

ARTICLE III: REGULATIONS

SECTION 08. GENERAL

08.01. Description and Purposes:

No building, structure or lot shall be used or occupied and no building shall hereafter be erected, moved or altered except in conformity with these Regulations.

08.02. Non-Conforming Uses:

Any lawful use of a building or land existing at the effective date of these Regulations may be continued subject to the following conditions:

08.02.01.

Except as provided herein, a non-conforming use shall not be enlarged or extended.

08.02.02.

A non-conforming use may be changed to a non-conforming use of the same or more restricted classifications, but such use shall not be permitted to change back to a less restricted classification.

08.02.03.

Any non-conforming building which is destroyed or substantially damaged by fire or other casualty may be reconstructed and/or structurally altered, provided: (1) the non-conforming foot print has not been expanded; (2) the height of the building in its non-conforming foot print has not been increased; and, (3) there is no increase in the volume of the building and such reconstruction or alteration is commenced as evidenced by the issuance of a building permit, within six 6 months of the date of such casualty event, and is substantially complete, as evidenced by issuance of a certificate of occupancy, or professional certification by a Connecticut licensed architect or structural engineer within twelve (12) months of the date of such casualty event.

The Commission may extend the date of commencement and/or completion if it finds that:

- (a) a written request for extension is received from the owner(s) within six (6) months of the date of destruction or substantial damage; and

- (b) the owner(s) of the subject property have been delayed in the receipt of the proceeds of any available insurance, or other good cause for delay is demonstrated.

Zoning permit applications for reconstruction of non-conforming buildings shall be reviewed and voted upon by the Planning and Zoning Commission.

08.02.04. Expansion of Non-Conforming Use:

- (1) If any existing structure devoted to a use not permitted by these regulations in the zone in which it is located is proposed to be enlarged extended, constructed, reconstructed, moved or structurally altered except in changing the use of the structure to a use permitted in the zone in which it is located, then such enlargement, extension, construction, reconstruction, move or structural alteration shall be approved by the Commission as specified in these regulations.
- (2) Limitation. No expansion of a non-conforming structure or site shall be permitted except with the approval of the Zoning Board of Appeals.
- (3) Expansion of a non-conforming use pursuant to this section is limited to the commercial uses listed below. No uses not listed may be expanded pursuant to this section.
 - a) Retail Business
 - b) Personal Service Shops
 - c) Professional offices, studios, office building
 - d) Public garage, gasoline service station
 - e) Automotive sales agency
 - f) Restaurant
- (4) All expansions of non-conforming use pursuant to this section shall be subject to approval by the Planning and Zoning Commission as a Special Permit (10.02); except that the Commission shall not give consideration to Sections 10.02.03(1) and 10.02.03(2).
- (5) All expansions of non-conforming use pursuant to this section shall be subject to the following limitations:
 - a) Expansion shall be permitted only on a lot which satisfies the minimum lot size for the zone in which the parcel is located.
 - b) No building or structure shall be erected which is more non-

conforming with reference to the Building Set-Back line, other lines, or the maximum building height than herein prescribed for the district in which the parcel is located.

- c) The maximum % of lot to be covered by buildings shall be that for the zone in which the parcel is located.
 - d) Appropriate screening shall be provided between the non-conforming use and the surrounding areas.
- (6) The applicant shall cause to be posted in a conspicuous place on the premises a sign containing no less than 20 square feet with the following words printed thereon:

NOTICE

These premises are the subject of an application for expansion of a non-conforming use.

Said sign shall be posted in such a manner as to be clearly visible from the public highway for a period of ten (10) consecutive days during the twenty-one (21) days immediately preceding the public hearing thereon. The applicant shall make a return to the Commission, under oath, of compliance with the forego regulation. Such return shall be prima facie evidence that such regulation has been complied with.

08.03. Non-Conforming Lots:

Any lot existing as a separate parcel and not complying with the minimum area or width of the lot required at the time of the adoption of these regulations (adopted September 18, 1961) thereto may, anything in these regulations or amendments to the contrary notwithstanding, be improved with the construction of a residential structure in accordance with all other regulations of its zone, provided the owner at the time of the adoption of these regulations, owned no adjacent land which may, without undue hardship to him, be included as part of the lot in question.

08.03.01.

If two or more unimproved lots of record one or both of which fail to meet the requirements of these regulations with regard to lot area and/or average lot width and are in single ownership at any time after the application of the provisions of these regulations to such lots and if such lots taken together would form one or more lots

each meeting the requirements of these regulations with regard to lot area and average lot width, such lot or lots must be joined and used in compliance with the lot area and average lot width requirement irrespective of subsequent change in ownership.

08.04. Demolition and Reconstruction of Non-Conforming Residential Buildings:

The Commission may permit the demolition and reconstruction of non-conforming residential buildings by Special Permit in accordance with Section 10.02B of the *Middlefield Zoning Regulations*. In addition to the criteria required under Special Permit the applicant must demonstrate that the following criteria have been complied with:

1. The parcel shall be located in the HD-1, HD-2, MD, or AG-2 Zone; shall meet or exceed the minimum lot size of the zone; shall have existed in its current size and shape as of September 1, 1961 and upon which parcel more than one residential dwellings are legally existing on the effective date of this amendment.
2. Reconstructed buildings or structures shall meet the minimum setback and height requirements for the zone and shall have a minimum separation between buildings used as dwellings of twenty (20) feet.
3. The maximum coverage shall not exceed the requirement for the zone.
4. The existing number of dwellings units shall not be increased, nor the number of residential buildings.
5. The existing number of bedrooms shall not be increased. The bedroom¹ count shall be verified by the Commission's designee.

¹A private room planned and intended for sleeping, separated from other rooms by a door, and accessible to a bathroom without crossing another bedroom.

08.05. Reduction of Lot:

No lot shall be reduced so that the area of the lot or the dimensions of the open space shall be smaller than herein prescribed for the district in which said located.

08.06. Vision Obstruction:

On any lot, no wall, fence or other structure shall be erected or altered, and no hedge,

tree, shrub, or other growth shall be maintained, which may cause danger to traffic on a public street by obscuring the view.

08.07. Prohibited Uses:

Within the Town of Middlefield no building shall be erected or used and no lot shall be used or occupied for any of the following purposes:

08.07.01.

Any use, trade, business or process which is noxious or offensive by reason of gas, dust, smoke, vibration illumination, or noise; or which constitutes a public hazard whether by fire, explosion, or otherwise.

08.07.02.

Commercial slaughter house.

08.07.03.

Dumping or incineration of refuse or garbage except where authorized by the Town.

08.07.04.

Junk yard or motor vehicle junk yard.

08.07.05.

Penal institution, hospital, or sanitarium for the insane, feeble-minded or epileptic.

08.08. Outdoor Recreational Facilities:

08.08.01. Principal Uses:

A use of buildings or land in any zone shall qualify as a permitted use under these provisions if the principal use or activity carried on upon such premises consists of participation in or attendance at only the following:

1. Apparatus play
2. Archery
3. Art Exhibits
4. Baseball
5. Basketball
6. Bicycling

7. Bird Watching
8. Boating
9. Bowling on green
10. Canoeing
11. Conferences
12. Cookery
13. Cricket
14. Croquet
15. Day camping (Children)
16. Drama
17. Field Hockey
18. Folk Dancing
19. Golf
20. Group singing
21. Handball
22. Handicrafts
23. Health club activities
24. Hiking
25. Horseback Riding
26. Horseshoe pitching
27. Hunting
28. Ice Skating
29. Informal vigorous play
30. Kite flying
31. Meetings
32. Mountain Coasting
33. Musical performances
34. Outings
35. Picnicking
36. Rallies
37. Religious services
38. Reunions
39. Rhythmical games
40. Riflery
41. Scuba diving
42. Shuffleboard
43. Skiing
44. Skin diving
45. Sledding (snow)
46. Snow play
47. Soccer and other field sports
48. Social dancing
49. Softball

50. Speeches
51. Spraying
52. Square dancing
53. Swimming and diving
54. Tag games, relays
55. Tennis and other court and racket games
56. Theatre, summer
57. Tobogganning on snow
58. Tubing
59. Track and field
60. Volleyball
61. Wading, pools
62. Water skiing
63. Water Sliding
64. Workshops

08.08.02. Incidental Uses:

Such use includes facilities for the provision of goods and services incidental to the outdoor cultural activities being conducted. Only the following Incidental Uses are permitted:

1. Bath houses, dressing areas, cabanas
2. Chair lifts, towers and associated mechanical equipment
3. Club house
4. Dining Hall
5. Docks
6. Emergency medical facilities
7. Equipment storage
8. Lighting
9. Lodge
10. Man made water bodies, causeways and falls
11. Non-motorized coaster vehicles
12. Outdoor pavilion
13. Parking areas--car and bus
14. Restaurant
15. Snack bar and/or concession stand
16. Snow making equipment
17. Sound amplification system
18. Staff building
19. Stage (indoor or outdoor)
20. Swimming pools
21. Tube Runs

22. Water Filtration/Pump facilities
23. Water Slides
24. Wave Pool

08.08.03.

Provided however that such facilities, to be included within these regulations so as to be exempt from the zone classifications and restrictions within which they would otherwise fall, if considered alone, must be provided solely as incidental to the principal outdoor, recreational or cultural activities conducted on the premises and not so conducted as to constitute independent or separable commercial or business activities drawing any significant portion of their clientele or patronage from persons not upon the premises principally as participants in or spectators of such recreational activities.

08.08.04. Prohibited Activities:

(1) Residential Housing

Except as provided herein, no portion of any premises being used pursuant to these provisions shall be used or occupied as places of principal residence or for homes by participants, spectators, guests, patrons or employees, except by the family of one resident owner or corporate officer or business manager plus the family of one resident employee, unless it is located within and conforms with the requirements of a residential zone, or constitutes a valid non-conforming use.

For an outdoor recreational facility with an area in excess of one hundred acres, no portion of and premises being used pursuant to these provisions shall be used or occupied as places of principal residence or for homes by participants, spectators, guests, patrons or employees, except by the families of not more than two resident owners or corporate officers or business managers, plus the families of not more than seven resident employees, unless it is located within and conforms with the requirements of a residential zone, or constitutes a valid non-conforming use.

(2) Independent Commercial or Industrial Enterprises

No independent commercial or industrial activity shall be carried on upon such premises unless it is located within and complies with the requirements of the appropriate commercial or industrial zone, or constitutes a valid, nonconforming use.

In addition to such reasonable criteria as the commission may employ in

determining compliance with these regulations, it shall be considered conclusive proof that such premises are being used in violation of these provisions if:

- (a) goods manufactured, assembled or processed upon the premises are transported away from said premises for sale, delivery or use elsewhere.
- (b) if the management, owners, lessees, permittees or occupants of such premises advertise to the general public the sale or rental of any goods or services available upon the premises for use or consumption there or elsewhere independently of the outdoor recreational facilities available or activities conducted upon the premises or other than as incidental to the principal outdoor recreational or cultural use of the premises.

08.09. Access for Fire Apparatus:

No building shall be erected or occupied for residential or any other purpose on any lot unless such lot has a frontage or not less than twenty-feet (20) on a public street, or an unobstructed right-of-way not less than 20 feet wide leading to a public street.

08.10. Off Street Parking Space:

Off street parking space of not less than 400 square feet per vehicle shall be provided on the same lot, or on another lot under the same ownership within a radius of not more than 300 feet from the lot to which it is appurtenant, in accordance with the following schedule:

08.10.01.

Dwellings - one space per family.

08.10.02.

Tourist Home, Hotel: - One space for each guest sleeping room.

08.10.03.

Restaurant, Cafe, Tavern: One space for each 50 square feet of public floor space.

08.10.04.

Theatres, Auditorium, Church or place of Public Assembly: - One space for every five (5) seats.

08.10.05.

Retail Stores: One space for every 100 square feet of floor space used for sale or display of merchandise.

08.10.06.

Offices: One space for each 200 square feet of floor space.

08.10.07.

Industrial building: One space for each two employee, employed or intended to be employed at full capacity of the building at its largest shift.

08.10.08.

Every hospital, institution, hotel, retail store, office building, wholesale house or industrial building, shall contain on the premises such loading space of such dimensions as may be appropriate and adequate to their specific needs.

08.10.09.

Reasonable and appropriate off-street parking requirements for structures and land uses which do not fall within the categories listed under this section shall be determined, in each case, by the Zoning Commission, which shall consider all factors entering into the parking needs of such use.

08.11. Minimum Habitable Floor Area:

No dwelling shall hereafter be erected with less than the following minimum square feet of habitable floor area:

MINIMUM SQUARE FEET
OF HABITABLE FLOOR AREA

MAXIMUM NUMBER
OF BEDROOMS

HD ZONE	ALL OTHER ZONES	
900	---	two
1,050	1,050	three
1,200	1,200	four
1,350	1,350	five

For each additional bedroom over five add an additional 150 square feet of habitable floor area.

08.12. Ridge Lines: Maximum Heights:

08.12.01.

No building, tower, tank or other structure for commercial, business, industrial, military or governmental use shall hereafter be erected on any ridge line or adjacent slope the height of which rises above the ridge line or ridge top in excess of the average vertical distance by which mature deciduous or coniferous trees or other mature vegetation of at least equal height. Any such structure must be screened to preserve the continuity of the natural vegetation of the ridge line; screening must be harmonious with the natural vegetation of the area.

08.12.02.

No building or other structure for any use not included within the scope of 08.11.01. above shall hereafter be erected on any ridge line or adjacent slope the height of which rises above the ridge line or ridge top in excess of the average vertical distance by which mature deciduous or coniferous trees or other mature vegetation in each direction along such ridge line from such structure extends above the crest of such ridge top or ridge line, or which is screened by natural vegetation of at least equal height. Any such structure must be screened to preserve the continuity of the natural vegetation of the ridge line; screening must be harmonious with the natural vegetation of the area.

08.12.03.

All uses under this Section (08.11.), shall be subject to approval by the Planning and Zoning Commission as a Special Permit (10.02.). In addition to the criteria and standards set forth in Section 10.02., the Commission shall consider the following criteria in evaluating applications under the provisions of Article III., 08.11.; (01. and

02.).

All structures shall be so placed as to:

- (1) Maintain visual separation between existing and future neighborhoods by the preservation of natural boundaries.
- (2) Maintain the topographic continuity of the natural features to protect and enhance convenience and property values by encouragement of the development of land based upon sound and imaginative planning practices.
- (3) Promote and protect the unique residential qualities of the community, as well as those of the properties under consideration and those adjoining.

08.12.04.

The Commission in reviewing the site plan may specify the number, location, size, height, and species of planting which will implement the above stated criteria.

08.13. Maximum Height of Structures:

No structure or pole of any kind shall hereafter be erected in any zone or for any use which exceeds forty-five (45) feet in height.

08.14. Farm Regulations:

08.14.01.

Agricultural, farm houses, and usual farm buildings shall be permitted without restriction, except as follows:

08.14.02.

The minimum size of a "farm" shall be considered as five (5) acres, except there shall be no minimum in the AG-2 zone.

08.14.03.

No farm or any other outbuilding which houses livestock or poultry, other than a dwelling, shall be constructed closer than one hundred feet (100') to any property line.

08.14.04.

No farm or any other outbuilding used for storage in the AG-2 District, other than a dwelling, shall be constructed closer than sixty feet (60') to any property line.

08.14.05.

All grazing or pasture areas utilized for this purpose shall be fenced.

08.14.06.

No manure storage shall be established closer than one hundred fifty feet (150') to any property line. Manure storage piles shall be maintained so as to prevent runoff to adjacent lots or watercourses.

08.14.07.

No farm use shall be maintained if it is conducted in a way which creates a danger of public safety or health to neighboring residential uses. The fact that a farm use creates an annoyance or inconvenience shall not be deemed a danger to public safety or health.

08.14.08.

The display and sale of farm products shall be permitted provided that:

- (1) Signs shall be subject to the requirements of this Ordinance.
- (2) At least 50% of such products shall have been produced on the property on which they are offered for sale.
- (3) Parking spaces for at least three (3) cars shall be provided behind the street right-of-way line.
- (4) The sale of farm products shall be conducted from a portable stand, removed at the end of the growing season, or from a permanent building located at least one-hundred (100') feet from the street right-of-way line.

08.14.09.

Storage and processing of Ammonium Nitrate, blasting agents and explosives shall be permitted by special permit subject to the following conditions:

- (1) Minimum parcel size - 200 contiguous acres.
- (2) No dwellings on parcel.
- (3) No public utilities located on the property including but not limited to electric transmission lines, communication cables, water mains, sewer mains, dams and highways.
- (4) Applicant to provide yearly statement that all facilities are in compliance with the special permit and are located in accordance with the American Table of Distances published by the Institute of Makers of Explosives.

08.15. Swimming Pool Regulations:

08.15.01.

Open private swimming pools are considered structures for the purpose of permits and regulations of other ordinances. For the purpose of this ordinance, they are counted as floor area in computing the lot coverage if they are of a permanent, non-readily movable nature.

08.15.02.

The location of swimming pools shall conform to the yard requirements as established by this ordinance and to all other requirements of the state building code.

08.16. Fences:

08.16.01.

Fences not exceeding four (4) feet in height are permitted along all property lines except where Section 08.05. applies.

08.16.02.

Fences not to exceed six (6) feet in height are permitted along rear and side yard lines only and may not extend beyond the front building setback line.

08.16.03.

If a fence has a "finished" or more attractive side, (i.e., the side opposite from the horizontal supports to which it is applied), this side must face to the exterior of the lot.

08.17. General Environmental Performance Standards:

08.17.01.

All land uses within the town shall meet the following standards:

- (1) All uses shall, to the greatest extent possible, preserve, match or blend with existing natural topography.
- (2) All uses shall occur in a manner which insures that sedimentation or other materials deposited in rivers, lakes, streams or other watercourses, flood plains, wetlands or any other publicly or privately owned lands will not exceed that which would have been deposited if land had been left in its natural state.
- (3) No dirt, dust, fly ash or smoke shall be emitted into the air as to endanger the public health and safety, to impair the safety, value and enjoyment of other property or to constitute a critical source of air pollution by itself, or in conjunction with other existing sources of dust, dirt, fly ash or smoke.
- (4) No offensive odors or noxious, toxic or corrosive fumes or gases shall be emitted into the air.
- (5) With the exception of time signals, noise necessarily involved with construction or demolition of buildings, or emergency warning signals, no noise which is objectionable due to volume, intermittence, frequency or shrillness shall be transmitted outside the property where it originates.
- (6) Surface or subsurface discharges shall be limited to levels which do not degrade the quality of surface or ground waters within the Town of Middlefield either by themselves or in conjunction with any other existing source of surface or subsurface discharge.

08.18. Billboard Prohibition:

Anything in these Regulations to the contrary notwithstanding, billboards shall be prohibited throughout the Town of Middlefield. "Billboards" shall include, but not be limited to, any sign greater than fifty square feet which is a free-standing structure, or is mounted upon the roof or wall of a building, and which is visible from any public street or highway. "Billboard" shall expressly include any sign which is visible from a street from which the property on which the sign is located does not have direct vehicular access. "Billboard" shall not include any sign(s) approved pursuant to

Section 09.03., or approved a part of a Site Plan Review, per Section 10.02.02., or Special Permit, per Section 10.02.01., of these Regulations.

SECTION 09. SPECIAL REGULATIONS

09.01. Excavation, Removal or Deposition of Earth Products

09.01.01.

The excavation, removal or deposition of sand, gravel, loam, topsoil, dirt, clay, peat, sod, or other earth products, in excess of 500 cubic yards is permitted upon the issuance of a special permit from the Planning and Zoning Commission with the exception of the following, which may be undertaken without a special permit with the exceptions set forth in 09.01.01.01, 09.01.01.02, and 09.01.01.03. The mining of bedrock is prohibited in all zones, except when in conjunction with an approved special permit, site plan or subdivision plan.

09.01.01.01.

Necessary foundation and trench excavation only in connection with work on the premises for which a building permit or septic permit has been issued, an approved municipal use, ordinary and customary activities related to a agricultural operation or for a property for which a site development plan has been approved by the Planning and Zoning Commission including filling, removal, and processing of earth materials associated with an approved use in Industrial Zones.

09.01.01.02.

Necessary site grading only in accordance with a subdivision plan of proposed lots, roads, or site development plan approved by the Planning and Zoning Commission.

09.01.01.03.

Excavation, removal or deposition of less than 50 cubic yards from a single parcel of land recorded as such in the Office of the Town Clerk. Removal or filling in excess of 50 cubic yards but less than 500 cubic yards will require a zoning permit from the Zoning Enforcement Officer. The Zoning Enforcement Officer may refer any application to the Planning and Zoning Commission for action.

09.01.02.

Application for a special permit to excavate, remove or deposit any of said products

shall be made to the Planning and Zoning Commission by the property owner or his authorized agent on forms provided by the Commission and shall be accompanied by a plan of operations which includes the following map(s), plans, documents, information and specifications:

09.01.02.01.

Location of the premises, names of abutting owners, and an estimate of the amount, area and nature of material to be excavated, removed or deposited. For a permit to deposit materials, the location of the source(s) from which material is to be removed, and name and type of business of the property owners and abutting owners. The Commission may require testing for hazardous contaminants based on this information.

09.01.02.02.

Grading plan showing existing contours in the area to be excavated or deposited and proposed contours for the area after completion of excavation or deposition. Such Plans shall include the area to be excavated or deposited to a scale of 1" = 100' or greater and where trees are proposed to be cleared. A boundary survey prepared in accordance with Sections 20 300b-1 through 20 300b-20 of the Regulations of Connecticut State Agencies "Standards for Surveys and Maps in the State of Connecticut" as adopted by the Connecticut Association of Land Surveyors, Inc. on September 26, 1996 shall be submitted with the grading plan or as part of the plan. The Commission may accept written boundary agreements with abutting owners in lieu of the boundary survey.

09.01.02.03.

Storm drainage plans showing the drainage area and estimated runoff of the area to be served by any existing drainage facilities, together with detailed plans and specifications of all proposed drainage facilities or other protective devices to be constructed in connection with, or as a part of, the proposed use to prevent the collection and stagnation of water and the prevention of harmful effects upon surrounding properties from water or sediment.

09.01.02.04.

Erosion and sedimentation control plans in accordance with Section 10.09.

09.01.02.05.

Landscaping plans showing the type, location and extent of all proposed planting or vegetation to be retained on, or otherwise provided for, the site in order to prevent

erosion of the site and to diminish fugitive dust and noise impacts.

09.01.02.06.

Proposed vehicular access to the site and proposed work roadways within the site. The estimated maximum and average number of trucks entering or exiting the site per day and per week.

09.01.02.07.

The estimated number and types of trucks and other machinery proposed to be used on the site and the location and type of any buildings to be erected.

09.01.02.08.

The estimated starting and completion dates and the estimated hours and days of the week proposed for operation on the site.

09.01.02.09.

Detailed plans for any proposed blasting, and or storing of explosives on the site.

09.01.02.10.

The Planning and Zoning Commission may, when deemed necessary to protect the public health, safety and general welfare, require an environmental and/or engineering-geological investigation, based on the most recent grading plan. The report shall include an adequate description of the on-site and nearby off-site (within 300 feet) natural resources (such as streams, wetlands, public and private wells, etc.) and geology of the site, and conclusions and recommendations regarding the effect of the proposed operation on the resources. The report shall include the results of an inquiry to the Connecticut Department of Environmental Protection Natural Diversity Data Base (NDDDB) regarding presence of rare species or natural communities. The report shall be prepared at the applicant's expense. In areas of excessive fill (i.e. 30 feet or more) the Commission may, require an environmental and/or engineering-geological investigation. The Commission may also require the determination of the seasonal high groundwater level, and may require that the lowest level of excavation be a minimum distance from the seasonal high groundwater level in order to protect the quality of subsurface waters.

09.01.02.11.

The Planning and Zoning Commission may, when deemed necessary to protect the

public health, safety and general welfare, require a soils engineering investigation. Such reports shall include data regarding the nature distribution, and strength of existing soils, conclusions and recommendations for grading procedures, sediment control, and design criteria for corrective measures.

09.01.02.12.

The Planning and Zoning Commission may require any additional information which it feels is necessary to determine whether the public health, safety and general welfare may be endangered by the proposed operation. The Commission may also require a re-use plan demonstrating that the proposed excavation or filling will leave the premises in a condition suitable for a use permitted in the subject zone.

09.01.03.

Granting of Special Permit. The excavation, removal or deposition of earth products may be permitted by the Commission when it is satisfied that the following requirements or standards will be complied with in undertaking of such excavation, removal or deposition.

09.01.03.01.

The premises shall be excavated and graded in conformity with the plan as approved and any deviation from the plan shall be a violation and cause for the Commission to revoke the permit upon notice to the permit holder and property owner and the opportunity to be heard.

09.01.03.02.

The applicant shall file with the Commission a performance bond in the form of a irrevocable letter of credit or cash, with any bond documents to be executed by the owner and the operator, if any, of the land on which such excavation is to be conducted in such amount and in such form as the Commission shall deem sufficient to cover the cost of any proposed or required street grading, roadway paving or surfacing and planting, the installation of storm water facilities, erosion and sediment control facilities, all monuments, bridges, and reclamation of the land and all such other improvements as the Commission deems necessary to promote public health and safety and to safeguard the town from undue expense in the future maintenance of all streets and open spaces. The financial institution issuing such bond shall maintain offices within the State of Connecticut. The bond shall be released only upon certification by the Commission that all the required improvements have been completed to its satisfaction.

09.01.03.03.

Screening and sifting of sand, sand and gravel and topsoil is permitted in any zone.

09.01.03.04.

No washing, crushing, or other forms of processing shall be conducted upon the premises unless located within an industrial zone and then it must not be located within 100 feet of any property or street line.

09.01.03.05.

No fixed machinery shall be erected or maintained within 100 feet of any property or street line.

09.01.03.06.

If the excavation/filling is below/above the established grade of a street the following requirements shall be met. a) No excavation/filling in excess of 18" shall take place 60 feet of a street line. b) No excavation/filling of 18" or more shall take place within 25 feet of a property line. Where contiguous parcels of land have been or are being excavated or filled the street or property line buffer may be waived upon acceptance of an integrated site improvement plan.

09.01.03.07.

No building shall be erected on the premises except as may be permitted in the general zoning regulations or except as temporary shelter for machinery and field office and only in accordance with the site plan approved under this section.

09.01.03.08.

The Planning and Zoning Commission may require the applicant to reserve adequate slope and/or drainage easements on the lot in order to allow the necessary coordination of any grading, filling, excavating, or removal operations that might be permitted on any abutting lot or street.

09.01.03.09.

No materials shall be stockpiled and no equipment or structures authorized by the Permit shall be operated or located beyond the exterior limits of the specific area approved for filling or removal.

09.01.03.10.

During the period of excavation, removal, or filling barricades or fences shall be erected as are deemed necessary by the Planning and Zoning Commission for the protection of pedestrians and vehicles. The Commission may require flag men.

09.01.03.11.

Truck access to the excavation or deposition area shall be so arranged as to minimize danger to traffic and nuisance to surrounding properties. That portion of access road within the area of operations to the street shall be provided with a dustless surface.

09.01.03.12.

Proper measures, as determined by the Commission, shall be taken to minimize the nuisance of noise, flying dust, and unsightly or dangerous conditions. Such measures may include, when considered necessary, limitations upon the practice of stockpiling excavated materials upon the site.

09.01.03.13.

Excavation and deposition shall be permitted between 7:00 a.m. to 5:00 p.m. Monday through Saturday. There shall be no excavation, removal or deposition on Sundays or legal holidays, except with the approval of the Commission.

09.01.03.14.

The operation shall insure protection of the working slope by continuous grading of the crest of the working face to eliminate dangers of earth slides and overhangs. Deposited materials shall be adequately compacted to provide stable soil conditions.

09.01.03.15.

The Commission reserves the right to require project stages to limit the amount of land to be denuded and stripped at any one time. Such requirements shall be based upon the character of the neighborhood, the topography of the site, the potential for erosion by wind or water.

09.01.03.16.

When excavation, removal or deposition operations are completed, or work has progressed sufficiently to where reclamation is practicable the site and excavated area shall be graded so that slopes in disturbed areas shall be no steeper than 1:3 (vertical

to horizontal). A layer of topsoil shall be spread over the excavated area, to minimum depth of six inches in accordance with the approved final grading plan. The area shall then be seeded with suitable grass mixture containing at least 50.0% permanent grasses and maintained of mulching, repairing and reseeded until the area is stabilized and approved by the Commission except that this provision shall not apply to areas of water nor to exposed areas of ledge either existing prior to the work or authorized as an integral part of the Permit and Site Plan Approval.

09.01.03.17.

Deposition or fill material shall meet the following standards:

Fill materials consisting of organic materials or non-soil materials such as tree stumps, wood chips, and bark, bricks, asphalt, concrete, metal, wallboard, etc., even with a soil mixture, shall not be used.

The fill should be essentially homogeneous. If bedding plans and other discontinuities are present, fill shall be "virgin" excavated natural materials, uncontaminated by hazardous materials. The Commission may require testing and certifications that the fill does not contain contaminants at the source of generation. The Commission may also require documentation of past land uses at the fill source showing very low probability of hazardous contaminants.

09.01.04.

Any permit issued under these regulations shall expire 24 months from the date of issuance unless renewed by the Planning and Zoning Commission or the Zoning Enforcement Officer, as the case may be.

09.01.04.01.

The Commission or Zoning Enforcement Officer may deny an application for renewal or extension, if the permittee has not conformed to the plan of operation as approved, until such time as the permittee has brought his operations into conformance with the plan of operation.

In determining whether or not to grant a permit, if the Commission determines that there is sufficient potential for impacts on natural resources, ground or surface waters, or neighborhoods, the Commission may request an alternative analysis, evaluating other possible locations for fill deposition or other sources of material needed.

09.01.05.

After passage of these regulations, no person, firm or corporation shall establish, maintain, conduct, or operate any excavation or deposition within the Town of Middlefield without having first obtained a zoning permit or special permit or approval in accordance with Section 09.01.01.04. The owner of an excavation or deposition of materials site which is in existence without an approved permit upon the effective date of these regulations shall within 90 days present plans showing the present condition of the property, the extent of excavations contemplated and proposed ultimate development of the property, and further provided that the Commission approves said plans subject to such conditions as may be in the best interests of the Town and in harmony with these regulations

09.02. Deposits of Waste Material:

Garbage, rubbish, or other waste material shall be dumped only in areas designated by the Town except that soil, gravel, rock or other clean fill material may be deposited for the purpose of regrading or landscaping.

09.03. Signs and Outdoor Advertising Structures

No sign, billboard or outdoor advertising structure shall be established, constructed, reconstructed, enlarged, extended, moved or structurally altered until an application for a sign permit has been approved by the Zoning Enforcement Officer. It is the purpose and intent of this Section to accommodate the installation of signs that are necessary for identification, direction, and reasonable commercial promotion. All signs shall conform to the following provisions in addition to any other conditions or limitations that may be imposed by the Commission in connection with the approval of a site development plan or special permit.

09.03.01. General Requirements

09.03.01.01.

Signs which are unrelated to an active land use, other than a real estate sign or existing outdoor advertising, off-premise sign, shall be considered abandoned or derelict and shall be removed from public view.

09.03.01.02.

No sign or sign structure shall be permitted at any location where it could interfere with or obstruct the view of traffic, or be confused with any authorized traffic sign, signal or device.

09.03.01.03.

Flashing signs, banners or signs with any type of motion shall be prohibited.

09.03.01.04.

No red or green neon signs shall be located within 200 feet of a traffic signal.

09.03.01.05.

Signs attached to buildings or other structures shall not project more than 12 inches there from, unless attached to an awning, sunscreen or similar type of structure, and shall be located so that the highest part of the sign shall not extend above the highest portion of the main exterior wall of the building facing the street.

09.03.01.06.

No sign shall be erected within the right-of-way of a public street.

09.03.01.07.

No sign shall be erected or located so that it could prevent free ingress or egress from any window, door or fire escape.

09.03.01.08.

No sign shall be placed in such a position that it could obscure light from or obstruct the movement of air within a building.

09.03.01.09.

Any sign which includes illumination shall be arranged so that all light is concentrated on the sign. No direct light shall be cast on the street, sidewalk, or an adjacent property.

09.03.01.10.

Directional or informational signs for vehicular traffic and pedestrian movement indicating entrances, exits or parking areas, shall not exceed two (2) square feet in area. The number of directional or informational signs on a site shall not exceed three (3).

09.03.01.11.

In determining the total permitted sign area, only one-half (1/2) of the total surface area of a free-standing or hanging sign shall be considered.

09.03.01.12.

Billboards shall be prohibited in all zoning districts.

09.03.01.13.

No free-standing sign shall have a height greater than fifteen (15) feet or project above the height of the structure served, whichever is less.

09.03.02. Commercial and Industrial Districts

09.03.02.01.

Every place of business may have upon the property on which the business is conducted signs indicating the name of the owner or proprietor, the character of the business and/or the products made or sold on the premises.

09.03.02.02.

When affixed to a building, the total area of all signs shall not exceed 1.5 square feet for each linear foot of building frontage. In the case of a building which faces two or more streets, only one side of the building shall be considered as having frontage.

09.03.02.03.

Each parcel in a PO or PC zones shall be allowed at least one (1) free-standing sign, the maximum area of which shall not exceed thirty two (32) square feet for zones that abut roads with a posted speed limit of 40 miles per hour or less and 50 square feet for zones that abut roads with a posted speed of 45 miles per hour or greater and Route 66. No sign shall be erected within 25 feet of an abutting private property owner. For parcels that have more than one commercial buildings and different businesses or uses, each building in excess of 3,000 square feet would be allowed a free standing sign providing there is a minimum of 150 feet between signs. Accessory buildings are not eligible for signs regardless of size.

09.03.02.04.

Parcels in the IPD-I, IPD-II and I zones shall be allowed one (1) free-standing sign, the

maximum area of which shall not exceed fifty (50) square feet.

09.03.02.05.

Any sign permitted in a residential district shall be permitted in a commercial or industrial district.

09.03.02.06.

Signs required by state and federal regulations for retail gasoline outlets shall not be computed in the total allowable sign area and number.

09.03.03. Residential Districts

09.03.03.01.

Non-residential uses permitted under Section 04.01.01. and home occupations may have upon the property on which the business is conducted one non-illuminated sign not to exceed two square feet in area indicating the name of the owner or proprietor, the occupation or character of the activity involved, and/or the name of the business.

09.03.03.02.

Single-family dwelling units may display one sign which shall not exceed two square feet in area and shall indicate the name and address of the occupant.

09.03.03.03.

Subdivisions and planned residential developments may display one (1) sign which shall not exceed nine (9) square feet in area and shall indicate only the name and address of the development, the name and address of the management, and the names of the occupants therein.

09.03.03.04.

Temporary and permanent signs erected and maintained by the Town of Middlefield or any agency thereof pursuant to the performance of a governmental function related to traffic control, public safety and directional signs to public facilities shall be permitted.

09.03.03.05.

Temporary political signs associated with political campaigns within a time period of sixty (60) days before and seven (7) days after an election shall be permitted.

09.03.03.06.

Non-profit organizations and municipal facilities may display one (1) sign, either free-standing or affixed to the building, which shall not exceed fifteen (15) square feet in area.

09.03.03.07.

Temporary off premises signs for non-profit organization events may be erected listing the name of the organization, the time and place of the meeting or event and any other pertinent information, provided there are not more than a total of seven (7) in number, with a minimum separating distance of four thousand (4,000) linear feet between each sign, shall be located on a State Highway, and each sign shall not exceed thirty two (32) square feet in area and shall not be erected more than sixty (60) days prior to the meeting or event and shall be removed within seven (7) days of the meeting or event.

09.03.04. Real Estate Sales or Leasing

09.03.04.01.

In residential districts, temporary real estate sale or leasing signs for individual parcels shall not exceed four square feet.

09.03.04.02.

Temporary real estate sale or leasing signs for subdivisions or planned residential developments shall not exceed fifteen (15) square feet.

09.03.04.03.

In commercial districts temporary real estate sale or leasing signs shall not exceed fifteen (15) square feet.

09.03.04.04.

In industrial districts temporary real estate sale or leasing signs shall not exceed twenty-five (25) square feet.

09.03.04.05.

All real estate sale or leasing signs shall be removed when occupancy of the building begins.

09.03.05. Construction Sites

09.03.05.01.

A temporary sign in commercial and industrial districts indicating construction or alteration shall not exceed 15 square feet. Such temporary sign shall contain only the name of the building(s), the developer(s), the architect and other professional(s), involved in the building(s) design, the general subcontractor(s), the proposed tenant(s), and a graphic representation of the completed development.

09.03.05.02.

All construction signs shall be removed when occupancy of the building begins.

09.03.06. Permit Exception

Sign permits will not be required when:

- a. changing the advertising copy or message on an approved sign that is specifically designed for the use of replaceable copy;
- b. painting or repainting the same or different copy;
- c. cleaning the sign; or
- d. performing normal maintenance and repair on a sign or sign structure - unless a structural change is made.

09.03.07. Nullification

A sign permit shall become null and void if the work authorized by the permit has not been completed within six (6) months after the date the permit has been issued.

09.04. Special Flood Hazard Area Regulations

09.04.01.

It is the purpose of this regulation to promote the health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

09.04.01.01.

Restrict or prohibit uses which are dangerous to health, safety and property due to water or erosion or, in flood heights or velocities;

09.04.01.02.

Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;

09.04.01.03.

Control the alteration of natural flood plains, stream channels, and natural protective barriers, which are involved in the accommodation of flood waters;

09.04.01.04.

Control filling, grading, dredging and other development which may increase erosion or flood damage;

09.04.01.05.

Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands.

09.04.02.

The objectives of this regulation are:

09.04.02.01.

To protect human life and health;

09.04.02.02.

To minimize expenditure of public money for costly flood control projects;

09.04.02.03.

To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

09.04.02.04.

To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in flood plains;

09.04.02.05.

To help maintain a stable tax base by providing for the sound use and development of flood-prone areas in such a manner as to minimize future flood blight areas; and,

09.04.02.06.

To insure that potential home buyers are notified that property is in a flood area.

09.04.03.

The basis for establishing the Special Flood Hazard Area is the Federal Insurance Administration's scientific and engineering report entitled "The Flood Insurance Study for the Town of Middlefield, Connecticut, Middlesex County," effective August 28, 2008, with accompanying Flood Insurance Rate Maps and Flood Boundary and Floodway Maps, as amended or revised. Such study, maps and other supporting data, and any revisions thereto, are adopted by reference and declared to be a part of these regulations.

09.04.04.

For the purpose of this Section, certain terms, words and phrases shall, whenever used in this Section only, have the meanings defined as follows:

09.04.04.01. Base Flood:

The 100-year flood: the flood having a one percent chance of being equaled or exceeded in any given year.

09.04.04.02. Base Flood Elevation (BFE)

The elevation of the crest of the base flood or 100-year flood. The height in relation to mean sea level expected to be reached by the waters of the base flood at pertinent points in the floodplains of coastal and riverine areas.

09.04.04.03. Basement

Any area of the building having its floor subgrade (below ground level) on all sides.

09.04.04.04. Building

See definition of "Structure".

09.04.04.05. Cost

As related to substantial improvements, the cost of any reconstruction, rehabilitation, addition, alteration, repair or other improvement of a structure shall be established by a detailed written contractor's estimate. The estimate shall include, but not be limited to: the cost of materials (interior finishing components, structural components, utility and service equipment); sales tax on materials; building equipment and fixtures, including heating and air conditioning and utility meters; labor; built-in appliances; demolition and site preparation; repairs made to damaged parts of the building worked on at the same time; contractor's overhead; contractor's profit; and grand total. Items to be excluded include: cost of plans and specifications; survey costs; permit fees; outside improvements such as septic systems, water supply wells, landscaping, sidewalks, fences, yard lights, irrigation systems, and detached structures such as garages, sheds, and gazebos.

09.04.04.06. Development:

Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations located within the special flood hazard area.

09.04.04.07. Existing Manufactured Home Park or Subdivision

A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured home are to be affixed (including, as a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the flood plain management regulations adopted by a community.

09.04.04.08. Expansion to an Existing Manufactured Home Park or Subdivision

The preparation of additional sites by the construction of facilities for servicing the lots on which the manufacturing homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

09.04.04.09. Federal Emergency Management Agency (FEMA)

The federal agency that administers the National Flood Insurance Program (NTFIP).

09.04.04.10. Finished Living Space

Finished living space can include, but is not limited to, a space that is heated and/or

cooled, contains finished floors (tile, linoleum, hardwood, etc.), has sheetrock walls that may or may not be painted or wallpapered, and other amenities such as furniture, appliances, bathrooms, fireplaces and other items that are easily damaged by floodwaters and expensive to clean, repair or replace. A fully enclosed area below the base flood elevation (BFE) cannot have finished living space and needs to be designed for exposure to flood forces. This space can only to be used for parking, building access or limited storage.

09.04.04.11. Flood or Flooding

A general and temporary condition of partial or complete inundation of normally dry land areas from either the overflow of inland or tidal waters, or the unusual and rapid accumulation or runoff of surface waters from any source.

09.04.04.12. Flood Boundary and Floodway Map:

An official map of the Town of Middlefield on which the Federal Insurance Administration has delineated the 100-year, 500-year and floodway boundaries.

09.04.04.013. Flood Insurance Rate Map:

An official map of the Town of Middlefield on which the Federal Insurance Administration has delineated the areas of special flood hazards and the risk premium zones applicable to the town, as well as base flood elevations at selected locations.

09.04.04.14. Flood Insurance Study: (FIS)

The official study of a community in which the Federal Emergency Management Agency (FEMA) has conducted a technical engineering evaluation and determination of local flood hazards, flood profiles and water surface elevations. The Flood Insurance Rate Maps (FIRM), which accompany the FIS, provide both flood insurance rate zones and base flood elevations, and may provide the regulatory floodway limits.

09.04.04.15. Floodway:

The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

09.04.04.16. Functionally Dependent Use or Facility

A use or facility that cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities

that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, The term does not include seafood processing facilities, long-term storage, manufacturing, sales or service facilities.

09.04.04.17. Highest Adjacent Grade (HAG)

The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

09.04.04.18. Historic Structure

Any structure that is: (a) Listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register; (b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historic significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district; (c) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or (d) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either: (1) By an approved state program as determined by the Secretary of the Interior or (2) Directly by the Secretary of the Interior in states without approved programs.

09.04.04.19. Lowest Floor

The lowest floor of the enclosed area of a building (including basement).

09.04.04.20. Manufactured Home

A structure that is transportable in one (1) or more sections, which is built on a permanent chassis, and is designed for use with or without a permanent foundation when attached to the required utilities. The term also includes park trailers, travel trailers, recreational vehicles and similar vehicles or transportable structures placed on a site for one hundred and eighty (180) consecutive days or longer and intended to be improved property.

09.04.04.21. Market Value

Market value of the structure shall be determined by a professional appraiser.

09.04.04.22. Mean Sea Level (MSL)

The North American Vertical Datum (NAVD) of 1988 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map (FIRM) are referenced.

09.04.04.23. New Construction:

Structures for which the "start of construction commenced on or after the effective date of the floodplain management regulations, and includes any subsequent improvements to such structures.

09.04.04.24. New Manufactured Home Park or Subdivision

A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date, [effective date of floodplain ordinance/regulations, date of initial adoption), of the floodplain management regulation adopted by the community.

09.04.04.25. Recreational Vehicle

A vehicle which is, (a) built on a single chassis; (b) four hundred (400) square feet or less when measured at the largest horizontal projection; (c) designed to be self-propelled or permanently towed by a light duty truck; and (d) designed primarily not for use as a permanent dwelling but as a temporary living quarters for recreational, camping, travel, or seasonal use, (Please see discussion concerning incorporating the term recreational vehicle into the definition of manufactured home.)

09.04.04.26. Special Flood Hazard Area:

An area shown as an overlay on the Zoning Map of the Town of Middlefield which contains the land in the flood plain within the town subject to a one percent or greater chance of flooding in any given year. The Special Flood Hazard Area includes all Flood Insurance Zones A and A1-A30 as designated on the Flood Insurance Rate Maps.

09.04.04.27. Start of Construction:

Includes substantial improvements, and means the date the building permit was issued, provided the actual state of construction, repair, reconstruction, or improvement was within 180 days of the permit date. The actual start means the first placement of permanent construction of a structure (including a manufactured home)

on a site, such as the pouring of slabs or footings, installation of piles, construction of columns, or any work beyond the stage of excavation or placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

09.04.04.28. Structure:

A walled and roofed building that is principally above ground, a manufactured home, a gas or liquid storage tank, or other man-made facilities or infrastructure.

09.04.04.29. Substantial Damage

Damage of any origin sustained by a structure, whereby the cost of restoring the structure to its pre-damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

09.04.04.30. Substantial Improvement:

Any combination of repairs, re-construction, alteration, or improvements to a structure, the cost of which equals or exceeds 50 percent of the market value of the structure, as determined by the cost approach to value method, either: a) before the improvement or repair is started, or b) if the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either: a) any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions, or b) any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

09.04.04.31. Variance

A grant of relief by a community from the terms of the floodplain management regulations that allow construction in a manner otherwise prohibited and where specific enforcement would result in unnecessary hardship.

09.04.04.32. Violation

Failure of a structure or other development to be fully compliant with the community's floodplain management (ordinance/regulations). A structure or other development without required permits, lowest floor elevation documentation, flood proofing certificates or required floodway encroachment calculations is presumed to be in violation until such time as that documentation is provided.

09.04.04.33. Water Surface Elevation

The height, in relation to the North American Vertical Datum (NAVD) of 1988 (or other datum, where specified), of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

09.04.05. General Provisions

09.04.05.01.

A building permit, zoning permit, site plan approval and/or special exception shall be obtained before construction or development begins within any special flood hazard area. The applicant should review the Zoning Regulations with the Zoning Enforcement Officer to determine which permit approval process, or processes, are to be followed for the particular land use which is being proposed.

09.04.05.02.

The Zoning Enforcement Officer shall notify adjacent communities and the Connecticut Department of Environmental Protection, Inland Water Resources Division prior to any alteration or relocation of a watercourse, and evidence of such notification shall be sent to the Federal Insurance Administration. Maintenance shall be provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.

09.04.05.03.

The Zoning Enforcement Officer shall advise applicant that additional Federal or State permits may be required, and if specific Federal or State permit requirements are known, require that copies of such permits be provided and maintained on file with any local permit. Such additional permit requirements may include, but not be limited to: Stream Channel Encroachment Line Permit, Water Diversion Permit, Dam Safety Permit, Corps of Engineers 404 Permit.

09.04.05.04.

The applicant shall provide information with the application which would show that any proposed building sites will be reasonably safe from flooding. The Zoning Enforcement Officer shall review all permit applications to determine whether proposed building sites will be reasonably safe from a 100-year flood.

09.04.05.05.

Construction, reconstruction, extension of any building or structure, or any other development, including but not limited to mining, dredging, filling, grading, paving, excavation or drilling operations shall be prohibited in the Special Flood Hazard Area, except in conformance with these regulations.

09.04.05.06.

When base flood elevation data or floodway data have not been provided, the Zoning Enforcement Officer shall obtain, review and reasonably utilize any base flood elevation or floodway data available from Federal, State or other source in order to administer Sections 09.04.06., 09.04.07., and 09.04.08. of these regulations.

09.04.05.07.

The Zoning Enforcement Officer shall record and maintain the following: a) the as-built elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, b) the elevation (in relation to mean sea level) to which the new or substantially improved structures have been flood-proofed, c) certification as to floodway heights and d) any and all certifications required under Section 09.04. of these regulations.

09.04.05.08.

The Zoning Enforcement Officer shall make the necessary interpretation, where needed, as to the exact location of boundaries of the areas of special flood hazard (for example, where there appears to be a conflict between a mapped boundary and actual field conditions).

09.04.06. General Standards

All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.

09.04.06.01.

All new construction and substantial improvements shall be constructed with materials resistant to flood damage.

09.04.06.02.

All new construction and substantial improvements to structures shall be constructed to ensure that electrical, heating, ventilation, plumbing, air conditioning equipment and other service facilities are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

09.04.06.03.

All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

09.04.06.04.

All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.

09.04.06.05.

New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters.

09.04.06.06.

On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

09.04.06.07.

All manufactured homes (including "mobile" homes placed on a site for 180 consecutive days or longer) to be placed or substantially improved shall be installed using methods and practices which minimize flood damage. Elevation construction standards include piling foundations placed no more than 10 feet apart, and the provision of reinforcement for piers more than six feet above ground level.

09.04.06.08.

A building permit, zoning permit, site plan approval and/or special exception/permit shall be obtained before construction or development begins within any special flood hazard area. The applicant should review the Zoning Regulations with the Zoning Enforcement Officer to determine which permit approval process, or processes, are to be followed for the particular land use which is being proposed.

09.04.06.09.

In a zone where base flood elevations have been determined, but before a floodway is designated, no new construction, substantial improvement, or other development (including fill) shall be permitted which will increase base flood elevations more than one (1) foot at any point along the watercourse when all anticipated development is considered cumulatively with the proposed development.

09.04.06.10.

Use of land, construction or other activities permitted within this Section shall be subject to approval by all applicable federal or state agencies.

09.04.07. Specific Standards

The following provisions shall apply in all areas of special flood hazard A1-30, AE, AH, or A zones where base flood elevation data has been provided in accordance with Sections 09.04.05.06. or 09.04.08.04. of these regulations.

09.04.07.01.

New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to or above base flood elevation.

09.04.07.02.

New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including basement, elevated to the level of the base flood elevation; or, together with attendant utility and sanitary facilities, shall: a) be flood-proofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water: b) have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect shall review and/or develop structural design specifications and plans for the construction, and shall certify that the design and methods of construction are in accordance with acceptable

standards of practice for meeting the provisions of the subsection. Such certification shall be provided to the Zoning Enforcement Officer.

09.04.07.03.

All manufactured homes (including "mobile" homes placed on a site for 180 consecutive days or longer) to be placed or substantially improved shall be a) elevated so that the lowest floor is above the base flood elevation AND b) placed on a permanent foundation which itself is securely anchored and to which the structure is securely anchored so that it will resist flotation, lateral movement, and hydrostatic and hydrodynamic pressures. Anchoring may include, but not be limited to, the use of over-the-top or frame ties to ground anchors.

09.04.07.04.

Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles, and erosion potential, the following provisions apply:

- (a) Encroachments, including fill, new construction, substantial improvements, and other development shall be prohibited unless certification by a registered professional engineer or architect is provided demonstrating that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge. When utilizing data other than that provided by the Federal Emergency Management Agency, a regulatory floodway must be adopted which is designed to carry the waters of the base flood without increasing the water surface elevation of that flood more than one foot at any point.
- (b) All new construction and substantial improvements in the floodway shall comply with the flood hazard reduction provisions noted in this Section.

09.04.08. Standards For Subdivision Proposals

In all special flood hazard areas the following requirements shall apply:

- (1) All subdivision proposals shall be consistent with the need to minimize flood damage;
- (2) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage;
- (3) All subdivision proposals shall provide adequate drainage to reduce

exposure to flood hazards; and

- (4) Base flood elevation data shall be provided for all subdivision proposals and other proposed development (including manufactured home parks and subdivisions) which are five acres or fifty lots, whichever is the lesser, and are located in Zone A.

09.04.09.

The Zoning Enforcement Officer shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency upon request.

09.04.10. Adoption Date of Regulation

See Section 01 of these regulations.

09.04.11. Effective Date of Regulations

See Section 13 of these regulations.

09.04.12. Citation of Statutory Authorization

The Legislature of the State of Connecticut has in Title 7, Chapter 98, Section 7--148(c)(7)(A) and in Title 8, Chapter 124, Section 8-2 of the General Statutes delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry.

09.04.13. Disclaimer of Liability Section

The degree of flood protection required by these regulations are considered the minimum reasonable for regulatory purposes and is based on scientific and engineering consideration and research. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. These regulations do not imply or guarantee that land outside the special flood hazard area or uses permitted in such areas will be free from flooding or flood damages. These regulations shall not create liability on the part of the Town of Middlefield or by any officer or employee thereof for any flood damages that result from reliance on these regulations or any administrative decision lawfully made thereunder. The Town of Middlefield, its officers and employees shall assume no liability for another person's reliance on any maps, data or information provided by the Town of Middlefield.

09.04.14. Severability Section

If any section, subsection, paragraph, sentence, clause, or phrase of this regulation should be declared invalid for any reason whatsoever, such decision shall not affect the remaining portions of this regulation, which shall remain in full force and effect; and to this end the provisions of this regulation are hereby declared to be severable.

09.04.15. Abrogation and Greater Restriction Section

This regulation is not intended to repeal, abrogate or impair any existing easements, covenants, or deed restrictions. However, where this regulation and another ordinance, regulation easement, covenant or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

09.04.16. Compensatory Storage

The water holding capacity of the floodplain, except those areas that are tidally influenced, shall not be reduced. Any reduction caused by filling, new construction, or substantial improvements involving an increase in footprint to the structure shall be compensated for by deepening and/or widening of the floodplain. Storage shall be provided on-site, unless easements have been gained from adjacent property owners; it shall be provided within the same hydraulic reach and a volume not previously used for flood storage; it shall be hydraulically comparable and incrementally equal to the theoretical volume of flood water at each elevation, up to and including the 100-year flood elevation, which would be displaced by the proposed project. Such compensatory volume shall have an unrestricted hydraulic connection to the same waterway or water body. Compensatory storage can be provided off-site if approved by the municipality.

09.04.17. Equal Conveyance

Within the floodplain except those areas which are tidally influenced, as designated on the Flood Insurance Rate Map (FIRM) for the community, encroachments resulting from filling, new construction or substantial improvements involving an increase in footprint of the structure, are prohibited unless the applicant provides certification by a registered professional engineer demonstrating, with supporting hydrologic and hydraulic analyses performed in accordance with standard engineering practice, that such encroachments shall not result in any (0.00 feet) increase in flood levels (base flood elevation). Work within the floodplain and the land adjacent to the floodplain, including work to provide compensatory storage shall not be constructed in such a way so as to cause an increase in flood stage or flood velocity.

09.04.18. Aboveground Oil Tanks

Above-ground storage tanks (oil, propane, etc.) which are located outside or inside of the structure must either be elevated above the base flood elevation (BFE) on a concrete pad, or be securely anchored with tie-down straps to prevent flotation or lateral movement, have the top of the fill pipe extended above the BFE, and have a screw fill cap that does not allow for the infiltration of flood water.

09.04.19. Portion of Structure in Flood Zone

If any portion of a structure lies within the Special Flood Hazard Area (SFHA), the entire structure is considered to be in the SFHA. The entire structure must meet the construction requirements of the flood zone. The structure includes any attached additions, garages, decks, sunrooms, or any other structure attached to the main structure. Decks or porches that extend into a more restrictive flood zone will require the entire structure to meet the standards of the more restrictive zone.

09.04.20. Structures in Two Flood Zones

If a structure lies within two or more flood zones, the construction standards of the most restrictive zone apply to the entire structure (i.e., V zone is more restrictive than A zone; structure must be built to the highest BFE). The structure includes any attached additions, garages, decks, sunrooms, or any other structure attached to the main structure. (Decks or porches that extend into a more restrictive zone will require the entire structure to meet the requirements of the more restrictive zone.)

09.04.21. No Structures Entirely or Partially Over Water

New construction, substantial improvements and repair to structures that have sustained substantial damage cannot be constructed or located entirely or partially over water.

09.04.22. That For New Construction or Substantial Improvements

Require that fully enclosed areas below the lowest floor that are usable solely for the parking of vehicles, building access, or limited storage in an area other than a basement and which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of flood waters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect, or meet or exceed the following criteria: a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with

screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

09.04.23. Variance

See Section 10.08. to these regulations.

09.04.24. Enforcement

See Section 10.03. to these regulations.

09.04.25. Violation/Penalty

See Section 10.01. to these regulations.

09.05. Interior Lots:

09.05.01. Use:

Interior lots shall only be used for uses permitted in the AG-1, AG-2, and MD zones and industrial uses permitted in the IPD-I and IPD-II zones. An interior lot may be permitted only after approval by the Town Planning and Zoning Commission. The applicant shall demonstrate to the Commission that interior lots are practical and appropriate due to topography, soil conditions, lot configurations or other relevant design factors; and that such use will be in harmony with the purpose and intent of the comprehensive plan.

09.05.02. Access:

Access from an interior lot to a public road shall be on land which is owned in fee by the owner of the interior lot.

(1) Width of access strip:	<u>ZONE</u>	
	<u>Residential</u>	<u>Industrial</u>
Single access strip	25 feet	50 feet
Adjoining access strips	25 feet	30 feet

(2) The number of adjoining interior lot access strips shall not exceed two.

(3) Each access strip shall extend to an accepted public road or to a road in an approved subdivision and shall have frontage equal to the required width; on curved streets the frontage shall be measured on the chord or tangent of the curve, whichever is smaller.

- (4) The grade of the access strip shall not exceed 15.0 percent within 35 feet of its intersection with the accepted or approved road and shall conform to the Town Ordinance requirements for driveways.
- (5) Minimum length of access strip shall be 150 feet.
- (6) Maximum length of access strip.

<u>ZONES</u>	<u>LENGTH</u>
Residential	
AG-2 zone	1,100'
All other zones	500'
Industrial	700'

- (7) Access strips shall make adequate provision for water courses and run-off.

09.05.03. Area:

Each lot shall contain in area not less than the minimum lot area required in the applicable zone. Private access strips shall not be included in calculation of the lot area.

09.05.04. Maximum Number:

The maximum number of interior lots shall not exceed one third of the total number of lots in any subdivision in excess of ten (10) lots.

09.05.05. Yard Requirements:

The following yard requirements shall be observed: The lot line or lines nearest the street to which the lot has access and most nearly parallel thereto shall be considered the street line for the purpose of establishing the building line.

<u>ZONE</u>	<u>AG-2</u>	<u>MD</u>	<u>INDUSTRIAL</u>
Minimum width on assumed street line as described above	200 ft.	185 ft.	230 ft.
Minimum depth	200 ft.	200 ft.	200 ft.
Minimum width at minimum depth	150 ft.	150 ft.	175 ft.
Minimum setback from assumed street line	60 ft.	60 ft.	75 ft.
Minimum side and rear yards	20 ft.	20 ft.	30 ft.

09.05.06. Location:

No interior lot shall be located to the rear of another interior lot as determined by 09.05.05. above.

09.05.07. Interior Lots of Record:

Interior lots of record shall not be divided or otherwise altered in area or dimension except in conformance with these Zoning Regulations. The use of right-of-way as access to interior lots of record shall establish such lots as non-conforming.

09.06. Home Occupation

09.06.01.

Intent and Purpose - The Town of Middlefield recognizes the need for some citizens to use their place of residence for limited non-residential activities. However, the Town believes that the need to protect the integrity of its residential areas is of paramount concern. A "home occupation" approval is the method used to allow and to regulate non-residential activity within the Town's residential districts.

In essence, the objective of a "home occupation" approval is to allow a limited commercial-type activity in a residential area only to an extent that no neighbors or passersby will be aware, by outward appearance, of the activity. In practice, a "home occupation" approval gives the permittee the legal right to use his/her residence or accessory structure for a business telephone, business mailing address and related

activities, but not to the extent that pedestrian and vehicular traffic are generated that is disruptive to the residential character of the neighborhood.

09.06.02. Standards

09.06.02.01.

The occupation is carried on by the residents of the dwelling and with no more than three non-resident employees.

09.06.02.02.

There shall be no external evidence of the operation of the home occupation so as to change the residential character of the dwelling, except that one sign of not more than two square feet in area shall be permitted.

09.06.02.03.

The storage of goods, materials or products connected with a home occupation are prohibited outside of the dwelling or accessory buildings.

09.06.02.04.

There shall be no entrance or exit way specifically provided in the dwelling for the conduct of the home occupation thereon.

09.06.02.05.

The total floor area for such occupation conducted within the dwelling shall not exceed 25% of the total living area of a dwelling or 500 square feet, whichever is less. Such occupation shall be limited to one room of the dwelling if conducted in the dwelling.

09.06.02.06.

Such occupation does not create offensive odors, noise, vibrations, light electrical interference or other objectionable conditions as might adversely affect the neighborhood as to property value, health, safety and welfare. There shall be no discharges of a hazardous or toxic substances to the air, surface water, groundwater, or ground.

09.06.02.07.

No product shall be displayed and no retail sales on the premise shall occur.

09.06.02.08.

No traffic shall be generated by such home occupation in greater volumes than would normally be expected in a residential neighborhood, and any need for parking generated by the conduct of such home occupation shall be met off the street and other than in a required front yard. The Commission may require buffering or screening or designate the location of parking spaces associated with the home occupation.

09.06.03. Application

09.06.03.01.

Fee \$35.00

09.06.03.02.

Application form provided by Town with signature of property owner and applicant.

09.06.03.03.

Site Plan based on best available information showing lot lines, parking (existing and required), house and accessory structure, significant natural features, notations as to the distance to the dwellings within 300 feet of the proposed home occupation, and names of abutting property owners. The Commission may require compliance with 10.02.02. if it is deemed necessary to determine if the standards for home occupations are being complied with.

09.06.03.04.

Floor plan of dwelling or accessory structure indicating the area occupied by proposed home occupation.

09.06.03.05.

A description of the frequency and type of commercial vehicles and customer vehicles which will be associated with occupation.

09.06.03.06.

Verification that abutting property owners are aware of the application.

09.06.04. Procedures

09.06.04.01.

Applications shall require site plan approval.

09.06.04.02.

Home occupation approvals are not transferrable by an applicant and once a use has been discontinued for 90 days the approval becomes null and void.

09.06.04.03.

Failure to conduct the home occupation in accordance with the approved application shall result in the revocation of the approval.

09.06.04.04.

Home occupation permits may be renewed bi-annually provided there has not been any violation of the provisions of this section. Requests for renewals shall be submitted to the Zoning Enforcement Officer on a form provided by the Town. The Zoning Enforcement Officer shall make an inspection of the home occupation and renew the approval if it is in compliance with these regulations and the approved application.

09.07. Non-Commercial and Commercial Kennels shall not be considered Farming or Agriculture

09.07.01. Kennels, Non-Commercial:

Non-commercial kennels shall conform to the following Special Standards:

09.07.01.01.

The use shall be located on a lot of not less than two (2) acres.

09.07.01.02.

No buildings, enclosures, feed yards or runs for animals shall be located less than 60 feet from any property or street line;

09.07.01.03.

Adequate provision shall be made for off-street parking of automobiles and other motor

vehicles of all persons using or visiting the use;

09.07.01.04.

When a non-commercial kennel is located in a residential district, or within 500 feet of a residential district, adequate provisions shall be provided for noise control by construction of all buildings or other enclosures wherein animals may be housed to achieve Sound Transmission Class .45 or greater, as discussed in the Industrial Noise Absorption Manual, published by the National Institute of Occupational Safety and Health, and further will be constructed so that no noise caused by the occupants is apparent from any street or property line. Enclosed runs shall be required when site conditions do not restrict noise as a possible nuisance condition;

09.07.01.05.

All animals shall be confined indoors between the hours of 9:00 p.m. and 7:00 a.m.;

09.07.01.06.

The operator of the kennel shall be a resident of the premises on which the kennel is located;

09.07.01.07.

Buffering shall be required when deemed necessary by the Planning and Zoning Commission.

09.07.02. Kennels, Commercial:

Commercial kennels shall conform to the following Special Standards:

09.07.02.01.

The use shall meet the minimum lot area requirements specified for the zoning district in which the property is located, except in the AG-2 zone where the minimum acreage is 5 acres.

09.07.02.02.

All buildings related to the commercial kennel or outside exercise area for animals shall meet the minimum setback requirements specified for the zoning district in which the property is located, except in the AG-2 zone where the minimum setback from the nearest property line shall be at least 150 feet and 50 feet from any wetland or

watercourse. The Commission may require fencing, earth beams, and/or landscaping, as it deems necessary to assure that the proposed use will not negatively impact abutting properties.

09.07.02.03.

In the AG-2 zone the maximum building coverage is five (5) percent for commercial kennel structures.

09.07.02.04.

All pens and runs shall be enclosed in a structure constructed of concrete block or other solid construction, which will have the equivalent sound deadening qualities. No pens or runs shall access directly to the outside. Doors accessing pens or runs or to the outside shall be of solid core construction. Ceilings shall have the similar sound deadening qualities as the walls of the structure. Pens and runs shall be climate controlled there shall be no open windows. Windows shall be double paned to prevent the transmission of sound. Outside exercise areas may be provided where animals are permitted to exercise, provided the animals are on leashes or under the control of a handler and shall not be housed in such areas and use by animals shall be temporary and only during normal business hours of the kennel; and provided further that such areas will be located in compliance with section 09.07.02.02. No noise caused by the use shall exceed the State of Connecticut DBA Noise Standards when measured at any lot line.

09.07.02.05.

Off-street parking shall be provided on the parcel with at least one car space for each fulltime employee or equivalent and in addition there shall not be less than five car spaces for visitors.

09.07.02.06.

Provisions for the treatment and management of waste shall be in accordance with the Connecticut Public Health Code, Regulations of the Connecticut Department of Agriculture, and if applicable, the Meriden, Middlefield or Middletown Water Pollution Control Authority.

09.07.02.07.

The Commission may refer such applications to town, regional or state agencies, as it deems appropriate.

09.08. Wireless Communication Towers, Antenna and Facilities

09.08.01. Description and Purpose

The intent of this section is to make provisions as required by Telecommunication Act of 1996 to permit the location of wireless communication towers, antennae and facilities in the Town of Middlefield while protecting neighborhoods as well as ecologic, scenic, historical and recreational resources; minimizing conflicts with adjacent areas; and ensuring protection of public health. Specific objectives are as follows:

1. To accommodate the need for communication towers and antennae while regulating their location and number;
2. To minimize the adverse visual effects of towers, antenna and facilities through careful design, siting and vegetative screening;
3. To encourage shared or joint use of towers and facilities;
4. To reduce the number of antennae or towers needed in the future.

09.08.02. Definitions

When used in this section the following words or phases shall have the meaning found below:

1. **Accessory Structure:** An accessory facility or structure serving or being used in conjunction with a communications tower, and located on the same parcel as the communications tower. Examples of such structures include utility or transmission equipment storage sheds or cabinets.
2. **Antenna:** A device used to receive or transmit telecommunications or radio signals. Such signals shall include but not be limited to radio, television, cellular, paging, personal communications services (PCS) and microwave communications.
3. **Co-located Antennae:** Antennae which utilize existing towers, buildings or other structures for siting of a new telecommunications facility.
4. **Telecommunications Facility:** Towers and/or antennae and accessory structures and equipment used in receiving or transmitting telecommunications or radio signals from mobile communication sources and transmitting those signals to another wireless site, and other communication source or receiver or to a central switching computer which connects the mobile unit with land based telephone

lines.

5. **Tower:** The structure designed to support equipment and antennae used to transmit and/or receive telecommunication or radio signals. Examples of such structures include, without limitations, free standing towers, guy towers, monopoles, and lattice towers.

09.08.03. Siting Preferences

Middlefield's order of preference for facility locations shall be:

1. On existing structures such as buildings, communications towers and smokestacks;
2. In industrial and commercial districts where the existing topography, vegetation, buildings or other structures provide the greatest amount of screening;
3. On new towers on bare ground with visual mitigation in commercial and industrial districts;
4. On new towers in residential districts where the existing topography, vegetation, buildings or other structures provide the greatest amount of screening.

09.08.04. Special Permit

All wireless communication towers, antenna and facilities shall be subject to the issuance of a Special Permit in accordance with the following standards and in accordance with Section 10.02.1. through 10.02.06. of these regulations.

09.08.05. General Requirements for all Towers, Antenna and Facilities

1. Each application shall submit a detailed site justification report, including a description of the narrowing process that eliminated other potential sites as well as a map showing the extent of planned coverage within the Town of Middlefield, approved locations of all other telecommunication sites in Middlefield, or adjoining towns which provide coverage within Middlefield including the applicant's location and the location and service area of the proposed telecommunication site.
2. The antenna tower shall be designed and constructed to all applicable standards of the American National Standards Institutes, ANSI/EIA-222-E manual, as

amended.

3. A soil report complying with Appendix I: Geotechnical Investigations, ANSI/EIA-222-E manual standards, as amended, shall be submitted to verify the design specifications of the foundation for the tower and anchors for the guy wires, if used shall be submitted prior to the issuance of a building permit.
4. Ground landscaping shall be required to soften the appearance of a tower and screen as much of the tower as possible, the fence surrounding the tower and other ground level features such as a building. Any combination of existing vegetation, topography, walls, decorative fences or other features instead of landscaping may be permitted if the same degree of screening as the required landscaping is achieved, as determined by the Commission.
 - a. An evergreen screen shall be required to surround the site. The screen can be either a hedge (planted 3 feet on center maximum) or a row of evergreen trees (planted 10 feet on center maximum). The evergreen screen shall be a minimum height of 6 feet at planting and shall grow to a minimum of 15 feet at maturity.
 - b. Existing vegetation on and around the site shall be preserved to the greatest extent possible.
5. All other uses ancillary to the antenna and associated equipment (including a business office, maintenance depot, vehicle storage, etc.) are prohibited.
6. To minimize the number of antenna or wireless sites in the community in the future, the proposed support structure shall be required to accommodate other users, including other wireless communication companies and particularly local police, fire and ambulance companies, unless it is determined to be technically unfeasible, and any tower approved here under shall be made available under commercially reasonable terms to others, including competing users.
7. A telecommunications site not in use for six months shall be removed by the facility owner. This removal shall occur within ninety days of the end of such six month period commencing upon written notice to the property owner by the Zoning Enforcement Officer. Upon removal, the site shall be restored to its previous appearance and, where appropriate, revegetated.
8. The Commission may require that applicants provide simulations of tower locations and impact. Such simulations may entail the flying of balloons or other devices necessary to visualize the proposed facility.

9. In all cases in which the Commission feels that a peer review of the applicant's service areas, tower sharing, or other technical issues is warranted, the applicant may be required to deposit up to \$25,000 to reimburse the Town for the cost of the peer review. The unused portion of this deposit will be returned to the applicant after a decision is rendered. If funds in excess of \$25,000 are necessary, payment will be made prior to the decision by the Commission on the application.

10. Using technological evidence, the applicant must demonstrate that the proposed location is necessary to satisfy its function in the company's grid system. Specific locations will be evaluated using the following analysis and criteria (not listed in any order of priority).
 - . capacity and propagation analyses.
 - . tower height visibility analyses.
 - . antenna separation analyses based on wave length.
 - . analyses of signal strength and signal thresholds necessary for cell hand-off.
 - . environmental analysis of the proposed access road and structures when new construction is necessary (determined by the Commission).
 - . modeling consistent with FCC criteria to document that a prepared facility would be in compliance with federal radio frequency health standards.
 - . availability of suitable structures for antenna mounting.
 - . topography as it relates to line of sight transmission for optimum service efficiency.
 - . leasable lands and willing landlords.
 - . screening potential of existing vegetation, structures and topographic features.
 - . compatibility with adjacent land uses, and preservation of historic views, vistas, buildings and areas.
 - . least number of sites to cover desired area.

- . greatest coverage consistent with physical requirements.
- . opportunities to mitigate possible visual impact.
- . availability of sites not within an established single family community.
- . preservation of view corridors, vistas.
- . potential for preservation of pre-existing character of site.
- . minimal impact on residential areas surrounding commercial or industrial zoned sites.
- . selection of sites which lend themselves to visual mitigation.
- . availability of road access.
- . availability of electric power.
- . availability of land based telephone lines or microwave link capability.

If a tower is proposed the application shall include support materials that show the location of structures in excess of 50' within one quarter mile radius of the site proposed, that the owners of those locations have been contacted and asked for permission to install the antenna on those structures and denied for other than economic reasons. This would include smoke stacks, water towers, tall buildings, antenna or towers of other wireless communications companies, other communication towers (fire, police, etc.) and other tall structures.

09.08.05.01. Standards for Towers

1. Towers not requiring FAA painting/markings shall have either a galvanized finish or be painted a non-contrasting blue, grey, black or such other color as the commission may require to minimize the visibility of the tower.
2. No signs shall be permitted on any tower or antenna.
3. No lights or illumination shall be permitted unless required by the FACC or FAA.
4. Towers shall be surrounded by a chain link fence or wall not more than eight (8) feet in height. If barbed wire is included in the fence, it shall be within the eight

(8) foot height limit.

5. Towers shall have a set back of at least three hundred (300) feet from any off-site dwelling.
6. Towers shall be setback one hundred fifty (150) feet from any street line.
7. A tower supporting an antenna shall be the minimum height necessary to satisfy the technical requirements of the telecommunications facility.
8. Tower in Residential Districts
 - a. Shall be limited to monopoles.
 - b. Satellite and microwave dishes attached to monopoles shall not exceed two (2) feet in diameter and four (4) in number.
 - c. Shall be setback from all property boundaries, two hundred (200) feet or 100% of the height of the tower, whichever is greater.
9. In commercial and industrial zones;
 - a. Satellite and microwave dishes attached to towers shall not exceed six (6) feet in diameter and four in number.
 - b. Shall comply with the setbacks of the zone in which it is located.

09.08.05.02. Standards for Equipment Buildings

1. Shall not contain more than 750 square feet of gross floor area or be more than twelve (12) feet in height.
2. Shall comply with the setback requirements of a principal building for the zone in which it is located.
3. If located on the roof of a building, shall not occupy more than 15% of the roof area.

09.08.05.03. Standards for Structure or Rooftop Mounted Antennas, with an Equipment Building or Facility

1. Shall be attached to a non-residential structure or building, which building or structure is the principal building or structure on the lot.

2. Shall be of a material or color which matches the exterior of the building or structure.
3. If roof mounted:
 - a. Shall not exceed a height of fifteen (15) feet above the highest part of the structure or building;
 - b. Shall be set back from the roof edge a minimum of ten (10) feet or 10% of the roof depth (measured from the edge facing a public street to the opposite edge of the roof), whichever is greater;
 - c. Satellite and microwave dish antennas shall not exceed six (6) feet (two (2) in residential zones) in diameter and shall be located or screened so as not to be visible from abutting public streets.
4. If facade mounted:
 - a. Shall project not more than two (2) feet beyond the wall or facade of the structure;
 - b. Shall not project more than five (5) feet above the cornice line.

09.09. Ridgelines

09.09.01. Statutory Authorization:

This regulation is adopted pursuant to Section 8-1aa and Section 8-2(c) of the Connecticut General Statutes.

09.09.02. Purpose:

To restrict development in the Ridgeline Setback Area as defined herein.

09.09.03. Applicability:

1. All development proposals within the Ridgeline Setback Area as defined in Section 02.18.01., whether public or private, shall comply with the requirements and purposes of this regulation and other applicable ordinances of the Town.
2. For the purposes of this regulation, development proposals include proposals requiring review and approval of the planning and/or zoning commission or the zoning board of appeals in accordance with any provision of these regulations.

09.09.04. Abrogation and Greater Restriction:

It is not intended by this regulation to repeal, abrogate, or impair any existing regulations, easements, covenants or deed restrictions. However, where this regulation imposes greater restrictions, the provisions of this regulation shall prevail.

09.09.05. General Requirements:

1. **Ridgeline Overlay.** The Ridgeline Overlay shown on the official zoning map generally delineate the Ridgeline Setback Area as defined in Section 02.18.01. (hereinafter, "The Ridgeline Overlay"). This Ridgeline Overlay shall not be in lieu of the definition of these areas as set forth in Section 02.18.01., but will serve to alert the public and municipal officials of the potential presence of a Ridgeline, as defined herein.
2. **Ridgeline Setback Area.** The Town, acting by and through its planning and zoning commission (hereinafter, "the Commission") may subsequently amend the Ridgeline Overlay as newly acquired information concerning the presence of additional Ridgeline Setback Areas is presented to it. Information provided by the Ridgeline Overlay shall be used for general informational and illustrative purposes only. The actual presence and location of Ridgeline Setback Areas as defined in Section 02.18.01. and as determined by qualified professionals shall govern the applicability of this regulation to a proposed development proposal. "Qualified professionals" shall include, as relevant, licensed land surveyors geologists and/or geographers.
3. **Permitted Operations and Uses.** Anything in this section to the contrary notwithstanding, the following operations and uses shall be permitted in Ridgeline Setback Areas, as of right, as set forth in Connecticut General Statutes Section 8-2(c) as amended:
 - a. Emergency work necessary to protect life or property.
 - b. Approved development proposals which were applied for prior to the effective date of this regulation, which approvals remain in effect.
 - c. Any legal nonconforming use of the land.
 - d. Selective timbering grazing in pasture areas existing only on the effective date of this regulation, and passive recreation.
4. **Declaratory Rulings:** Any person may apply to the Commission for a declaratory

ruling to determine or contest the Commission's jurisdiction under this section. Such application shall be supported with substantial evidence to permit the Commission to make the determination of its jurisdiction. The Commission may refer any such application to any State or local agencies for comment and assistance, and may hold a public hearing any such application.

09.09.06. Regulated Activities:

1. **Activities Requiring Special Permit:** Development, underground utilities, and clear cutting, all as defined in this section, shall not be permitted except upon the issuance of a Special Permit by the Commission in accordance with the procedure set forth in Section 10.02. of these Regulations, and such application shall include a site plan and such other information set forth in Section 10.02. as may be relevant to the criteria set forth in this section. In addition to the requirements of Section 10.02., an applicant for a Special Permit hereunder shall provide the following information:
 - a. **Visual Impact:** Illustrations of the visual impact of proposed activities as viewed from public highways, public parks, or other areas accessible to the general public. Such illustrations may be by means of photographic, graphic, or other means sufficient to portray the visual impact of the proposed activity. The Commission may require the installation of flags, balloons, or other on site markers to allow evaluation of visual impacts as seen from various vantage points.
 - b. **Environmental/Habitat Impact:** An inventory of Federal or State rare or endangered species inhabiting, breeding, foraging, or migrating through or over the area of the proposed activity, and, in addition, of any other wildlife; an analysis of the nature of the area as a wildlife resource (habitat, breeding ground, foraging area, migratory pathway, etc.); and an analysis of the impact of the proposed activity on such resource(s).
 - c. **Groundwater Impact:** An analysis, by a qualified hydro geologist or geohydrologist, of the groundwater recharge potential of the area of the proposed activity, the aquifer being recharged, and an analysis of the possible impacts of the proposed activity on groundwater recharge.
 - d. **Archaeological and Historic Impact:** An archaeological examination of the area of the proposed activity, and an analysis, by a qualified archaeologist, of the impact of the proposed activity on any known or potential archaeological resources. In addition, the report of a qualified historian concerning the role which the site may have played in any recorded chapter of American history, and the impact which the proposed

activity would have on the preservation of that historic resource.

- e. **Miscellaneous.** The Commission may require such other information as may be required to determine compliance with the purposes and criteria of this Section, or any other applicable section of these Regulations.

By a majority vote of the Commission, the submission of any of the preceding may be waived or modified where the proposed activity has no foreseeable impact on the resource involved.

- 2. **Criteria for Special Permit.** In addition to any applicable criteria of Section 10.02. of these Regulations, the Commission shall evaluate any application under this Section in accordance with the following criteria:

- a. **Visual Impact:** The visual impact of proposed activities as viewed from public highways, public parks, or other areas accessible to the general public. Such impacts may include, but not be limited to: unnatural gaps, cuts, projections, or other obviously artificial alterations of existing natural tree lines, ridgelines, prominent topographic features, or rock formations; the use of materials which, by their color, reflectiveness, finish, size, or orientation disrupt the natural or historic character of the ridgeline; the size, height, shape, and location of buildings. The use of earth tone materials may be required by the Commission in all proposed buildings, and the use of reflective materials or surfaces may be restricted or prohibited. Lighting poles shall be no higher than . feet, and all luminaries shall be designed to prevent the visibility of the light source from off the property. The use of strobe lights on any antenna or other structure is prohibited. The Commission may require that clear cutting occur in a staggered or other pattern which reduces the visual impact of the such cutting, and may further require that clear cutting be staged over a period of time to allow for regrowth of remaining vegetation.
- b. **Environmental/Habitat Impact:** The impact of the proposed activity on any Federal or State rare or endangered species inhabiting breeding, foraging, or migrating through or over the area of the proposed activity, and, in addition, of any other wildlife. The Commission shall consider the nature of the area as a wildlife resource (habitat, breeding ground, foraging area, migratory pathway, etc.) and shall consider the impact of the proposed activity on such resource(s). The Commission may require that clear cutting occur only during certain seasons of the year, or that it be restricted to only certain areas, patterns, methods of removal, or other restrictions which may be necessary to minimize the impact on wildlife and wildlife habitats. The Commission may further restrict the size of

lawn areas or other clearings in connection with development, and may require the use of retaining walls or other methods to minimize the disturbance of the existing topography and vegetation. The Commission may restrict the size of proposed grazing areas to be created by clear cutting, and may require that their shape, location, or character be altered to minimize adverse wildlife impacts. The Commission may require reforestation or landscaping of quarries upon reaching finished grade, or of other areas disturbed by development or clear cutting.

- c. **Groundwater Impact:** The groundwater recharge potential of the area of the proposed activity, the aquifer being recharged, and an analysis of the possible impacts of the proposed activity on groundwater recharge. The Commission may restrict the size or location of septic systems; the size and methods of maintenance of lawn or garden areas, and the use of fertilizers, pesticides, and/or herbicides; the burial of underground tanks; or other aspects of development which may impact groundwater. The Commission may require the use of biofilters, detention ponds, retention ponds, and other methods of storm water management which protect surface and subsurface waters. The Commission may require or prohibit (as may be appropriate) the use of drywells for roof runoff and storm water. The Commission may regulate or prohibit the use of floor drains or the conduct of activities within a development which may impact groundwater resources, such as the storage or handling of hazardous wastes, petroleum products, or processes which require the use or handling of such materials.

- d. **Archaeological and Historic Impact:** The impact of the proposed activity on any known or potential archaeological resources and on the role which the site may have played in any recorded chapter of American history. The Commission may require the use of particular roof lines or other architectural treatments, lighting, pavement materials, or other site or building features in order to insure the compatibility of the development with existing or planned historic sites, buildings, or landscapes. The Commission may require the planting of landscaping or retention of certain vegetated areas in order to preserve a historic landscape or vista. The Commission may require a predevelopment archaeological exploration and preservation of any relics discovered on the site. The Commission may require the preservation of identified historic sites, but may not require public access to such sites.

- 3. **Conditions and Modifications:** In addition to any other provision of these Regulations, the Commission may, in approving any Special Permit under this Section, require any conditions or modifications which may be necessary or

desirable in order to further the objectives of this Section and to meet the criteria contained herein.

09.09.07. Reserved

09.09.08. Use Variances Prohibited:

In accordance with Connecticut General Statutes Section 8-6, no variance shall be granted by the Zoning Board of Appeals which would allow any use of land within the Ridgeline Setback Area which would violate this Section.

09.10. Restaurants

All restaurants shall require a Special Permit in accordance with Section 10.02B of these Regulations and, in addition, the following requirements and standards.

- 09.10.01. Food service shall be primarily to customers seated at tables or at counters within an enclosed building. There shall be no outdoor seating or eating, provided, however, that the Commission may permit outdoor cafe service as an accessory use to a restaurant where the applicant establishes that adequate provisions have been made for litter, public health, insect/pest control, unauthorized access or use, and where the site is suitable for such accessory outdoor cafe service.
- 09.10.02. The Commission may approve a specific request for drive-through service as an accessory use to a restaurant, provided that the applicant demonstrates, to the satisfaction of the Commission, that adequate provision has been made for the stacking of adequate numbers of vehicles in a lane which is separate from the traffic circulation pattern associated with the restaurant and its parking area. Likewise, the Commission may approve a specific request for outdoor window service as an accessory use to a restaurant, provided that the applicant demonstrates, to the satisfaction of the Commission, that adequate provision has been made for pedestrians to park and safely reach the window, without crossing through adjacent lanes of moving traffic or stacking lanes for drive-through service; and a covered, sheltered, illuminated area has been provided for pedestrians adjoining the drive-in window.
- 09.10.03. Take-out service of food to be consumed off the premises may be permitted as an accessory use to a restaurant. Take-out restaurants as a principal use are prohibited.
- 09.10.04. No restaurant located as the principal use of a building on a separate lot

shall have fewer than thirty (30) seats for the service of patrons, excluding counter seats, and table seats in a separate bar or tap room. A restaurant which is part of a unified shopping center or other multi-use (i.e., more than two principal uses) shall have no fewer than ten (10) seats for the service of patrons, excluding counter seats, and table seats in a separate bar or tap room.

09.10.05. The foregoing restrictions on minimum seating shall not apply to the retail sale of specialty foods to be consumed primarily off the premises, with only incidental on-premises consumption, such as ice cream and donut shops, delicatessens, gourmet and health food stores, and the like.

09.10.06. Fast food restaurants, shall be required to meet the following additional standards:

- a. The applicant shall provide a traffic study prepared by a qualified traffic engineer which contains, at a minimum, an analysis of current and projected traffic volumes, peak hour projections, turning movements, sight lines, parking demands, access for emergency vehicles, deliveries and loading, and such other factors as may be relevant for the particular site and its conditions.
- b. Buildings shall be designed to serve the intended use, and to be in harmony with the architectural character of a small rural Town. Buildings are not to be advertisements in themselves, including the use of "motif" colors. All building designs must be approved by the Commission per Section 10.02B of these Regulations.
- c. Glass shall occupy no more than thirty (30%) percent of the exterior wall surface of the building, and all glass shall be tinted. Glass shall not be reflective.
- d. No "fast food" restaurant shall be located less than five hundred (500') feet from any Residential Zone, measured from any point on the site to any zone line.
- e. The control of litter shall be the sole and exclusive responsibility of the owner/operator of the "fast food" restaurant which generated it, and adequate provisions shall be made for its containment, recovery, and removal from the site and from any surrounding properties where it may be found. This obligation shall be secured by a cash bond to be posted with the Commission, the size of which shall be determined by the Commission based on the size and

anticipated volume of off-site consumption of food. Further, violation of this provision shall be considered a violation of these Regulations, and shall subject the owner/operator to those penalties set forth in these Regulations and the Connecticut General Statutes.

- f. Menu boards for accessory drive-through shall be no more than eighteen (18) square feet in area.
- g. Directional signs at driveways or other locations shall be considered "signs" and shall count toward the maximum number and square footage of signs permitted under Section 9.03 if such signs contain motif colors or symbols of occupant of the premises.
- h. There shall be no music or other audio transmission audible outside of the building.