

ARTICLE ____ – MIXED-USE DEVELOPMENT PROJECT

A. Purpose.

Mixed-Use development is provided as an option for development in the General Business (GB) and Limited Business (LB) zoning districts in order to:

1. Preserve open land and community character while permitting appropriate development of mixed-use projects in the General Business and Limited Business districts.
2. Encourage traditional architecture and historical village settlement patterns which are well integrated into the existing community, while avoiding the creation of large-scale shopping centers, business or industrial parks having little or no relation to each other or to the surrounding community.
3. Promote pedestrian friendly environments which provide both a safe walking atmosphere and a logical connection of destinations within and adjacent to the development.
4. Provide for compatible mixed uses and development densities, including limited residential, commercial, office, institutional and agricultural, as well as recreation and open space.
5. Provide areas for economic development in the community and allow for creative development of businesses that serve the residents of the district and surrounding areas and reduce the demand upon the automobile for access to business.
6. Preserve, create or enhance the scenic roadside view from major arterial roads of the Town, and where applicable preserve and enhance scenic water views.
7. Encourage development of residential uses, including those that meet the needs of the community as expressed in the Middletown Affordable Housing Action Plan, but which have limited adverse impact on the town's ability to provide necessary facilities and services.

B. Applicability.

The development of a mixed-use project under the provisions of this Article is optional. The provisions of this article shall apply to all proposed mixed-use developments in the General Business (GB) and Limited Business (LB) Zoning Districts, except for those developments proposed in accordance with §719 of this chapter that do not include more than one mixed-use building, and which do not include more than three residential dwelling units.

C. Procedure.

1. No building permit shall be granted for construction of any mixed-use structure or project that is subject to the provisions of this section until Final Approval has been granted for a Land Development Project by the Planning Board and recorded in the land evidence records, except as follows. Small-scale projects, independently developed in accordance with an approved mixed-use project master plan shall be encouraged. Therefore, where Master Plan approval has been granted for a phased project, Preliminary Approval and Final Plan Approval may be granted at the discretion of the Planning Board for an individual phase or phases, and construction may commence on that phase or phases independent of other phases.

2. Mixed-use development shall be reviewed and approved by the Planning Board in accordance with the procedures set forth in the Middletown Rules and Regulations Regarding the Subdivision and Development of Land (Regulations) for a Major Land Development project, including potential referral to the Technical Review Committee, and is also subject to review under the Development Plan Review process as provided for in this ordinance and in accordance with procedures and standards set forth in the Regulations and as further provided herein.
3. Any development approved under this Article that then seeks approval for expansion of, or a change in the distribution of percentage of types of use(s) of existing or proposed buildings shall be reviewed as a new development.
4. Pursuant to R.I.G.L. 45-22-7(c), for development applications being reviewed under the provisions of this section, the Planning Board shall have the authority to grant special use permits and variances as may be requested in relation to the requirements of this chapter subject to the required procedures and findings contained in §902 Special Use Permit, and §903 Variances.

D. Definitions.

1. **“MIXED-USE DEVELOPMENT PROJECT”** means the use of any lot or lots of record in the GB or LB zones for the coordinated development of more than one building, and including not less than three residential dwelling units, to create a mix of residential and commercial uses in accordance with this Article.

E. Permitted Uses

1. Generally.

More than one permitted use shall be allowed on the same lot and/or within the same building. Permitted uses are established as specified in §602 of this chapter for the subject zoning district, except as otherwise specified below. The provisions of this section shall take precedence over those of other articles that purport to regulate certain specific uses that are otherwise permitted. No use shall be permitted which is found to generate unreasonably high traffic volumes, be environmentally unsound or visually objectionable, or is not consistent with the desired village character of a mixed-use development project.

2. Prohibited Uses.

Within a mixed-use development project authorized under the provisions of this Article, the following uses as defined in Section 602 of this Ordinance are prohibited:

- (a) All uses under the Extractive & Industrial Non-manufacturing heading
- (b) All uses under the Manufacturing heading
- (c) All uses under the Transportation, Communication & Utilities heading
- (d) All uses under the Commercial Outdoor Recreation heading, except conservation lands, bird sanctuaries, wildlife preserves, and public and private parks
- (e) All uses under the Governmental, Educational, and Institutional on Privately Owned Land heading
- (f) Livestock Farms
- (g) Offices of veterinarians and animal hospitals

DRAFT 11-3-2017

- (h) Offices of veterinarians and animal hospitals, including indoor boarding of dogs, cats, and other fur-bearing animals
- (i) Licensed kennels for the raising, boarding and care of dogs, cats and other fur-bearing animals
- (j) Single-family & two-family dwellings
- (k) Institutional dormitory
- (l) Wholesale distribution
- (m) Lumber, building materials, heavy equipment, plumbing, electrical supply and service
- (n) Auto dealers, trailers, tire, battery, access, dealers
- (o) Gasoline service station
- (p) Gasoline station with convenience store
- (q) Boat sales, including trailers
- (r) Large-scale shopping center
- (s) Supermarkets
- (t) Convenience stores with fueling pumps,
- (u) Lunchroom or restaurant with drive-thru or drive-in service (with or without alcoholic beverages),
- (v) Retail outlet for wholesale, storage or manufacturing use
- (w) Funeral Home
- (x) Crematorium
- (y) Automotive repair, service and garages, vehicle body shop and welding
- (z) Vehicle washing establishment
- (aa) Vehicle or equipment rentals
- (bb) Catering and food packaging
- (cc) Bank or financial institution with drive-thru service
- (dd) Bowling alleys and billiard and pool parlors
- (ee) Gymnasium, court games
- (ff) Skating rinks
- (gg) Indoor roller blade and skateboarding facility

3. Performance standards – In addition to the requirements of Article 27 of this chapter, the following performance standards shall apply to mixed-use development:

- (a) Commercial uses within a mixed-use development located in the limited business (LB) zoning district shall limit hours of operation to 6am-8pm
- (b) Commercial uses within a mixed-use development located in the general business (GB) zoning district shall limit hours of operation to 5am -11pm
- (c) For purposes of applying the town's noise regulations, section 130.75 et seq., mixed-use developments shall be treated as if being in a residential zoning district.
- (d) Dumpsters within a mixed-use development shall not be emptied between the hours of 10pm and 7am.

4. Mix of Uses.

- (a) Retail commercial uses shall be limited to no more than thirty-five percent (35%) of Gross Leasable Floor Area ("GLFA").
- (b) A minimum of twenty-five (25%) and maximum of sixty percent (60%) of the GFLA of the proposed development shall be dedicated to residential uses, not including hotel, motel or other transient use.
- (c) Consistent with section 521.3 of the Regulations, at least twenty-five percent (25%) of the master plan's Developable Land Area shall be dedicated to landscaped areas. These

areas may consist of plazas, lawns, gardens, or vegetated buffer areas, and may include picnic areas, playgrounds, and/or playing fields.

5. Residential.

Townhouses, apartments, and mixed residential/commercial uses shall be reviewed in accordance with the procedures specified in this Article, and the development standards of Article 15 – Multifamily dwellings. A special use permit shall not be required for a use classified as a multifamily dwelling structure or multifamily dwelling project developed as a component of a mixed-use development project. Where there is a conflict between the requirements of this Article and those of Article 15 – Multifamily Dwellings, the provisions of this Article shall control.

6. Commercial.

Commercial uses consistent with the desired character of the district, such as small-scale retail and office, shall be permitted. Where applicable, the development standards of Article 14 – Motels and Hotels, or Article 18 – Shopping Centers, shall be met. Where there is a conflict between the requirements of this Article and those of Article 14 – Motels and Hotels, or Article 18 – Shopping Centers, the provisions of this Article section shall control.

7. Open Space.

In addition to the landscaped areas required by this chapter and the Regulations, the developer has the option of dedicating a portion of the property for open space uses. Such dedication might entitle the developer to certain incentives subject to the provisions of paragraph G below.

(a) Ownership. Open space designated for use as a public park or for agricultural use, and dedicated in exchange for certain incentives provide under this chapter shall be a separate and distinct lot(s) to which ownership shall be vested in a legally viable entity, which shall be responsible for the use and maintenance of the open space. Such open space shall be subject to a conservation easement. Other open space and landscaped areas to be integrated into the mixed-use development project, such as common areas, plazas, gardens, and small parks and playgrounds intended for use by the residents, tenants, and customers of the development need not be a separate parcel and are not subject to the conservation easement requirement. Ownership of separate open space parcels shall be conveyed to one of the following:

- i. The town (if it is accepted for park, open space, agricultural, or municipal use),
- ii. A nonprofit organization, the principal purpose of which is the conservation of open space,
- iii. A corporation, trust, or association owned or to be owned by the owners of lots or units within the development in common, based on percentage as outlined in covenants, or
- iv. Land in agricultural use at the date of adoption of this ordinance may remain in private agricultural use, provided that a conservation easement to preserve such agricultural use shall be conveyed to one of the entities set forth in sub-sections (i) and (ii) above.

(b) Use. Open space may be used for one or more of the following purposes:

- i. Agricultural use, including farming or growing crops and nursery stock.
- ii. Conservation and passive recreation areas.

- iii. Pedestrian friendly parks, plazas, town green, village commons, etc, designed to include such features as benches, tables, playground equipment, sidewalks, lighting and landscaping.
- iv. Stormwater treatment best management practices (BMP) provided, however, that they occupy no more than ten percent (10%) of the open space.
 - v. Active outdoor recreation to fulfill the community’s needs for such facilities as identified by the Town, and meet the need created by the residential development component of the project.
 - vi. Buffer areas between development and adjacent property.
 - vii. Underground Utilities.

F. Density and Dimensional Standards.

Density in the mixed-use development project shall be regulated by net density as well as by the dimensional standards set forth herein. Where there is conflict between this Article and the provisions of Section 603 - Schedule of District Dimensional Regulations, the provisions of this Article shall control. Density shall be based on the total developable land area within the master plan area. Maximum building lot coverage shall be 35%.

Residential Density Limits.

Residential density is determined by the number of total dwelling units, and the bedroom configuration of such units, within the overall Land Development Project area, including land dedicated for open space. Rooming units shall include Hotel, Motel and other Transient Residential use units, as well as Residential Care and Assisted Living Facility units. For the purposes of this section, bedroom shall be defined consistent with §1504.B of this chapter. Residential density shall not exceed the following:

| | Use | Maximum Density |
|----|---|--|
| 1. | Dwelling units containing one bedroom or less (studios) | one unit per 5,000 square feet of land area. |
| 2. | Dwelling units containing two bedrooms or more | one unit per 7,000 square feet of land area. |
| 3. | Rooming Units (hotel, motel, and other transient use) | one unit per 1,000 square feet of land area. |

G. Incentives Authorized.

The allowed mix of uses may be modified as follows if certain public amenities or affordable housing are provided:

- 1. The maximum allowed GLFA dedicated to residential use, not including hotel or motel uses, may be increased up to seventy-five percent (75%) if a minimum of 10% of the proposed residential units are affordable, meeting the definition of “low or moderate

income housing” as defined in this ordinance and in the Low and Moderate Income Housing Act (RIGL 45-53).

2. The maximum allowed GLFA dedicated to retail commercial use may be increased up to fifty percent (50%) if a minimum twenty-five percent of developable land area of the parcel(s) is conserved open space for use as a public park, agriculture, or natural open space. Such open space land shall consist of parcels at least one acre in size and shall be subject to a conservation easement.
3. Where the proposed project or portion of a project obtains certification in a recognized green building program the project may take advantage of a property tax incentive as follows in addition to any tax incentives that may apply to the project under the Town’s economic development incentive program, Chapter 39. Such tax incentives will take effect upon the issuance of a certificate of occupancy and demonstrable proof of qualifying certification subject to the approval of the Tax Assessor. The abatement shall apply only to the building tax assessment for those buildings earning certification.

| Green Building Tax Abatement Incentive | | | | | | |
|--|--------|--------|--------|--------|--------|---------|
| | Year 1 | Year 2 | Year 3 | Year 4 | Year 5 | Year 6+ |
| Tier 1 | 20% | 16% | 12% | 8% | 4% | 0% |
| Tier 2 | 15% | 12% | 9% | 6% | 3% | 0% |
| Tier 3 | 10% | 8% | 6% | 4% | 2% | 0% |
| Tier 4 | 5% | 4% | 3% | 2% | 1% | 0% |

4. Green building certification programs are assigned in the following tiers:
 Tier 1: LEED Platinum, Green Globes Four (4), BREEAM Outstanding, and Living Building Certification or equivalent certification.
 Tier 2: LEED Gold, Green Globes Three (3), BREEAM Excellent, Net Zero Certification, and Living Building Petals Certification or equivalent certification.
 Tier 3: LEED Silver, Green Globes Two (2), BREEAM Very Good, and Passive House Institute United States Certification or equivalent certification.
 Tier 4: LEED Certified, Green Globes One (1), BREEAM Pass, and BREEAM Good or equivalent certification.

H. Design Standards.

In addition to the Design Standards contained in Article 5 of the Regulations, the following standards shall apply to new mixed-use development projects:

1. Site Design.

In order to create the desired village-style development pattern in mixed-use development projects, village-like groupings of small-scale buildings, rather than a large individual structure or box-like buildings set back on a large expanse of paved parking is required. New buildings shall not be large, bulky masses, but shall be scaled down into groupings of smaller attached or detached structures. To facilitate this style of development, more than one principal structure per lot shall be permitted.

2. Parking.

Generally, parking shall be regulated by the provisions of Article 13 - Off Street Parking and Loading and Article 5 of the Subdivision and Land Development Regulations. To facilitate the desired village-style development, shared parking and on-street parking may be permitted.

- (a) Shared parking arrangements may be permitted by the Planning Board for different uses which have different hours, days, and/or seasons of peak parking demand.
 - 1. Non-competing Uses. Applicants may propose a reduction in parking requirements based on an analysis of peak demands for noncompeting uses. Up to 75% of the requirements for the predominant use may be waived by the Planning Board if the applicant can demonstrate that the peak demands for two uses are offset.
 - 2. The Board may require written easements or other assurances as may be required to enforce shared parking arrangements.
 - 3. In the event of a proposed change in use of one or more of the uses subject to the shared parking arrangement, the property owner must first submit documentation demonstrating that the subject uses would continue to be non-competing, or provisions must be made to ensure that adequate parking is provided for all uses, subject to the approval of the Planning Board prior to any change in use.
- (b) On-street parking may be permitted by the Planning Board for any internal roads within the development. In permitting on-street parking, the Board may require roadway construction standards, including pavement width, which may be reasonably necessary to accommodate on-street parking. If permitted, the number of on-street spaces may be added to the number of off-street spaces for the purpose of calculating minimum parking requirements. The Board may impose conditions required in order to guarantee that on-street parking spaces remain available for parking in the future.

3. **Circulation.**

The design of proposed access, street layouts, and impacts on adjacent public roads, traffic control, existing traffic conditions, and projected traffic generation shall be reviewed by the Planning Board. Common driveways and shared access that serves more than one property are encouraged. Roads within a Mixed Use Development Project shall be constructed to the standards for roads established by the Town of Middletown Rules and Regulations Regarding the Subdivision and Development of Land. An application may be denied by the Board if the proposal is demonstrated to create a hazardous condition when the traffic to be generated together with existing traffic conditions will adversely impact the safety of the general public.

- (a) Access. To the extent possible, all new uses as part of a master plan shall be provided with vehicular access to an internal network of streets which shall intersect with arterial roads at locations approved by the Planning Board. Subject to the approval of the Board, new uses may also have vehicular access from an existing local road. The number of curb cuts to access the master plan area shall be minimized.
- (b) Pedestrian Circulation. As part of its review the Planning Board shall ensure that adequate, safe and attractive pedestrian and/or bicycle circulation is provided. A sidewalk network shall be provided throughout the development that interconnects all dwelling units, non-residential uses, and common open spaces, and with major activity centers within and adjacent to the development. The Board may require construction of

on-site or off-site sidewalks, footpaths or bicycle paths. Access to off-site areas is required, particularly to permit pedestrian and/or bicycle access to the existing retail areas on arterial roads.

(c) Street Layout.

1. To the extent practical, subject to site conditions, street layout shall be designed in a traditional street grid pattern.
2. Intersections shall be at right angles whenever possible, but in no case less than 75 degrees.
3. Street Orientation. The orientation of streets should enhance the visual impact of common open spaces and prominent buildings, create lots that facilitate passive solar design, and minimize street gradients. Streets shall terminate at other streets or at public land where possible, except local streets may terminate in stub streets when such streets act as connections to future phases of the development.
4. Roundabouts are allowed as applicable.

4. Signs.

Signage shall be governed by Article 12 of this ordinance, with the following additional requirements:

- (a) Signage Plan. The Planning Board shall require the submission of a comprehensive signage plan for all uses, individual buildings or complex of buildings and uses as part of its review. The signage plan shall include conceptual drawings and supporting information describing the proposed signage for all major buildings and uses, including entrance signs, directional signs, etc. The Board may approve, approve with conditions or deny such plan as required to achieve consistency with the purposes of this Ordinance and the Commercial Design Regulations.
- (b) Setbacks. Signs for any individual buildings and/or uses shall not be located within any required setback, except for permanent signs at major entrances to the development. The Planning Board shall limit the number of such major entrance signs to roads or driveways which provide access to major complexes of uses and buildings, and not to individual uses or buildings. No such major entrance sign shall be permitted for individual uses or buildings.

5. Additional Requirements

- (a) No new principal building shall be located within 100 feet of an existing residential building on abutting property or 50 feet of a residentially zoned lot.
- (b) The area within the required setbacks shall be devoted to a landscaped or natural buffer zone.
- (c) The maximum height of any building shall be thirty-five (35) feet.
- (d) The minimum building front yard setback from public or private roads within and part of the internal roadway system for the development plan area shall be 5 ft., except that where a minimum 5ft. planting strip between the sidewalk and roadway are provided, the building setback may be 0ft. The maximum building setback shall be 50ft. In the case of

DRAFT 11-3-2017

a private roadway or driveway internal to the development, front setback shall be measured from edge of sidewalk.

- (e) The minimum side or rear yard setback within the development plan area shall be 10ft, provided however that irrespective of lot lines, the minimum separation of buildings shall be 20ft.
- (f) The maximum footprint per building shall be as set forth in section 605 of this Ordinance.

DRAFT

Amendments to existing section of the Middletown Zoning Ordinance

(New text identified as **bold, underline.**)

Section 501 – Purposes of the Various Zoning Districts

In addition to furthering the purposes of this chapter as stated in Section 100, each of the foregoing listed districts is created with specific intent as follows:

A. Low Density Residential (R-60). This district is established to provide low density residential areas, areas for agricultural use and where future community expansion is likely to occur.

B. Low Density Residential (R-40). This district is established to provide residential areas which are suited for large lot single family development, agricultural and certain conditional uses.

C. Medium Density Residential (R-30). This district is established to provide residential areas which are located in rural areas of Town or where environmental conditions preclude smaller single-family lot sizes, and where agricultural and certain conditional uses may be established.

D. Medium Density Residential (R-20). This district is established to provide residential areas suitable for development but where intensive non-residential uses are restricted.

E. High Density Residential (R-10). This district is established to provide a wide range of urban housing types within the central built-up areas of Town; where water and sewer service is provided.

F. Residential Multifamily (RM). This district is established to provide areas for multifamily housing, including apartments and condominiums, meeting certain design and site planning requirements; and where complementary non-residential uses may be allowed.

G. Mobile Home/Transient Trailer (MT). This district is established to provide areas for mobile home parks and transient trailer parks.

H. General Business (GB). This district is established to provide areas for most retail, wholesale, and service businesses, serving both local as well as regional markets. **Within the GB District, mixed-use development projects are also allowed as an option to provide for village-style development of a mix of uses, including multi-family residential, small-scale retail, office, and public uses, while preserving open space, and to limit commercial sprawl.**

I. Limited Business (LB). This district is established to provide areas for day-to-day localized shopping needs, convenience shopping services to neighborhood areas, and to provide limited specialized business uses in certain parts of Town. **Within the LB District, mixed-use development projects are also allowed as an option to provide for village-style development of a mix of uses, including multi-family residential, small-scale retail, office, and public uses, while preserving open space, and to limit commercial sprawl.**

DRAFT 11-3-2017

J. Office Business (OB). This district is established to provide areas for planned office parks, light industrial and research centers and professional office buildings.

K. Light Industry (LI). This district is established to provide for light industry and non-manufacturing businesses, heavy commercial uses, automotive and mechanical services and outdoor storage uses.

L. Office Park (OP). This district is established to provide a park-like setting for office uses, certain industrial uses, and miscellaneous compatible uses.

M. Open Space (OS). This district is established to reserve certain areas for conservation of natural resources and open recreational and institutional uses.

N. Public (P). This district is established to provide for major public lands owned by federal, state or municipal governments. The purpose of this district is to relate the zoning map to major elements of actual land use and to the Comprehensive Community Plan, and to provide zoning controls if the public use is abandoned or the land is sold for private use.

O. "Traffic Sensitive" Districts. These districts are designated by the letter "A" and identify districts where special regulations regarding lot width/frontage shall apply. They are intended to provide for adequate and safe access onto major thoroughfares within the Town.

SECTION 603

Section 603 Footnote:

Dimensional Exemption for approved Shopping Centers and Hotels in Approved Mixed-Use Development Projects

Section 719 – Mixed Uses Within a Building.

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

B. Mixed Residential and Commercial Uses as defined in Article 4 shall be permitted only where allowed in Section 602 by the granting of a special-use permit by the Zoning Board of Review; **provided however, that a special-use permit shall not be required for mixed uses in a mixed-use development project approved under the provisions of Article _____, Mixed-Use Development Project.**

Article 15 – Multifamily Dwellings

Section 1500 - Purpose

The purpose of these regulations is to encourage the appropriate use of land for the development of multifamily housing, taking into consideration the natural amenities of the site. No multifamily dwelling structure or multifamily dwelling project shall be erected or otherwise created except in accordance with the standard set forth in this article, **or where applicable, in accordance with the requirements of Article _____, Mixed-Use Development Project.**