

Planning and Zoning Code- Section 16

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SECTION 16- DEFINITIONS

16.00 DEFINITIONS- For the purposes of this Code, certain terms or words used herein shall be interpreted in accordance with this section, unless the context clearly indicates a contrary intent. Unless the context otherwise requires, the following definitions shall be used in the interpretation and construction of the Code. Words used in the present tense shall include the future; the singular number shall include the plural, and the plural the singular; the word "building" shall include the word "structure" the word "used" shall include "arranged, designed, constructed, altered, converted, rented, leased" or "intended to be used" and the word "shall" is mandatory and not directory; the word "may" is permissive; and the word "lot" includes the words "plot" or "parcel".

16.01 "A"

- 16.01.01 ACCESSORY USE OR STRUCTURE- A use or structure subordinate to the principal use of a building or to the principal use of land and which is located on the same lot serving a purpose customarily incidental to the use of the principal building or land use.
- 16.01.01a ACTIVE ADULT HOUSING- A managed residential community consisting of single-family attached and detached residential structures the occupancy of which is limited, as permitted by state and federal fair housing laws, to those aged 55 and over.
(Added effective 9/1/030)
- 16.01.02 AGRICULTURE- The use of land for agricultural purposes, including farming, dairying, pasturage, agriculture, horticulture, floriculture, viticulture, and animal and poultry husbandry and the necessary accessory uses for packing, treating or storing the produce; provided, however, that the operation of any such accessory uses shall be secondary to that of normal agricultural activities and provided further that the above uses shall not include the commercial feeding of garbage or offal to swine and other animals.
- 16.01.03 AIRPORT- Any runway, landing area or other facility designed, used or intended to be used either publicly or privately by any persons for the landing and taking off of aircraft, including all necessary taxiways, aircraft storage and tie-down areas, hangers and other necessary buildings and open spaces.
- 16.01.04 ALCOHOLIC LIQUOR PERMIT- Shall mean the following permits which may be issued by the Liquor Control Commission of the State of Connecticut under Chapter 545 of the Connecticut General Statutes, as amended: druggist

permit, package store permit, and grocery beer permit. (Amended effective 8/25/05)

- 16.01.05 AMBULANCE SERVICE- The term "ambulance service" shall have a meaning commonly and usually given to the term and shall also include uses necessarily incident or accessory thereto, except that it shall not permit limousine service.
- 16.01.06 APARTMENT- A suite of rooms or a room in a multi-family building arranged and intended for a place of residence of a single family or a group of individuals living together as a single housekeeping unit.
- 16.01.07 APARTMENT, EFFICIENCY- A dwelling unit in a multi-family building, consisting of not more than one (1) habitable room, together with kitchen or kitchenette and sanitary facilities.
- 16.01.08 APARTMENT HOTEL- An apartment house which furnished services for the use of its tenants which are ordinarily furnished by hotels.
- 16.01.09 APARTMENT HOUSE- See dwelling, Multi-Family.
- 16.01.10 AUTOMOTIVE BODY SHOP- The term "automotive body shop" shall have the meaning commonly and usually given to the term and shall also include uses necessarily incident or accessory thereto.
- 16.01.11 AUTOMOBILE REPAIR AND SERVICE STATION- Building, lot, or both in or upon which business of general motor vehicle repair and service is conducted, but excluding junk and/or auto wrecking business.
- 16.01.12 AUTOMOBILE OR TRAILER SALES LOT- A lot arranged, designed, or used for the storage and display for the sales of any motor vehicle or any type of trailer (provided the trailer is not for residential uses) and where no repair work is done, except minor incidental repair of automobiles or trailers, displayed and sold on the premises; nor shall it be used for storage of dismantled or wrecked motor vehicles, parts thereof, or junk.
- 16.01.13 AUTOMOBILE SERVICE STATION OR FILLING STATION- A building or other structure or a tract of land where gasoline or similar fuel, stored only in underground tanks, is dispensed directly to users of motor vehicles. The following activities are permitted as accessory uses to a gasoline station: the dispensing of oil, greases, antifreeze, tires, batteries, and automobile accessories directly to users of motor vehicles; tuning motors, minor wheel and brake and adjustment, waxing and polishing and other minor servicing and repair to the extent of installation of the items enumerated above; washing of automobiles provided that no chain conveyor, blower, or other mechanical device is employed. All other activities shall be prohibited, including, but not limited to: upholstering work, auto glass work, tire recapping, auto dismantling, and auto sales.
- 16.01.14 AUTOMOBILE WASH OR AUTOMATIC CAR WASH- A building or structure where chain conveyors, blowers, steam cleaners and other mechanical devices are employed for the purpose of washing motor vehicles.
- 16.01.15 AUTOMOBILE WRECKING- The dismantling or disassembling of used motor vehicles or trailers, or the storage, sale or dumping of dismantled, partially dismantled, obsolete or wrecked vehicles or their parts.

- 16.01.16 AQUIFER- Underground geologic unit capable of yielding usable amounts of potable water.

16.02 "B"-

- 16.02.01 BASEMENT- A story whose floor is more than twelve (12) inches but nor more than half of its story height below the average level of the adjoining ground (as distinguished from a "cellar" which is a story more than one-half below such level).
- 16.02.02 BEGINNING OF CONSTRUCTION- The incorporation of labor and material within the walls of the building or buildings.
- 16.02.03 NONE
- 16.02.04 BLOCK- In describing the boundaries of a zone, the work "block" refers to the legal description. In all other cases, the word "block" refers to the property abutting on one side of a street between the two (2) intersecting streets or a street and a railroad right-of-way or watercourse.
- 16.02.05 BOARD- The Zoning Board of Appeals in the City of Middletown.
- 16.02.06 BOARDING OR LODGING HOUSE- A dwelling or part thereof where meals and/or lodging are provided for compensation, for four (4) or more persons not transients, but not exceeding twelve (12) persons. An establishment where meals are served for compensation for more than twelve (12) persons shall be deemed a restaurant.
- 16.02.07 BUFFER- A strip of land which is planted and maintained in shrubs, bushes, trees, grass or other landscaping materials and within which no structure or building is permitted except a fence.
- 16.02.08 BUILDING- Any structure having a roof supported by columns or walls used or intended to be used for the shelter or enclosure of persons, animals or property. When such a structure is divided into separate parts by one or more unpierced walls extending from the ground up, each part is deemed a separate building, except as regards minimum sideyard requirements, as hereinafter provided.
- 16.02.09 BUILDING ACCESSORY- A building located on the same lot as a principal building and devoted or intended to be devoted to an accessory use. Any portion of a principal building devoted or intended not to be devoted to an accessory use is not an accessory building.
- 16.02.10 BUILDING, PRINCIPAL OR MAIN- A building in which is conducted, or is intended to be conducted, the principal use of the lot on which it is located.
- 16.02.11 BUILDING COVERAGE- The proportion of the lot area, expressed as a percent, that is covered by the maximum horizontal cross-section of a building or buildings. Structures which are below the finished lot grade, including shelters for nuclear fall-out, shall not be included in building coverage.
- 16.02.12 BUILDING, HEIGHT OF- The vertical distance from the average contact ground level at the front wall of the building to the highest point of the coping of a flat roof or to the deck line of a mansard roof, or to the mean height level between eaves and ridge for gable, hip, or gambrel roofs.

- 16.02.13 BUILDING LINE- The line beyond which no building or part thereof shall project, except as otherwise provided by this Code.
- 16.02.14 BUILDABLE LOT AREA- That part of the lot not included within the open areas required by this Code.
- 16.02.15 BUS STOP PASSENGER SHELTERS- A structure designed to give potential bus passengers refuge from the elements for a short period of time.

16.30 "C"-

- 16.03.01 CARE/NURSING HOME- A facility designed for the care of patients before they are released from medical treatment. It includes rest and nursing homes, convalescent homes and boarding homes for the aged established to render domiciliary or nursing care.
- 16.03.02 CELLAR- A story, the floor of which is more than one-half (1/2) of its story height below the average contact ground level at the exterior walls of the building. A cellar shall be counted as a story, for the purpose of height regulations, only if used for dwelling purposes other than by a janitor or caretaker employed on the premises.
- 16.03.03 CEMETERY- Land used or intended to be used for the burial of the human dead and dedicated for cemetery purposes including columbaria crematories, mausoleums, and mortuaries if operated in connection with, and within the boundaries of such cemetery.
- 16.03.04 CITY- The incorporated City of Middletown, Connecticut.
- 16.03.05 CLINIC- A place used for the care, diagnosis and treatment of sick, ailing, infirmed and injured persons and those who are in need of medical or surgical attention, but who are not provided with board or room nor kept overnight on the premises.
- 16.03.06 CLUB- A non-profit association of persons who are bona fide members paying regular dues, and are organized for some common purpose, but not including a group organized solely or primarily to render a service customarily carried on as a commercial enterprise.
- 16.03.07 COMMISSION- Planning and Zoning Commission of the City of Middletown.
- 16.03.08 COMMUNITY RESIDENTIAL TREATMENT FACILITY- A facility providing care, rehabilitation, and supportive services in an organized program to patients/clients residing on the premises. Included are programs using a family-like setting as a therapeutic method.
- 16.03.09 COUNCIL- The Common Council of the City of Middletown.
- 16.30.10 COURT- An open unoccupied and unobstructed space, other than a yard, on the same lot with a building or group of buildings, which is enclosed on three (3) or more sides.
- 16.03.11 CHURCHES- Churches (including synagogues): institutions of an established religion for worship in public assembly and activities customarily incidental to such worship.

- 16.03.12 CHILD CARE FACILITIES- Care, supervision, and guidance of five (5) or more children unaccompanied by a parent or guardian, for periods of less than twenty-four (24) hours per day.

16.04 "D"

- 16.04.01 DENTAL CLINIC BUILDING- An establishment where patients are accepted for special study and treatment by a group of dentists practicing dentistry together.
- 16.04.02 NONE
- 16.40.03 DORMITORY- A building or part of a building operated by or for an institution and containing a room or rooms forming one or more habitable units which are used or intended to be used by residents of the institution.
- 16.04.04 DRIVE-IN RETAIL OR SERVICE ESTABLISHMENTS- Any form of merchandising, servicing or dispensing of goods in which the customer is serviced while sitting in his automobile, or consumes within a parked vehicle on the same lot the goods or service which have been purchased, or awaits at the site for immediate servicing of a vehicle.
- 16.04.05 NONE
- 16.04.06 DWELLING- A building arranged and designed for permanent location for the purpose of living and sleeping.
- 16.04.07 DWELLING, SINGLE FAMILY- A building designed for or used exclusively for residence purposes by one (1) family or housekeeping unit.
- 16.04.08 DWELLING, TWO FAMILY- A building designed for or used exclusively by two (2) families or housekeeping units.
- 16.04.09 DWELLING, MULTI-FAMILY- A building designed for or used by three (3) or more families or housekeeping units.
- 16.04.10 DWELLING UNIT- One room, or a suite of two (2) or more rooms, designed for or used by one (1) family for living and sleeping purposes and having only one (1) kitchen or kitchenette.
- 16.04.11 DWELLING GROUP- A group of two or more detached dwellings located on a parcel of land in one ownership and having any yard or court in common.
- 16.04.12 DWELLING, ROW (TOWN) HOUSE- A building designed for or occupied by three (3) or more families, living independently of each other, in units arranged in a row having party walls in common, with one family living on either side of a part wall.
- 16.04.13 DATA CENTER - A facility used primarily for the storage, management, processing, and transmission of digital data, which houses computer and/or network equipment, systems, servers, appliances and other associated components related to digital data operations. Such facility may also include air handlers, power generators, water cooling and storage facilities, utility substations, and other associated utility infrastructure to support sustained operations at a data center. (Added effective 3/15/15)

16.05 "E"-

- 16.05.01 ESSENTIAL SERVICES- The erection, construction, alteration or maintenance, by public utilities or municipal or other governmental agencies, of underground or overhead gas, electrical, steam or water transmission or distribution systems, collection, communication, supply or disposal systems, including poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, and other similar equipment and accessories in connection therewith; and reasonably necessary for the furnishing or adequate service by such public utilities or municipal or other governmental agencies or for the public health or safety or general welfare, but not including buildings.
- 16.05.02 ELEEMOSYNARY OR PHILANTHROPIC INSTITUTION- A private, non-profit organization which is not organized or operated for the purpose of carrying on a trade or business, no part of the net earnings of which inures to the benefit of any member of said organization or individual, and which either (a) provides volunteer aid to the sick and wounded or the armed forces in time or war and national relief in the case of great national calamities, or (b) provides any of the following: religious, social, physical, recreational, and benevolent services.

16.06 "F"-

- 16.06.01 FAMILY - An individual, or two (2) or more persons related by blood, adoption, civil union or marriage, or a group of not more than five (5) persons not related by blood, adoption, civil union or marriage, living together as a single housekeeping group in a dwelling unit. The establishment of a family in a dwelling unit with four (4) to five (5) persons but not more than five (5) persons not related by blood, adoption, civil union or marriage, living together as a single housekeeping group in a dwelling unit shall require special exception approval from the Planning and Zoning Commission. Living together as a single housekeeping group in a dwelling unit entails common bath, common kitchen and one lease for all occupants. (Amended effective 6/29/07)
- 16.06.02 FRONTAGE- All the property abutting one side of a street between intersection or intercepting streets, or between a street and a right-of-way, waterway end of a dead-end street; or city street shall determine only the boundary or the frontage on the side of the street which it intercepts.
- 16.06.03 FRONTAGE, WHERE MEASURE- The frontage of a lot shall be measured along the front property line, but may be modified in the case of curvilinear streets in accordance with subsection 13.03.02.

16.07 "G"-

- 16.07.01 GARAGE, PRIVATE- A detached accessory building or a portion of the principal building used only for the storage of self-propelled passenger vehicles or trailers by the family or families resident upon the premises. A carport or carporch shall be construed to be a private garage.

- 16.07.02 GARAGE, PUBLIC- A structure or portion thereof, other than a private garage, used for the storage, sale, hire, care, repair or refinishing, of self-propelled vehicles or trailers.
- 16.07.03 GARDEN APARTMENT BUILDING- A building, formed by two (2) or more attached and/or semi-detached dwellings and having a total of four (4) or more dwelling units, which has no main central hallway and rises to no more than three (3) stories.
- 16.07.03A GOLF DRIVING RANGE- Is an area of not less than five (5) or not more than ten (10) acres where the practice of golf driving techniques may take place. It includes the necessary structures and materials used therein for rental or sale.
(Added effective 10/30/93)
- 16.07.04 GRADE- The average elevation of the finished ground level of a structure.
- 16.07.05 GROUP HOME- A home where no more than eight (8) unrelated disabled or handicapped individuals, as defined by the Federal Fair Housing Act, reside in a single house keeping unit, in accordance with all Fire, Health, Housing and Building Codes.
(modified 3/31/04)

16.08 "H"-

- 16.08.01 HAZARDOUS WASTE- See Solid Waste (Item 16.19.06)
- 16.08.02 HOME OCCUPATION- See Residential Unit Business Pursuit
Amended 6/1/85
- 16.08.03 HOSPITAL- A building or portion thereof used for the accommodation of sick, injured or infirmed persons, including sanatoriums.
- 16.08.04 HOTEL- Any building or group of buildings not less than two (2) stories in which contains a public dining room, a public lobby and twenty (20) or more guest rooms which are designed and intended to be used, let or hired out for a fraternity or sorority house, school or college dormitory, tourist home or motel.
- 16.08.05 HOUSING FOR ELDERLY- Dwelling units designated to be occupied exclusively by persons who meet Federally established criteria as being elderly. Others may occupy units to provide management and maintenance for the units and site or care and companionship for the elderly.

16.09 "I"-

- 16.09.01 INDUSTRY- Storage, repair, manufacture, preparation or treatment of any article, substance or commodity for commercial use.
- 16.09.02 INSTITUTIONAL USE- The use of land or structures for the non-profit charitable, benevolent, spiritual, residential, instructional or custodial activities of government, education, religious, health care or similar organizations. (Added effective 12/31/03)

16.10 "J"-

- 16.10.01 JUNK- Any worn-out, cast off, or discarded article or material which is ready for destruction or has been collected or stored for salvage or conversion to some use; or material which is incapable of immediately performing the function for which it was designed including, but not limited to: abandoned, discarded, or unused objects comprised of equipment such as automobiles, boats, and recreation vehicles which are unregistered and missing parts, not complete in appearance and in an obvious state of disrepair; or parts of automobiles, furniture, appliances, cans, boxes, scrap metal, glass, tires, batteries, containers and garbage which are in public view.
- 16.10.02 JUNK YARD- The storage, keeping or abandonment of junk, scrap or discarded materials or equipment, including old metal, glass, paper, cordage or other waste or discarded or secondhand material; or the dismantling, demolition or abandonment of automobiles, other vehicles, machinery, equipment or part thereof.
- 16.10.03 SALVAGE YARD- A place where waste, discarded or salvaged material are bought, sold, exchanged, baled, packed, disassembled or handled, including auto wrecking yards, house wrecking yards, used lumber yards and places or yards for storage of salvaged house wrecking and structural steel materials and equipment.
(Section amended eff. 1/22/03)

16.11 "K"-

- 16.11.01 KENNEL- Any structure or premises on which five (5) or more dogs over four (4) months of age are kept for commercial purposes.
- 16.11.02 KITCHEN- Any room in a building or dwelling unit which is used for cooking or the preparation of food.

16.12 "L"-

- 16.12.01 LOADING SPACE- An off-street space or berth on the same lot with a building or contiguous to a group of buildings, for the temporary parking of a commercial vehicle while loading or unloading merchandise or materials, and which abuts upon a street, alley or other appropriate means of access.
- 16.12.02 LOT- A parcel of land occupied or to be occupied by a building or structure and its accessory buildings or uses, or by group dwellings and their accessory buildings or uses, together with such open spaces as are required under the provisions of this Code, having at least the minimum areas required by this Code for a lot in the zone in which such lot is situated and having its principal frontage on a public street or public way. (This provision shall not apply to public or quasi-public institutions.) The term "record lot" means the land designated as a separate and distinct parcel of land in the same ownership or any part thereof designated by its owner or owners as a separate lot. There is a minimum frontage requirement of fifty (50) feet for single family dwellings in zones which permit single family dwellings, except for authorized rear lots, and for two family dwellings in a RPZ zone as a Special Exception.

- 16.12.03 LOT, CORNER- A lot abutting upon two (2) or more streets at their intersection or upon two (2) parts of the same street, such streets or parts of the same street forming an interior angle of less than one hundred thirty-five (135) degrees. The point of intersection of the street lines is the "corner".
- 16.12.04 LOT, INTERIOR- A lot other than a corner lot.
- 16.12.05 LOT, DEPTH- The mean horizontal distance between the front and the rear lot lines.
- 16.12.06 LOT LINES- The property lines bounding the lot.
- 16.12.07 LOT LINES, FRONT- The line separating the lot from the street on which it fronts.
- 16.12.08 LOT LINES, REAR- The lot line opposite and most distant from the front lot line.
- 16.12.09 LOT LINE SIDE- Any lot line other than front or rear lot line. A side lot line separating a lot from a street is called a side street lot line. A side lot line separating a lot from another lot or lots is called an interior side lot line.
- 16.12.10 LOT LINE, STREET OR ALLEY- A lot line separating the lot from a street or alley.
- 16.12.11 LOT WIDTH- The mean width of lot measured at right angles to its depth at the public street frontage.
- 16.12.12 LOT AREA- The computed area contained within the lot lines.
- 16.12.13 LOT AREA PER DWELLING UNIT- That portion of the lot area required for each dwelling unit located on a lot.
- 16.12.14 LOT, THROUGH- A lot having frontage on two parallel or approximately parallel streets.
- 16.12.15 LOT, REAR- A parcel of land generally located in back of lots with required street frontage and meeting all the specific requirements set forth elsewhere in this Code.

16.13 "M" -

- 16.13.01 MINERAL- Any chemical compound occurring naturally as a product of inorganic processes.
- 16.13.02 MEDICAL CLINIC BUILDING- An establishment where patients are accepted for special study and treatment by a group of physicians practicing medicine together.
- 16.13.03 MOTEL OR MOTOR HOTEL- A series of attached, semi-attached or detached sleeping or living units, for the accommodation of automobile transient guests not including cooking or kitchen facilities, said units having convenient access to off-street parking spaces, for the exclusive use of the guests or occupants.

16.14 "N"-

- 16.14.01 NON-CONFORMING USE- A building, structure or premises legally existing and/or used at the time of adoption of this Code, or any amendment thereto, and which does not conform with the use regulations of the district in

which located. Any such building, structure, premises conforming in respect to use but not in respect to height, area, yards or courts, or distance requirements from more restricted district or uses, shall not be considered a non-conforming use.

- 16.14.02 NON-PRIMARY COMPONENTS OR GOODS- Not the original or basic element, material or stage in any process related to manufacturing. (Added effective 11/10/88.)

16.15 "O"-

- 16.15.01 OUTLET- A parcel of land which has not been included on a recorded plat as a numbered lot due to insufficient size or frontage, poor topography, lack of accessibility or other comparable reasons. No building or structure shall be construed on an outlet so long as such conditions exist. See also useable open space.

16.16 "P"-

- 16.16.01 PARKING AREA, PRIVATE- An open area for the same uses as a private garage.
- 16.16.02 PARKING LOT, COMMERCIAL- A lot or portion thereof, other than an automobile sales lot, held out or used for the storage or parking of six (6) or more motor vehicles for a consideration, where service or repair facilities are not permitted. Such parking lot shall not be considered an accessory use; nor shall it be used for the storage of dismantled or wrecked motor vehicles, parts thereof, or junk.
- 16.16.03 PARKING AREA: PUBLIC- A open area, other than a street or other public way used for the parking of automobiles and available to the public whether for a fee, free, or an accommodation for clients or customers.
- 16.16.04 PARKING SPACE- A permanently established area either within a structure or in the open, exclusive of driveways, designated for parking of motor vehicles.
- 16.16.05 PERCENTAGE OF LOT COVERAGE- The percentage of "lot area" which may be covered by building, including covered porches and accessory buildings.
- 16.16.06 PERFORMANCE, STANDARD- A criterion established in the interest of protecting the public health and safety for the control of noise, odor, smoke, noxious gases and other objectionable or dangerous elements generated by the inherent in or incidental to land uses.
- 16.16.07 PROFESSION - The term "profession" shall mean but not limited to the following occupations: accountancy, architecture, art, chiropody, chiropractic, city planning, dentistry, electrology, engineering, healing arts, industrial design, insurance brokerage, law, medicine, music, optometry, osteopathy, pharmacy, real estate brokerage, science, teaching and theology.

- 16.16.08 PROFESSIONAL OFFICE- Rooms or buildings used for office purposed by member of any recognized profession, but not including medical or dental clinics.

16.17 "Q"-

16.18 "R"-

- 16.18.01 RESIDENTIAL PRINCIPAL BUILDING- Any building containing one or more dwelling units, excluding residential accessory building for domestic servants and caretakers employed on the premises and for occasional gratuitous guests.
- 16.18.02 ROOMING HOUSE- A structure licensed by the Middletown Health Department as a rooming house per Housing Code Regulations.

16.19 "S"-

- 16.19.01 SUBDIVISION- The division of a tract or parcel of land into three or more parts or lots made subsequent to the adoption of the Subdivision Regulations by the Commission, for the purpose, whether immediate or future, of sale or building development.

RESUBDIVISION A change in a map of an approved or recorded subdivision or resubdivision if such change (a) affects any street layout shown on such map, (b) affects any area reserved therein for public use or (c) diminishes the size of any of the lots shown thereon have been conveyed after the approval or recording of such map.

LOT SPLIT Any division of land which is not a subdivision or resubdivision. (Effective 9/24/86.)

- 16.19.02 SHOPPING CENTER- A group of commercial establishments planned, developed and managed as a unit with off-street parking provided on the property and related in location, size and type of shops to the trade area that the unit serves.
- 16.19.03 SOLID WASTE- Unwanted or discarded materials, including solid, liquid, semi-solid or contained gaseous material.
- 16.19.04 SOLID WASTE FACILITY- Any solid waste disposal area, transfer station or volume reduction plant operated by anyone, including a municipal or regional authority
(Amended effective 10/15/94)
- 16.19.04 SOLID WASTE DISPOSAL AREA- A location utilized for ultimate disposal of wastes. No solid waste disposal area shall exceed a height of thirty (30) feet above mean sea level.
(Amended effective 10/15/94)

- 16.19.06 HAZARDOUS WASTE- (a) Any solid waste which when improperly treated, stored, transported, processed, disposed of, or otherwise managed poses a present or potential hazard to human health or the environment; (b) Any solid waste which is ignitable, corrosive, reactive, explosive, or toxic and therefore may pose a present or potential hazard to human health or the environment; (c) Any substance identified and listed as hazardous pursuant to or in accordance with federal or state law or regulations.
- 16.19.07 SPECIAL EXCEPTION- A special exception is a use that would not be appropriate generally or without restriction throughout the zoning district but which is controlled as to number, area, location or relation to the neighborhood, would promote the public health, safety, welfare, morals order, comfort, convenience, appearance, prosperity, or general welfare. Such use may be permitted in such zoning district as special exception, if specific provision for such special exceptions is made in this Zoning Code.
- 16.19.08 STORY- That portion of a building, included between the surface of any floor and the surface of the floor next above it, or, if there be no floor above it, then the space between the floor and the ceiling next above it.
- 16.19.09 STORY, HALF- A partial story under a gable, hip or gambrel roof, the wall plates of which on at least two (2) opposite exterior walls or not more than four (4) feet above the floor of such story; provided however, that any partial story used for residence purposed, other than for a janitor or caretaker and his family, shall be deemed a full story.
- 16.19.10 STORY, FIRST- The lowest story or the ground story of any building, the floor of which is not more than twelve (12) inches below average contact ground level at the exterior walls of the building except that any basement or cellar used for residency purposes, other than for a janitor or caretaker or his family, shall be deemed the first story.
- 16.19.11 STORY, MEZZANINE- A story, which covers one-third (1/3) or less of the area of the story directly underneath it. A mezzanine story shall be deemed a full story in case it covers more than one-third (1/3) of the area of the story directly underneath said mezzanine story.
- 16.19.12 STREET- A public right-of-way which provides a public means of access to abutting property. The term "street" shall include avenue, drive, circle, road, parkway, boulevard, highway, thoroughfare, or any other similar term.
- 16.19.13 STRUCTURE- Anything constructed, the use of which requires permanent location on the ground, or attachment to something having a permanent location on the ground.
- 16.19.14 STRUCTURAL ALTERATION- Any change in the structural members of a building, such as walls, columns, beams or girders.
- 16.19.15 SWIMMING POOL- As regulated by this Code, shall be any pool, pond, lake or open tank, not located within a completely enclosed building, but specifically excluding municipally owned and operate pools, and containing or normally capable of containing water to a depth at any point greater than one and one half (1 ½) feet.

16.20 "T"-

- 16.20.01 TOURIST HOME- A building or part thereof, other than a hotel, boarding house, lodging house or motel, where lodging is provided by a resident family in its home for compensation, mainly for transients.
- 16.20.02 TRAILER OR MOBILE HOME (INCLUDING AUTOMOBILE TRAILER, TRAILER COACH, HOUSE TRAILER OR MOBILE HOME)- Any vehicle or structure constructed in such a manner as to permit occupancy thereof as sleeping quarters or the conduct of any business, trade or occupation or use as a selling or advertising device, or use for storage or conveyance of goods, equipment or machinery, and so designed that it is or may be mounted on wheels and used as a conveyance on highways and streets, propelled or drawn by its own or other motor power.
- 16.20.03 TRANSITIONAL DEVELOPMENT Development that fosters orderly development between two or more different zones, without adversely affecting property values of adjacent property values and is in harmony with surrounding neighborhoods. This definition is applicable to Section 39 TD Zone and Section 61.02.38 Transition Development Housing. (Added effective 2/17/15)

16.21 "U"

- 16.21.01 USABLE OPEN SPACE- Space on a lot that is: (a) unoccupied by principal or accessory buildings above the finished lot grade, (b) unobstructed to the sky, (c) not devote to service driveways or off-street parking or loading, (d) devoted to landscaping, drying yards, recreation space and other like uses, and (e) available in the same proportion to all occupants of the building or building on the lot. In addition, up to half the required usable open sauce of any dwelling unit may be made up of space on exterior balconies and roofs that is designed for the purposes stated in (d).
- 16.21.02 USE- The Principal purpose for which a lot or the main building thereon is designed, arranged or intended and for which it is used or may be used, occupied or maintained.
- 16.21.03A USE, ACCESSORY- A use of a building, lot or portion thereof, which is customarily incidental and subordinate to the principal use of the main building or lot.
- 16.21.03B USE, PERMITTED- A use which is permitted outright in the zone in accordance with Sections 60 or 61.
- 16.21.04 URBAN CORE LIVING UNIT- A dwelling unit located in the B-1 or T.D. zone (Amended 7/15/85.)

16.22 "V"-

- 16.22.01 VARIANCE- A variance is a relaxation of the terms of the Zoning Code where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of this Code would result in unnecessary and

undue hardship. As used in the Code, a variance is authorized only for height, area, and size of structure or size of yard and open spaces; establishment or expansion of a use otherwise prohibited shall not be allowed by variance, nor shall a variance be granted because of the presence of non-conformities in the zoning district or uses in an adjoining zoning district.

16.23 "W"-

- 16.23.01 WALKING DISTANCE- The distance between an outside entrance to a building or part thereof or to an outdoor use, and a parking space assigned to such building, part thereof, or outdoor use, along the shortest, more convenient pedestrian walkway open to the user or users of such parking space.

16.24 "X"-

16.25 "Y"-

- 16.25.01 YARD- An open space other than a court, on a lot, unoccupied and unobstructed from the ground upward except as otherwise provided in this Code.
- 16.25.02 YARD, FRONT- A yard extending the full width of the lot, the depth of which is the minimum horizontal distance between the front lot line and a line parallel thereto on the lot.
- 16.25.03 YARD, FRONT-HOW MEASURED- Such depth shall be measured from the right-of-way line of the existing street on which the lot fronts (the front lot line).
- 16.25.04 YARD, REAR- A yard extending across the full width of the lot, the depth of which is the minimum distance between the rear lot line and a line parallel thereto on the lot.
- 16.25.05 YARD, SIDE- A yard extending from the front yard to the rear yard, the width of which is the minimum horizontal distance between the side lot line and a line parallel thereto on the lot.
- 16.25.06 DELETED

16.26 "Z"-

- 16.26.01 ZONE- An area within which certain uses of land and buildings are permitted and certain others are prohibited; yards and other open spaces are required; lot area, building height limits, and other requirements are established; all of the foregoing being identical for the zone in which they apply.
- 16.26.02 NONE
- 16.26.03 NONE
- 16.26.04 ZONING COMMISSION- Planning and Zoning Commission of the City of Middletown.
- 16.26.05 ZONING MAP- The Zoning Map or Maps of the City of Middletown.