reasons, be located on an existing or approved facility. The documentation should discuss the following factors:

(a) The proposed facility would cause unacceptable interference with the operation of an existing or planned facility or with other types of electronic facilities or equipment, or would be subject to unacceptable interference from other facilities or equipment, and that such interference cannot be prevented or eliminated at a reasonable cost.

(b) The proposed facility cannot be accommodated on an existing or approved tower due to structural deficiencies, and that such deficiencies cannot be eliminated at a reasonable cost.

(c) The proposed facility cannot be accommodated on an existing or approved tower or other structure because no other reasonably available tower or structure can accommodate the facility's antenna at the height necessary for the communication services to be offered.

(d) Other reasons that make it infeasible to locate the proposed wireless telecommunications facility on an existing or approved tower or other existing structure.

(2) A service area map depicting the territorial extent of the applicant's planned coverage, including any areas within the City of Newport and the Town of Portsmouth if the facility will be capable of providing wireless telecommunication services to customers in those municipalities. Such map shall contain or be accompanied by a graph or chart showing, with respect to the type of service for which the wireless telecommunications facility is designed:

(a) The percentage of the Town of Middletown covered by the proposed facility;

(b) The extent of any coverage in communities other than Middletown, shown on a radius map of coverage; and

(c) An estimate of the number of other similar facilities that will be needed to fully cover the Town of Middletown if the proposed facility is constructed.

(3) A description of all proposed equipment building or boxes, including proposed shielding and details of materials.

(4) A report from a licensed engineer affirming that the proposed wireless telecommunications facility will comply with applicable emission standards of the Federal Communications Commission, and that the installation of the facility will not interfere with public safety communications.

(5) Documentation by a licensed professional engineer of what steps the applicant has taken, or will take, to avoid interference with public safety telecommunication facilities.

(6) Inventory and master plan report. Each application for a wireless telecommunications facility shall include an inventory report of the applicant's existing or approved towers and antennas in Middletown and within one mile of the border of Newport or Portsmouth. This report shall become part of the public record and may be use by Town Board and official in connection with future applications from other applicants. The inventory report shall specify:

(a) The type, design, and location of each tower and antenna, including the longitude and latitude of each tower;

(b) The ability of each tower to accommodate additional antennas;

(c) Where applicable, the height of the support structures on which the applicant's existing antennas are located; and

(d) The applicant's master plan for establishing additional towers on Aquidneck Island during the next five years.

(B) *Communication towers.* In addition to the development plan requirements for all wireless telecommunications facilities set out in division (A), an application to construct or substantially modify a communications tower shall include:

(1) Proof of ownership of the site or of a contractual right to its long-term use, and evidence that necessary easements have been or will be acquired.

(2) A report from a licensed professional engineer showing the design of the tower, including a cross-section view and elevations and the description of the tower's capacity, including the number and type of antennas it can accommodate as well as the proposed location of all mounting positions for co-located antennas and the minimum separation distances between antennas.

(3) A scaled site plan, prepared by a licensed engineer, clearly indicating:

(a) The location, type and height of the proposed tower;

(b) The fall zone and setbacks;

(c) Other structures and uses or activities on the site and on all properties within 200 feet of the site perimeter;

(d) Adjacent roadways;

- (e) Proposed means of access;
 - (f) Elevation drawings of the proposed tower and all other structures;
 - (g) Topography;
 - (h) Proposed parking area;
 - (i) The zoning classification of the site and of adjacent property on all sides of the site;
- and
- (j) Other information deemed necessary by the Planning Department to assess compliance with this subchapter.

(4) Certification by a licensed structural engineer that the design of a new communications tower or substantial modification of an existing tower will comply with the latest version of the American Institute of Steel Construction Code Standards (TIA/EIA-22-F) and American Concrete Institute (ACI 318) Standards.

(5) A report, which may be in the form of a letter, from the Federal Aviation Administration (FAA) indicating that it has no objection to the proposed tower or that the design of the proposed tower does not violate applicable FAA requirements.

(6) A landscape plan showing specific landscape materials details of proposed fencing, including color.

(7) A bond as surety for the cost of removing an abandoned communications tower, as provided in § 2505(G). The bond shall be in an amount fixed by the Town Engineer after consultation with the applicant and others knowledgeable about demolition of such structures.

(C) *Building-mounted facilities.* In addition to the development plan requirements for all wireless telecommunications facilities set out in division (A), the following information shall be provided on or with the development plan for building-mounted facilities that do not qualify as disguised facilities under this subchapter.

- (1) A plan, drawn to scale, showing where and how the proposed antenna will be affixed to a particular building or structure;
- (2) Details of all proposed antenna and mounting equipment, including size and color.

§ 902 SPECIAL USE PERMITS.

The ~~[Zoning Board]~~ permitting authority shall hear and decide requests for special use permits in accordance with the terms of this chapter, according to the following provisions:

(A) A use, categorized as a special use in Article 6 and elsewhere in this chapter, shall be permitted by the ~~[Zoning Board]~~ permitting authority following a public hearing if, in the opinion of the Board, such use in its proposed location meets the following requirements:

- (1) It will not result in a significant diminution of property values in the surrounding area of the district;

- (2) It will not create a nuisance in the neighborhood;
- (3) That the granting of such special use permit will not be detrimental to or substantially or permanently injure the appropriate use of property in the surrounding area or district;
- (4) That the granting of such special use permit will not result in hazardous conditions or conditions inimical to the public health, safety or welfare.
- (5) The use will comply with the following criteria subject to its use category:

(a) *Agricultural (commercial greenhouse over 20,000 sf, **farm promotion accessory use**).*

1. No significant negative impacts to ground or surface water quality.
2. Will not produce glare impacting abutting properties and streets.
3. Will comply with applicable standards in Article 27B.

(b) *Residential (single- or two-family dwelling, family day care home). Will not cause significant negative traffic or parking impacts in the neighborhood.*

(c) *Residential (motel or hotel, multi-family including multi-family dwelling structure, multi-family dwelling project, senior independent living facilities, congregate housing, rest, retirement, convalescent or nursing homes, residential care or assisted living facility).*

1. Will not cause significant negative traffic or parking impacts in the neighborhood.
2. If applicable, will comply with standards of Article 14.
3. If applicable, will comply with development standards of Article 15.
4. If applicable, will comply with development standards of Article 21.
5. If applicable, will comply with development standards of Article 22.
6. Will comply with commercial development design standards of App. A, Article 5.

(d) *Manufacturing/industrial (earth removal, quarries, sand and gravel lots, storage of bottled gas, oil or other liquid petroleum products, other extractive and industrial non-manufacturing not elsewhere classified, salvage yard operation, Handicraft/custom manufacturing or small-scale craft or artisan- oriented production of goods, food and beverage and related products, brewery/distillery, lumber and wood products including furniture and fixtures; plastics molding, extrusion and/or assembly of plastic parts; rubber, leather, stone, clay or glass products, fabricated metals products, boat building and repairing, gravel processing).*

1. No significant negative impacts to ground or surface water quality.
2. Will comply with applicable requirements and standards of Article 27.
3. Will comply with commercial development design standards of App. A, Article 5.

(e) *Commercial/office/institutional (restaurant, research or development offices, sales and service offices for fuel oil and bottled gas dealers, miscellaneous professional services not otherwise classified, emergency counseling service or drop-in center, church or other place*

of worship, library or museum, day nursery school, kindergarten or other agency giving day care, clubs, lodges, social and community centers, professional or musical schools, solar energy system, gasoline or electric vehicle station, automotive repair, service and garages, vehicle body shop, miscellaneous repair shops and related services, vehicle washing establishment, vehicle or equipment rentals, miscellaneous personal services not otherwise classified, miscellaneous business services not otherwise classified, bank or financial institution, hospital/medical center or clinic, trade school, private vocational school, membership athletic clubs, licensed kennels, auto detailing, shopping center, mortuary or funeral home, wholesale distribution establishments, warehousing, self-storage, general merchandise retailing activities, private college or university, preparatory school, elementary or secondary school, crematorium, laundry or dry cleaners, drive-up windows).

1. No significant negative impacts to ground or surface water quality.
2. Will not cause significant negative traffic or parking impacts in the neighborhood.
3. Will comply with applicable requirements and standards of Article 27.
4. Will comply with commercial development design standards of App. A, Article 5.

(f) Cannabis-related (compassion center, cannabis retailer, cannabis product manufacturer, cannabis cultivation center, non-residential cooperative cultivation, residential cooperative cultivation, cannabis testing provider).

1. Will comply with applicable requirements and standards of § 727.
2. Will not cause significant negative traffic or parking impacts in the neighborhood.
3. Will comply with commercial development design standards of App. A, Article 5.

(g) Recreational (amusement parks, miniature golf, driving range, pitch and putt, campgrounds, riding academies and schools, drive-in theater, tennis/other outdoor court games, swimming pools, water slides, other water-based amusements, boat liveries, stadia and fairgrounds, motion picture/performing arts theaters, video and amusement arcades, billiard and pool parlors, skating rinks, indoor roller blade and skateboarding facility).

1. Demonstrates conformity with Ch. 130, §§ 130.75-130.91.
2. No significant negative impacts to ground or surface water quality.
3. Will not cause significant negative traffic or parking impacts in the neighborhood.
4. Will comply with commercial development design standards of App. A, Article 5.

(h) Transportation/communications/utility (highway and transportation services, airports and heliports, commercial dock or pier, commercial off-street parking, electric power substation, high voltage electric transmission towers, sewage treatment plant, solid waste transfer station, wind turbine for generation of electricity, building-mounted communications facilities, communication tower, disguised communications facilities, pole-mounted antennas).

1. No significant negative impacts to ground or surface water quality.
2. Will not cause significant negative traffic or parking impacts in the neighborhood.

3. Will comply with applicable requirements and standards of Article 27.
4. Will comply with commercial development design standards of App. A, Article 5.

(i) Uses within the Watershed Protection District requiring a special use permit per Article 11 of this chapter.

1. No significant negative impacts to ground or surface water quality within the district.

(B) In granting a special use permit, the Zoning Board of Review may grant one or more dimensional variances under § 903.

§ 719 MIXED USES WITHIN A BUILDING.

(A) Nothing herein shall be construed to limit or prohibit the use of a single building or structure for multiple uses, provided each individual use is a permitted use within the zoning district in which it is located; or a special use for which a special use permit has been granted by the Zoning Board; or a legal nonconforming use. All such uses shall be required to provide off-street parking and loading space for each individual use on a cumulative basis, where applicable. Signs for such mixed uses shall be incorporated into a single sign, or as provided for in Article 12.

~~[(B) Mixed residential and commercial uses as defined in Article 4 shall be permitted only where allowed by § 602, by the granting of a special use permit by the Zoning Board of Review; provided, however, that a special use permit shall not be required for mixed uses in a mixed-use development project approved by the Planning Board under the provisions of Article 27A Mixed-Use Development Projects.]~~

ARTICLE 17A – ~~[COMMUNITY RESIDENCES AND]~~ FAMILY DAY CARE HOMES

§ 17A01 REQUIREMENTS.

(A) ~~[Subject to § 17A02, n]~~ No building shall be used as a ~~[community residence or]~~ family day care home until the Zoning Board of Review has granted a special use permit under Article 9 and all requirements of this subchapter are satisfied.

~~[(B) An application for a community residence must be accompanied by a map showing the location of the proposed residence and of all other community residences in the town that have been approved or established.]~~

(~~[C]~~ B) An application for a ~~[community residence or]~~ family day care home may not be denied based solely on the nature of the facility or its residents or on the impact of the facility on property values in the area.

(~~[D]~~ C) An application for a ~~[community residence or]~~ family day care home may be denied if the Board of Review finds that, because of its proposed location or other factors external to the facility, it is likely to have a substantial adverse effect on the peace and quiet enjoyment of other residents in the neighborhood.

(~~[E]~~ F) The following factors are particularly relevant and shall be addressed by the Board of Review in deciding an application for a ~~[community residence or]~~ family day care home, in addition to relevant factors in § 902 that are consistent with this section:

- (1) Parking and traffic conditions on adjacent roadways;
- (2) The proximity of residential care and assisted living facilities and senior independent living facilities;
- (3) The proximity of hospitals, schools (including nursery schools), and churches.

~~§ 17A02 EXEMPTION.~~

~~—This subchapter does not apply to a residential facility in which six or fewer children or adults with retardation reside which is licensed by the state pursuant to R.I. Gen. Laws, Title 40.1, Chapter 24.]~~

SECOND: This ordinance shall take effect upon adoption and its provisions shall supersede any inconsistent or contrary provision in any other ordinance.



MIDDLETOWN
Rhode Island

PLANNING DEPARTMENT

TOWN OF MIDDLETOWN

350 East Main Road, Middletown, RI 02842

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To: Hon. Paul M. Rodrigues, President
Town Council members

From: William J. Nash, Jr., Chair
Middletown Planning Board

Date: August 16, 2024

Re: 2023 RI General Assembly Session – Zoning Ordinance Amendments to Procedures

Due to the changes in state law adopted by the General Assembly in 2023, and the Town's subsequent adoption of new application review procedures to conform to state law, several areas in the zoning ordinance that reference the prior procedures for certain types of development applications must also be amended to reflect these changes. During its August 14, 2024 meeting the Planning Board reviewed and voted unanimously to forward the proposed amendments to the Town Council for consideration. The Planning Board respectfully requests that these amendments be advertised for public hearing and considered for adoption. In making this recommendation the Board made the following findings:

- (1) The proposed amendments are generally consistent with the Middletown Comprehensive Community Plan, including the goals and policies statement, the implementation program, and all other applicable elements of the comprehensive plan; and
- (2) This recommendation is made in recognition and consideration of each of the applicable purposes of zoning, as presented in § 45-24-30 RIGL

The proposed amendments are summarized below. Documents containing the full text of the proposed amendments are attached.

- Article 14, Motels and Hotels, Sections 1401 & 1402: Revise to reference the Land Development Project (LDP) process and delete reference to Development Plan Review (DPR) process. Delete reference to Special Use Permit (SUP) review by the Zoning Board of Review (ZBR).
- Article 15, Multi-family Dwellings, Section 1501 & 1502: Revise to reference LDP process and delete reference to DPR process. Delete reference to SUP review by the ZBR.
- Article 18, Shopping Centers, Section 1801 & 1802: Revise to reference LDP process and delete reference to DPR process. Delete reference to SUP review by the ZBR.

- Article 21, Residential Care and Assisted Living Facilities, Section 2102 & 2103: Revise to reference LDP process and delete reference to DPR process. Delete reference to SUP review by the ZBR.
- Article 22, Senior Independent Living Facilities, Section 2202 & 2203: Revise to reference LDP process and delete reference to DPR process. Delete reference to SUP review by the ZBR.
- Article 23, Mobile Home Parks, Section 2301& 2302: Revise to reference LDP process and delete reference to DPR process. Delete reference to SUP review by the ZBR.
- Article 24, Transient Trailer Parks, Section 2402 & 2403: Revise to reference LDP process and delete reference to DPR process. Delete reference to SUP review by the ZBR.
- Article 25, Wireless Telecommunications Facilities, Section 2502 & 2503: Revise to reference LDP process and delete reference to DPR process. Delete reference to SUP review by the ZBR.

Additionally there are sections in the zoning ordinance that require a special use permit (SUP) for certain uses not list in the use table, or where the use table has been amended to eliminate the requirement for a special use permit. For such uses where a special use permit will continue to be required, specific criteria to be used when considering an application must be adopted:

- Section 717 - Drive-up windows: Added use to § 902 Special Use Permits for applicable criteria.
- Section 719 - Mixed-use buildings: Delete section (B) which references need for a SUP which is no longer required by the use table.
- Section 722 – Farm promotion accessory use: Added use to § 902 Special Use Permits for applicable criteria.
- Article 11, Watershed Protection District, Sections 1103(B) & 1106(B): Added use to § 902 Special Use Permits for applicable criteria.
- Article 17A, Community residences and family day care homes , Section 17A01(A): Delete reference to requiring a SUP for community residence, which is now a by-right use.

Thank you for your consideration. Please feel free to contact me with any questions.

Sincerely,



William J. Nash, Jr., Chair
Middletown Planning Board

cc. Town Solicitor
Town Administrator
Building/Zoning Official