



AGENDA FOR THE TOWN MEETING

October 26, 2015

7:00 p.m.

PLEDGE TO THE FLAG

CALL TO ORDER

CONSENT AGENDA

- [2016 Joint Town Board & Planning Commission Meetings](#)

PERSONAL REQUESTS FOR AGENDA:

UNFINISHED BUSINESS:

- [Fluoride Notice to Residents](#)
- [Cost for Purchase of Additional Security Cameras](#)

NEW BUSINESS:

- [Request for Handicap Parking on West Green Street](#)
- [Introduction of Proposed Changes to the Subdivision Regulations](#)
- [Introduction of Proposed Changes to Section 17.36 Signs & Section 17.44 Board of Appeals of the Zoning Code](#)

PUBLIC COMMENTS:

ANNOUNCEMENTS:

Halloween Parade – Thursday, October 29th at 7:30PM (Parade Route on Green Street)

ADJOURNMENT

Red Indicates – Action Item
Green Indicates – Ordinance Introduction
Blue Indicates – Link to Additional Information



MEMORANDUM

DATE: October 19, 2015

TO: Burgess and Commissioners, Planning Commission

CC: Andrew J. Bowen, Town Administrator

FROM: Cindy Unangst, Staff Planner

SUBJECT: 2016 Joint Meeting Workshop Dates

Attached are proposed dates for the Joint Meetings between the Town Board and Planning Commission for 2016:

Monday, March 7, 2016	6:30PM
Monday, June 6, 2016	6:30PM
Monday, September 5, 2016	6:30PM
Monday, December 5, 2016	6:30PM

Other possibility is November 7.

If you should have any questions, please do not hesitate to contact Drew at 301.371.6171 Ext. 12 or by e-mail at abowen@ci.middlestown.md.us

October 26, 2015

RE: FLUORIDE LEVELS IN DRINKING WATER

Dear Property Owner:

The Town of Middletown provides you with drinking water and over the past 20 years, we have made a number of improvements to the water distribution system. These include the development of new water sources and water plants to provide you with water. One of the chemicals we add to our water system is fluoride.

Fluoride is voluntarily added to some drinking water systems as a public health measure for reducing the incidence of cavities among the treated population. The decision to fluoridate a water supply is made by the local municipality, and is not mandated by EPA or any other Federal entity. The Centers for Disease Control and Prevention (CDC) provides recommendations about the optimal levels of fluoride in drinking water in order to prevent tooth decay.

We have recently completed our periodic testing of the water system and determined that the amount of fluoride your home is receiving is below the EPA recommendation for the benefits of fluoride. The reason is that the Town has three water treatment plants. Only the largest water plant adds fluoride into the Town system. If you would like to see the testing results for fluoride throughout the Town, please visit the Town website at www.middletown.md.us.

Based on these results, the Town will be adding fluoride to the two newer water treatment facilities. The construction of these systems will be completed by January 2017. The purpose of this letter is to bring this to your attention so you can decide what if any action you may or may not want to take to provide additional fluoride to your home. If you have concerns please do not hesitate to contact the Town Office or your dentist for more information. Or you can go to the following link on the EPA website for a fact sheet about fluoride at http://water.epa.gov/lawsregs/rulesregs/regulatingcontaminants/sixyearreview/-upload/2011_Fluoride_QuestionsAnswers.pdf.

Sincerely,
Burgess and Commissioners
Middletown, Maryland

Andrew J. Bowen
Town Administrator

October 12, 2015

Andrew Bowen
Middletown Town Administrator
31 W. Main St.
Middletown, MD 21769
Ph: 310-371-6171

Dear Mr. Bowen,

The FlashCAM digital deterrent system is a specialized product used to deter vandalism such as copper wire theft, graffiti, illegal trash dumping and other anti-social behaviors. The FlashCAM systems use proprietary technology that is developed, designed, manufactured and distributed exclusively by Q-Star Technology and contain specialized parts supplied only by Q-Star Technology.

The system's battery pack is powered by solar and the system is portable, ruggedized, features wireless download and uses proprietary voice/flash technology. Q-Star Technology is the only authorized provider of repairs for the FlashCAMs. There is no other deterrent product such as the FlashCAM and Q-Star Technology is the only source for manufacturing and distribution of the FlashCAM.

Sincerely,



Steve Hillsman
President
Q-Star Technology, LLC



2730 Monterey Street, Suite #106
 Torrance, CA 90503
 T: 310.294.8194 F: 310.781.1025



Portable Crime Deterrence

SOLUTION OVERVIEW AND PRICE QUOTE

IV. FLASHCAM QUOTE:

ITEM #	Description	Terms	Rep	FOB
		Net 30	RR	Torrance, CA
		Qty	Unit Price	Total
FC-880 SX	FlashCAM-880 SX System	1	\$ 6,995.00	\$ 6,995.00
Shipping - 880	Shipping & Handling (Non-Taxable) for FlashCAM	1	\$ 85.00	\$ 85.00
SUBTOTAL:				\$ 6,995.00
Shipping & Handling:				\$ 85.00
Sales Tax 0.00%				\$ -
TOTAL:				\$ 7,080.00

Glenn F. Rudy
400 West Green Street
Middletown, Md. 21769

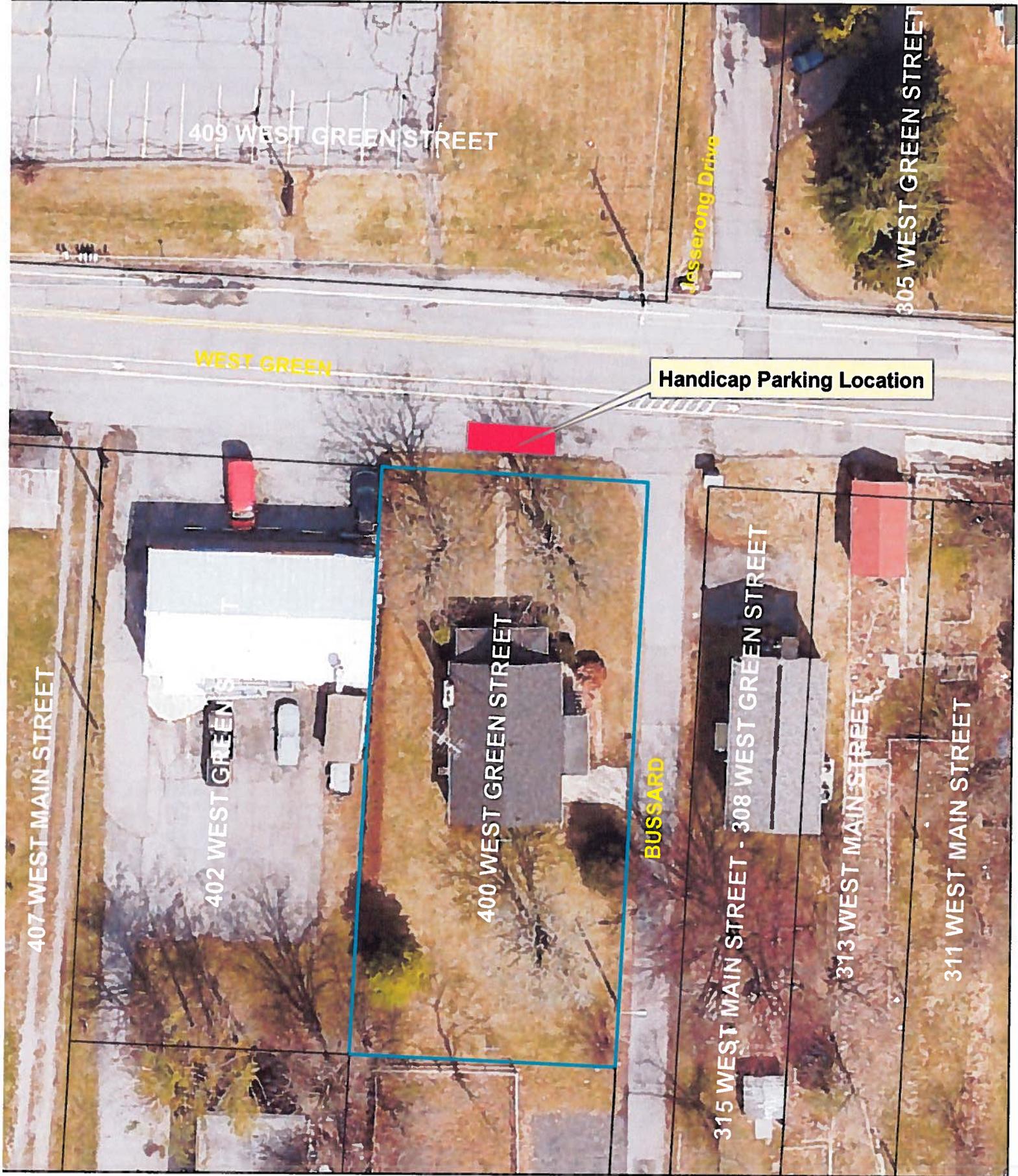
Dear Mr. Bowen,

I would like to have a handicap sign erected in front of my residence at the above address. If additional information is needed please do not hesitate to give me a call at 301-748-0577.

Thank you in advance for your consideration in this matter.

Sincerely,


Glenn F. Rudy



**Handicap Parking Request Location Map
Town of Middletown - Frederick County**



MEMORANDUM

DATE: October 20, 2015

TO: Burgess and Commissioners

CC: Andrew J. Bowen, Town Administrator

FROM: Cindy Unangst, Staff Planner

SUBJECT: Planning Commission recommended changes to Title 16 – Subdivisions of the Middletown Town Code

SUBDIVISION REGULATIONS PROPOSED CHANGES – OCTOBER 19, 2015

The Planning Commission has reviewed Title 16 - Subdivisions and has made the following recommendations for updates to this section. A public hearing was held on Monday, October 19, 2015.

Proposed changes:

- 1) Changed references of director of operations and construction to director of public works.
- 2) Changed the daily consumption of gallons of water per dwelling unit from 300 gallons to 250 gallons per the changed policy of the Town. (Section 16.12.055)
- 3) All sketch plans shall show topography at five-foot contour intervals instead of only where the slope conditions exceed eight percent. (Section 16.16.020)
- 4) Changed the minimum sight distance on collector streets from 200 feet to 300 feet. (Section 16.28.030)

- 5) Changed reference to private streets from 'will not be approved' to 'will not be maintained by the town'. (Section 16.28.030)
- 6) Changed reference to street signs erection from 'by the town' to 'by the developer, initially'. (Section 16.32.020)

Proposed deletions:

- 1) Deleted the definition of "double frontage lot". (Section 16.04.030)
- 2) Deleted penalty provisions in Section 16.08.140 that are already in place per State Code.
- 3) Deleted type of guarantee of construction of public improvements no longer accepted by the Town. (Section 16.12.070)
- 4) Deleted reference to condominiums. (Section 16.16.020)

Proposed additions:

- 1) Added definitions for "cul-de-sac", "floodplain", "plat", "right-of-way", "arterial street", and "tract". (Section 16.04.030)
- 2) Added references to the state's Land Use Article where Article 66B is cited.
- 3) Added penalty provisions for violations of the subdivision regulations. (Section 16.08.140)
- 4) Added references to electronic copies of plans that are to be submitted.
- 5) Added references to architectural renderings or drawings that are to be submitted.
- 6) Added language regarding waterbody buffer requirements. (Section 16.28.020)
- 7) Alleys will be allowed in overlay districts to represent what has already been approved in recent developments. (Section 16.28.030)

For conforming purposes:

- 1) Changed the word 'master' to 'comprehensive' in relation to references to the towns comprehensive plan.
- 2) Amended references to Frederick County to conform to the new executive council and board.
- 3) Changed 'major highway' to 'transportation' in relations to comprehensive plan sections.

Other minor edits were primarily for grammatical purposes.

After the Public Hearing in which there were no public comments, there was further discussion among the Planning Commission members of the proposed changes to the Subdivision regulations.

- 1) In Section 16.12.050.E, it was agreed to add the words 'stormwater management' after the word 'road', so that the proposed language now reads – "including, but not limited to, roads, stormwater management and public spaces."
- 2) The last proposed sentence in Section 16.12.050.E was agreed to be moved to the end of Section 16.12.050.C, and changed to read – "All appropriate entities shall review all architectural information and submit recommendations to the planning commission for their consideration."

ORDINANCE NO. _____

AN ORDINANCE TO AMEND TITLE 16 – ‘SUBDIVISIONS’ OF THE MIDDLETOWN MUNICIPAL CODE; TO ADD DEFINITIONS FOR THE TERMS “CUL-DE-SAC”, “FLOODPLAIN”, “PLAT”, “RIGHT-OF-WAY”, “ARTERIAL STREET” AND “TRACT”; TO REQUIRE THE SUBMISSION OF ELECTRONIC COPIES OF CERTAIN PLATS AND OTHER DOCUMENTS; TO REDUCE THE DEMANDS OF A PROPOSED SUBDIVISION OR PROJECT FOR WATER AND SEWER CONSUMPTION TO TWO HUNDRED FIFTY (250) GALLONS OF WATER PER EQUIVALENT DWELLING UNIT; TO REMOVE BONDS AS AN ACCEPTABLE TYPE OF GUARANTEE FOR THE CONSTRUCTION OF IMPROVEMENTS; TO ADD PROVISIONS RELATING TO DEVELOPMENT IN WETLANDS, FLOODPLAINS, WATER BUFFER AREAS AND FOREST LANDS; TO INCREASE MINIMUM SIGHT DISTANCES TO 300 FEET FOR DEVELOPMENTS ON COLLECTOR STREETS; TO REQUIRE STREET NAME SIGNS TO BE INSTALLED INITIALLY BY THE DEVELOPER; AND TO MAKE OTHER NON-SUBSTANTIVE STYLISTIC AND LINGUISTIC CHANGES.

SECTION I. BE IT ORDAINED AND ENACTED by the Burgess and Commissioners of Middletown that Title 16, of the Middletown Municipal Code be, and hereby is, amended as follows. Language being deleted is designated by being ~~in brackets and stricken through.~~ New language is designated by being in **BOLD CAPITAL LETTERS OR NUMBERS:**

Title 16 – Subdivisions

Chapter 16.04 - Adoption, Purpose and Definitions

Sections:

16.04.020 Purpose.

- A. *{Unchanged}*
- B. *{Unchanged}*
- C. These regulations are designed to provide for the control of erosion and sedimentation; the protection from flooding; the proper arrangement of streets in relation to other existing planned streets and to the town ~~{master}~~ **COMPREHENSIVE** plan; the adequate and convenient placement of public school sites and of open space for traffic, utilities, access of

firefighting apparatus, recreation, light and air; and the avoidance of congestion of population, including minimum width and area of lots.

16.04.030 Definitions.

As used in this title:

"Alley" means a right-of-way which provides secondary service access to the side or rear of abutting properties.

"Block" means a tract of land within a subdivision that is entirely bounded by streets or by a combination of streets and public parks, cemeteries, railroad rights-of-way, waterways, or corporate boundary lines of the town.

"Building setback line" means a line beyond which the foundation wall and/or any enclosed porch, vestibule or other enclosed portion of a building shall not project as determined by the yard requirements.

"Comprehensive plan" is also referred to as the master development plan of Middletown, Maryland.

"County master ~~{highway}~~ **TRANSPORTATION** plan" means the official plan of major roads, highways, streets, and other ~~{ways}~~ **TRANSPORTATION CONCEPTS ORIGINALLY** adopted by ~~{the}~~ Frederick County ~~{planning commission and approved by the board of county commissioners of Frederick County}~~ on November 25, 1959, and ~~{as amended in accordance with Article 66B of the Annotated Code of Maryland.}~~ **WHICH IS PERIODICALLY AMENDED AS PART OF AND AS A SUPPLEMENT TO THE TRANSPORTATION ELEMENT OF THE COUNTY COMPREHENSIVE PLAN.**

"County plans" means the officially adopted master plans for the comprehensive development of Frederick County, or any part of such plan or any amendments thereto.

"Crosswalk" means a public or private right-of-way which cuts through a block and is used exclusively by pedestrians.

"CUL-DE-SAC" MEANS A STREET WITH A SINGLE COMMON INGRESS AND EGRESS AND WITH A TURNAROUND AT THE END.

"Developers" means the owner(s) or agent(s) under legal authority of the owner(s) who undertake to cause a parcel of land to be designed, subdivided, developed and recorded as a subdivision.

"Easement" means a grant by a property owner of the use of land for use, construction or maintenance of facilities, utilities, drainage or access without giving up title to the land.

“FLOODPLAIN” MEANS A RELATIVELY FLAT OR LOWLAND AREA ADJOINING A RIVER, STREAM, OR WATERCOURSE, WHICH IS SUBJECT TO PERIODIC, PARTIAL OR COMPLETE INUNDATION.

"Improvement plan" means a plan that graphically depicts to scale proposed improvements.

"Improvements" means changes and additions to land necessary to prepare it for building development sites, future use and including street paving and curbing, grading, monuments, drainage ways, sewers, fire hydrants, water mains, sidewalks, and other public works and appurtenances.

"Lot" means a parcel or portion of land separated from other parcels or portions either by descriptions as on a subdivision plat or a recorded survey map, or by metes and bounds, for the purpose of transfer, sale, lease or other changes in ownership or use or to be occupied by a building and its accessory buildings together with such open space as required and having frontage on a public right-of-way.

~~["Lot, Double Frontage. "Double front lot" means a lot extending through the block from one street to another.】~~

"Outlot" means a parcel of land within a subdivision and which has been included on a preliminary or final plat but not designated as a buildable lot due to insufficient size and/or frontage or peculiar site or topographical problems. Outlots shall be provided only where necessary for access to adjoining properties or where necessary to provide an appropriate future street pattern.

"Performance bond" means a surety bond or cash deposit made out to the town in an amount equal to the full cost of the improvements which are required by this title, and said surety bond or cash deposit being legally sufficient to secure to the town that said improvements will be constructed in accordance with this title.

"Planning commission" means the planning commission of the town of Middletown, Maryland.

“PLAT” MEANS THE MAP OF A SUBDIVISION SHOWING THE NUMBER AND DIMENSIONS OF LOTS, PUBLIC AND PRIVATE RIGHTS-OF-WAY, AND EASEMENTS. THE FINAL PLAT MUST BE FILED AND RECORDED WITH THE COUNTY CLERK IN THE COUNTY PLAT BOOK.

"Preliminary plat" means the preliminary drawings and supplementary material showing the proposed layout of the subdivision to be submitted to the planning commission for its consideration.

“RIGHT-OF-WAY” MEANS THE LEGAL RIGHT TO CROSS OVER PROPERTY.

"Start of construction" means the placement of slab or footings, piles, columns, or any work beyond the stage of excavation.

"Street" means a public or dedicated way, or a public proposed right-of-way, widening, or extension of an existing street or public way shown on any plan approved by the PLANNING commission [~~and which serves as primary access to abutting properties.~~]

STREET, ARTERIAL. "ARTERIAL STREET" MEANS A CONTINUOUS ROUTE THROUGH AREAS THAT TYPICALLY CARRY MODERATE TO HIGH VOLUMES OF TRAFFIC.

Street, Collector. "Collector street" means a street which, in addition to providing ingress to properties abutting thereon, is intended to collect traffic from or distribute it to a series of local access streets within a neighborhood.

Street, Local. "Local street" means a street intended to serve and provide access exclusively to the properties abutting thereon, and not to be used as a channel for through traffic.

Street, Private. "Private street" means any street which is under the jurisdiction of an individual, corporation or trustee, or any street which is privately owned, established, constructed or maintained.

Street, Service Road. "Service road street" means a road not serving as a collector road, but merely providing access to properties fronting on a highway, which road is contiguous and parallel to the major highway. Adjacent here shall mean that no structure shall be built between the service road and the major highway.

"Subdivision" means the division of a lot, tract, or parcel of land into two or more lots, plats, sites, or other divisions of land for the purpose, whether immediate or future, of sale or of building development. It includes resubdivision and, when appropriate to the context, relates to the process of resubdividing or to the land or territory subdivided.

Technical Advisory Committee. In order to assist developers in getting information concerning these regulations, the planning commission may organize a technical advisory committee. The committee will meet at intervals necessary to enable developers to conveniently contact all departments involved. The developer shall prepare a preliminary plat before meeting with the committee. The committee may be composed of staff members of both the Middletown and county planning commissions, State Roads Commission, county roads board, county health department, Metropolitan Commission, county soil conservation committee, and any other department or agency concerned with development.

"TRACT" MEANS LAND UNDER SINGLE OWNERSHIP OR CONTROL. A TRACT USUALLY COVERS A SUBSTANTIAL ACREAGE AND HAS THE POTENTIAL TO BE SUBDIVIDED INTO LOTS.

Chapter 16.08 - ADMINISTRATION AND ENFORCEMENT

Sections:

16.08.010 - Administrative authority.

The following offices of the government of Middletown are concerned with the administration of this title:

A. The Town Board. The town board is vested with the following responsibilities with regard to subdivision control:

1. Amendment of the regulations of this title when found necessary and desirable;
2. Initiation of appropriate proceedings to enforce the provisions of this title.

B. The Town Planning ~~{and Zoning}~~ Commission. The planning commission shall administer this title, and in furtherance of said authority, shall:

1. Maintain permanent and current records of this title, including amendments thereto;
2. Receive and process and check for compliance with these regulations all preliminary plats and final plats (together with applications);
3. Forward copies of the preliminary plat to other town, county and state offices and agencies for their recommendations, and report wherever appropriate;
4. Make all other determinations required by the regulations herein;
5. Give preliminary and final approval of all subdivisions submitted.

16.08.020 - Subdivider must prepare and record plat of subdivision.

From and after the adoption of these regulations, any owner or proprietor of any tract of land located in the territory to which these regulations may apply who creates a subdivision shall cause a plat of such subdivision to be made in accordance with the regulations set forth herein and the provisions of **THE LAND USE** Article ~~{66B}~~ of the Annotated Code of Maryland. After having secured the approval thereof by the planning commission, the subdivider shall cause a copy of the said plat to be recorded in the office of the clerk of the court. Any subdivision or portion thereof which may be in process of development, but has not had a plat recorded at the time of adoption of these regulations, shall also be subject to the requirements and procedures contained herein.

16.08.120 - Saving clause.

If any section or article of these regulations [if] IS found to be unconstitutional or illegal by the court, the said section or article will cease to be effective until an amendment is made and adopted. The unconstitutionality of any section or article, however, shall have no bearing on the effectiveness of the remainder of these regulations.

16.08.140 Violation—Penalty.

~~{Any subdivider who violates these regulations shall be subject to the penalties prescribed in Section 5.05 of Article 66B, Annotated Code of Maryland, which are as follows:~~

~~Whoever, being the owner or agent of the owner of any land located within a subdivision, transfers or sells or agrees to sell or negotiate to sell any land by reference to or exhibition of or by other use of a plat of a subdivision, before the plat has been approved by the Planning Commission and recorded or filed in the office of the appropriate County Clerk, shall forfeit and pay a civil penalty of not less than two hundred dollars (\$200) and not more than one thousand dollars (\$1000) in the discretion of the Court for each lot or parcel so transferred or sold or agreed or negotiated to be sold; and the description of the lot or parcel by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring shall not exempt the transaction from the penalties or from the remedies herein provided. The municipal corporation may enjoin the transfer or sale or agreement by action for injunction brought in any court of equity jurisdiction or may recover the penalty by civil action in any court of competent jurisdiction.}~~

A VIOLATION OF ANY OF THE PROVISIONS OF THIS TITLE BY ANY PERSON OR ENTITY MAY BE ENFORCED BY THE TOWN AS A MUNICIPAL INFRACTION IN ACCORDANCE WITH THE PROCEDURES AND PENALTIES FOR A MUNICIPAL INFRACTION AS PROVIDED IN CHAPTERS 1.12 AND 1.16 OF THE MIDDLETOWN MUNICIPAL CODE. IN ADDITION, THE TOWN MAY ENFORCE THE PROVISIONS OF THIS TITLE PURSUANT TO ANY OTHER APPLICABLE STATE, FEDERAL COUNTY OR LOCAL LAW. THE TOWN MAY ALSO SEEK ENFORCEMENT OF THE PROVISIONS OF THIS TITLE BY WAY OF A CIVIL ACTION FOR SPECIFIC PERFORMANCE, INJUNCTIVE RELIEF, MONETARY DAMAGES OR OTHER REMEDY OTHERWISE AVAILABLE TO THE TOWN EITHER AT LAW OR IN EQUITY.

Chapter 16.12 - SUBDIVISION PROCEDURES

Sections:

16.12.020 - Sketch plan.

A. Where a subdivision plat includes improvements, the developer may submit a sketch plan to the planning commission in accordance with the provisions of ~~[section]~~ **SECTION 16.16.020**.

B. *{Unchanged}*

C. *{Unchanged}*

16.12.050 Submission of preliminary plan of subdivision for approval.

A. The subdivider shall prepare a preliminary plat of the proposed subdivision conforming with the requirements set forth in Chapter 16.20. At least thirty (30) days prior to a regularly scheduled meeting of the planning commission, the plat along with six black line or similar prints **AND AN ELECTRONIC COPY** of the plat shall be filed with the planning commission; however, if a state road is involved, three additional prints shall be provided.

B. In case any part of the proposed subdivision is located within the jurisdiction of Frederick County, an additional two copies of the preliminary ~~{plat}~~ **PLAT** shall be filed. The planning commission shall transmit these additional copies to the appropriate authorities for action.

C. The preliminary plat will be checked as to its conformity with the comprehensive plans, the town zoning ordinance, and other applicable provisions, and the principles, standards, and requirements hereinafter set forth. Copies will be referred to any other county or state officials who may be concerned with public improvements or health requirements. **ALL APPROPRIATE ENTITIES SHALL REVIEW ALL ARCHITECTURAL INFORMATION AND SUBMIT RECOMMENDATIONS TO THE PLANNING COMMISSION FOR THEIR CONSIDERATION.**

D. At its regular meeting the planning commission shall approve or disapprove the preliminary plat, or may approve it subject to specific changes or modifications. Reasons for disapproval will be noted on the plat or by letter. No plat shall be approved that is in conflict with these subdivision regulations, and zoning ordinances or with any part of an officially adopted feature of the town comprehensive ~~{development}~~ plan.

E. Along with consideration of the preliminary plat, the town board and the developer shall ~~{arrive at an understanding concerning the provision of}~~ **HAVE A WRITTEN AGREEMENT ESTABLISHING THE RIGHTS AND OBLIGATIONS OF EACH OF THE PARTIES RELATING TO** water and sewage services plus any other public improvements contemplated **INCLUDING, BUT NOT LIMITED TO, ROADS, STORMWATER MANAGEMENT AND PUBLIC SPACES.**

F. Preliminary plats, once approved, shall remain valid so long as there occurs final plat approval and recording of at least twenty (20) of the preliminary approved lots within three years of the date the preliminary plan was approved. Thereafter, at least twenty (20) lots must be approved and recorded per year for the preliminary plan to remain valid. Extension of the preliminary plan may be granted by the planning commission for delays attributable to town, county or state agencies **OR OTHER EXTENUATING CIRCUMSTANCES BEYOND THE CONTROL OF THE DEVELOPER.**

16.12.055 - Water and sewer capacity certification.

A. Upon approval of the preliminary plat, the town administrator shall conduct a review and analysis of the capacities of the town water and sewer systems in order to determine whether there exists sufficient water and sewer capacity to service the proposed subdivision or the development project thereon. The review and analysis shall be conducted in coordination with the director of ~~{operations and construction}~~ **PUBLIC WORKS** and the water and sewer superintendent who shall provide the administrator with pertinent information and data regarding the capacity of the town to provide water and sewer service to the proposed subdivision or project. In the review and analysis of the town water and sewer capacity, the demands of the proposed subdivision or project for water and sewer shall be based upon a daily consumption of ~~{three hundred (300)}~~ **TWO HUNDRED FIFTY (250)** gallons of water per equivalent dwelling unit.

B. *{Unchanged}*

C. *{Unchanged}*

D. *{Unchanged}*

E. *{Unchanged}*

16.12.060 - Improvement plans.

Upon approval of the preliminary plat and issuance of a certificate of water and sewer capacity, the developer shall prepare and submit to the ~~{Planning Commission}~~ **PLANNING COMMISSION**, for review and approval, an improvement plan for the installation of improvements in accordance with the requirements of Chapter 16.32 of this title. All such improvements shall be designed in compliance with and to the standards, plans and specifications set forth in this title. Copies of such improvement plan will be referred by the ~~{Planning Commission}~~ **PLANNING COMMISSION** to the appropriate town, county and/or state officials for review and approval, subject to such changes or conditions as in its judgment may be required. Approval of an improvement plan shall expire three (3) years from the date on which the ~~{Planning Commission}~~ **PLANNING COMMISSION** approves the improvement

plan unless construction has begun as defined by "start of construction." Once improvements have begun, the developer will be expected to proceed with due diligence to completion with visible, substantial and progressive construction activities. Extension of the improvement plan may be granted by the ~~{Planning Commission}~~ **PLANNING COMMISSION** for delays attributable to town, county or state agencies **OR OTHER EXTENUATING CIRCUMSTANCES BEYOND THE CONTROL OF THE DEVELOPER.**

. *{COMMENT not intended for codification: In the codification of this section, the amendments in this section to the term "Planning Commission" are intended for the purpose of using only lower case letters for the term "planning commission".}*

16.12.070 - Approval of final plat.

A. *{Unchanged}*

B. *{Unchanged}*

C. The subdivider shall file five mylar prints **PLUS AN ELECTRONIC COPY** of the final plat with the town.

D. The final plat shall be acted upon within thirty (30) days of filing. If it is found by the planning commission that the final plat is in conformance with all applicable regulations, it shall approve the final plat and obtain the signature of the chairperson of the planning commission **OR THE CHAIRPERSON'S DESIGNEE** on the plat. The signature of the chairperson **OR THE CHAIRPERSON'S DESIGNEE** shall mean that the town is satisfied that the requirements of these regulations have been complied with. Reasons for the disapproval of any plat shall be stated upon the records of the town planning commission.

E. Water and Sewer Facilities.

1. In General. A proposed final plat shall be disapproved unless the facilities for conveying, pumping, storing, or treating water or sewage to serve the proposed subdivision would be completed in time to serve the proposed subdivision.

2. Presumption of Timely Completion. A presumption shall exist that the water facilities and the sewer facilities for the proposed subdivision will be completed in time to serve the proposed subdivision if ~~{øf}~~ all of the following requirements are satisfied:

a. The subdivider and the town have entered into and executed separate written public works agreements which provide for the construction and installation of water lines and facilities and sewer lines and facilities to service the proposed subdivision;

b. All necessary off-site land, easements, and rights-of-way required for construction and installation of the water facilities and the sewer facilities have been conveyed to the town and recorded in the land records;

c. All contracts funded by the developer for the construction and installation of the public water lines and facilities and the public sewer lines and facilities to provide service up to the site have been executed;

d. All letters of credit securing compliance with the public works agreements for construction and installation of public water and sewer lines or facilities to provide service to the proposed subdivision have been executed and delivered to the town; and

e. The [town] director of [~~operations and construction~~] **PUBLIC WORKS** has certified that all such off-site lines and facilities shall be operational within ninety (90) days of the final plat recordation.

3. Water and/or Sewer Easement Extensions. Water and/or sewer easement extensions to service adjoining properties within the service area shall be extended to the boundary line as determined by the [town] director of [~~operations and construction~~] **PUBLIC WORKS**.

F. Recording Final Plat. The town shall record the approved final plat with the clerk of the circuit court for Frederick County. Approval of the final plat by the town planning commission shall not be deemed to constitute or effect an acceptance by the public of the dedication of any street or other proposed public way or space shown on said plat.

G. Guarantee of Improvements.

1. Types of Guarantees. Prior to the signing of a final subdivision plat for record, the developer shall furnish the town one of the following guarantees of construction of public improvements:

a. Completion and acceptance of public improvements covered by the final plat;

b. Funds placed in escrow with an escrow agent satisfactory to the town with an agreement between the escrow agent and the town that the funds be partially released from escrow from time to time as requested by the developer to pay invoices for work completed and installation of the public improvements in the area covered by the final plat;

~~e. A completion bond satisfactory to the town furnished by the contractor guaranteeing completion of the improvements. Such bond shall run to the benefit of the town of Middletown;]~~

[d] C. An irrevocable letter of credit or similar agreement from a recognized lender satisfactory to the town guaranteeing payment for the installation of the public improvements in the area covered by the final plat.

The type of guarantee required shall be in the discretion of the town.

2. Amount of Guarantee. A certificate of the cost of improvements shall be filed by the {town} director of ~~{operations and construction}~~ **PUBLIC WORKS** with the burgess and commissioners of Middletown. The guarantee shall be in the amount of the cost of improvements plus a contingency of up to twenty-five (25) percent in addition to the cost of improvements as decided by the burgess and commissioners upon recommendation by the {town} director of ~~{operations and construction}~~ **PUBLIC WORKS**. In the event the improvements are not completed within one year following the effective date of the guarantee, the burgess and commissioners, upon recommendation of the {town} director of ~~{operations and construction}~~ **PUBLIC WORKS**, may require an increase in the amount of the guarantee.

3. Release of Guarantee. Guarantees may be released from time to time, in whole or in part, upon recommendation of the {town} director of ~~{operations and construction}~~ **PUBLIC WORKS** and approval by the burgess and commissioners of Middletown; provided, however, that a retainage of up to five percent plus the contingency required will be held until both of the following occur:

a. Final inspection and approval by the {town} director of ~~{operations and construction}~~ **PUBLIC WORKS**; and

b. Approval and acceptance by the burgess and commissioners.

4. Records. The town will maintain records showing all guarantees in force as well as those which have been released.

Chapter 16.16 - SKETCH PLAN

Sections:

16.16.020 - Required information.

A sketch plan must contain the following information:

A. The sketch plans shall be submitted ~~{on paper}~~ **ELECTRONICALLY** and shall be clear and legible. ~~{Illegible plans will be discarded and the subdivider notified}~~ ;

B. *{Unchanged}*

C. *{Unchanged}*

D. Title information:

1. Proposed name,

2. Scale of ~~{plat}~~ **PLAN**,

3. Date;

E. *{Unchanged}*

F. ~~{Northpoint}~~ **NORTH POINT**;

G. *{Unchanged}*

H. ~~{Where slope conditions exceed eight percent, the plat}~~ **THE PLAN** shall show topography at five-foot contour intervals. Contour lines shall be indicated one hundred (100) feet beyond subdivision boundary line except along existing roads. Interpolated contours from USGS quadrangle maps will be accepted, and shall be indicated. The use of interpolated contours should be indicated on the ~~{plat}~~ **PLAN**;

I. *{Unchanged}*

J. *{Unchanged}*

K. *{Unchanged}*

L. *{Unchanged}*

M. *{Unchanged}*

N. Zoning district classification, water and sewer classification of **COUNTY** master plan for the subject tract;

O. In cases of ~~{condominium or}~~ multi-family projects (apartment, townhouse, etc.) the following additional items shall be shown:

1. Approximate location of each building,
2. Total number of units in each building,
3. Number of parking spaces in each off-street parking area, and total thereof,
4. Interior road or street access, whether public or private.

Chapter 16.20 - PRELIMINARY PLAT

Sections:

16.20.010 - Required information.

The preliminary plat of the proposed subdivision shall comply with the following requirements and contain the following information:

A. General Style and Form.

1. *{Unchanged}*

2. *{Unchanged}*

3. Drawing Material. It shall be drawn in ink, in a reproducible material, and shall be at a scale no smaller than one inch per one hundred (100) feet. **IT SHALL BE SUBMITTED ELECTRONICALLY AS WELL AS PAPER SUBMISSIONS, AS REQUIRED.**

4. *{Unchanged}*

5. *{Unchanged}*

6. *{Unchanged}*

B. *{Unchanged}*

C. Information as to Proposed Development. The following proposed development information shall be shown:

1. - 6 *{Unchanged}*

7. **ARCHITECTURAL RENDERINGS OF PROPOSED BUILDINGS IN SUBDIVISION AS WELL AS ILLUSTRATIVE DEPICTION OF SUBDIVISION AS A WHOLE.**

8. Proposed Zoning Change. Proposed uses of property and any proposed zoning change.

Chapter 16.24 - FINAL PLAT

Sections:

16.24.010 - Required information.

The final plat of the subdivision shall comply with the following requirements and contain the following information:

A. General Style and Form.

1. Drawing. It **SHALL BE DRAWN IN INK, IN A REPRODUCIBLE MATERIAL, AND SHALL BE AT A SCALE NO SMALLER THAN ONE INCH PER ONE HUNDRED (100) FEET. ONCE APPROVED, IT** shall be legibly and accurately drawn on ~~{tracing linen or}~~ mylar sheets eighteen (18) inches by twenty-four (24) inches in size, and at a scale of one inch to fifty (50) feet, or one inch to one hundred (100) feet, depending upon the size and nature of the subdivision. If more space is needed, additional sheets may be used. Drawing must ~~{be}~~ **HAVE** a three and one-half inch margin on the left side and a one-half inch margin on the other sides. Each additional sheet on a final plat shall contain all of the necessary information so as to stand on its own. **IT SHALL ALSO BE SUBMITTED FOR REVIEW ELECTRONICALLY.**

2. *{Unchanged}*

3. *{Unchanged}*

B. Graphic Information. The following graphic information shall be shown:

1. – 13. *{Unchanged}*

14. Water and Sewer Lines. Location and size of existing and proposed water and sewer lines, **IF NECESSARY.**

C. Certificates and Other Information. The following certificates and other information shall be included:

1. – 3. *{Unchanged}*

4. ~~{Protective}~~ Covenants. ~~{Protective}~~ ~~{e}~~ Covenants which apply to all the area as shown by the recorded plat shall be part of the recorded plat.

Chapter 16.28 - DESIGN STANDARDS

Sections:

16.28.010 - Minimum requirements.

The standards of design contained in this chapter are intended only as minimum requirements, and the developer should use standards consistent with the site conditions so as to assure a high-quality, pleasant, and durable neighborhood. All subdivisions shall conform to the official town ~~{or county master}~~ **COMPREHENSIVE** plan.

16.28.020 - Approval of subdivisions on land subject to ~~{adverse}~~ UNIQUE physical conditions.

The subdivision of land subject to flooding by the annual floodplain, as determined by floodplain soils, or a fifty (50) year storm or less as determined by the standards set by the Maryland Department of Geology and Mines or its successor will not be approved. A plat of a proposed subdivision located in an area having poor drainage or otherwise adverse physical conditions may be approved, provided the subdivider agrees to make such improvements as in the judgment of the town planning commission render the subdivision substantially safe and otherwise acceptable for residential use, and furnishes a performance bond or gives other guarantee satisfactory to the town board sufficient to cover the cost of such improvements as estimated by the officials having jurisdiction. **NO DEVELOPMENT SHALL BE ALLOWED ON FLOODPLAIN SOILS, OR ON NON-TIDAL WETLANDS.**

A PARCEL, LOT, OR TRACT OF LAND SUBMITTED TO THE TOWN OF MIDDLETOWN FOR SUBDIVISION OR RESUBDIVISION REVIEW AND APPROVAL SHALL BE SUBJECT TO WATERBODY BUFFER REQUIREMENTS. ALL SUBDIVISION PLANS SHALL HAVE WATERBODY BUFFERS OF AT LEAST 100 FEET FROM EACH BANK CLEARLY SHOWN AND CERTIFIED BY A PROFESSIONAL ENGINEER, REGISTERED PROFESSIONAL LAND SURVEYOR, OR REGISTERED PROPERTY LINE SURVEYOR. WATERBODY BUFFER WIDTHS MAY BE GREATER THAN 100 FEET IF FLOODPLAIN AND WETLANDS EXTEND BEYOND THE WATERBODY BUFFER AREA. ALL WATERBODY BUFFER AREAS SHALL BE MAINTAINED IN A NATURAL VEGETATIVE STATE UNLESS OTHERWISE UTILIZED FOR REFORESTATION OR AFFORESTATION TO SATISFY FOREST RESOURCE ORDINANCE OBLIGATIONS OR FOR ENVIRONMENTAL ENHANCEMENT PROJECTS ADMINISTERED OR APPROVED BY FEDERAL, STATE, OR LOCAL GOVERNMENT AGENCIES.

FORESTED AREAS OR STEEP SLOPES WITH A GRADIENT OF 25% OR GREATER SHALL NOT BE DISTURBED BY DEVELOPMENT.

16.28.030 - Street design standards.

- A. *{Unchanged}*
- B. *{Unchanged}*
- C. All streets shall be considered in their relation to:
 - 1. – 4. *{Unchanged}*
 - 5. ~~{Master development}~~ **COMPREHENSIVE** plan (~~{major highway plan}~~ **TRANSPORTATION** section).

D. Where such is not shown on the ~~{master}~~ **COMPREHENSIVE** plan, the arrangement of streets in a subdivision shall either:

1. Provide for the continuation or appropriate projection of existing principal streets; or

2. Conform to a plan for the neighborhood approved or adopted by the planning commission to meet a particular situation where topographical or other conditions make continuance or conformance to existing streets impracticable.

E. *{Unchanged}*

F. Access. ~~{Reserve}~~ **SPITE** strips controlling access to streets or alleys shall be prohibited.

G. Alignment.

1. – 4. *{Unchanged}*

5. Minimum sight distances (over a hill) shall be one hundred fifty (150) feet on local streets and ~~{two hundred (200)}~~ **THREE HUNDRED (300)** feet on collectors. The height of objects when determining the minimum sight distances shall be as follows:

a. Driver's eye height: 3.75 feet;

b. Height of object: 4.50 feet;

c. Head of headlamp: 2.00 feet.

H. Alleys. Alleys shall be included in all commercial and industrial areas if no other provisions are made for adequate access to parking and loading spaces. Alleys will ~~{not be approved in residential}~~ **ONLY BE ALLOWED IN OVERLAY** districts. In the absence of alleys, easements will be required for utility lines or drainage, such easements being a minimum width of twelve (12) feet or six feet on each side of a property line.

I. *{Unchanged}*

J. *{Unchanged}*

K. *{Unchanged}*

L. *{Unchanged}*

M. Minimize Interference with Through Traffic. Land abutting the arterial highways as designated by the town's ~~{major streets}~~ **TRANSPORTATION** plan should be platted with the view of making the lots, if for residential use, desirable for such use by cushioning the impact

of heavy traffic upon them; also minimizing interference with traffic on such highways, roads, and streets as well as accident hazards from all kinds of subdivisions. This may be done:

- a. By backing the lots upon the highway so that they front on and have access from a parallel minor street one-half block away;
- b. By arranging the lots around a series of loop streets ~~{or deadend streets}~~ stemming from a collector street. Such loops ~~{or deadends}~~ shall be one lot depth away from the highway.

The choice between the foregoing or other methods for accomplishing the desired purpose in a specific case must necessarily be made in consideration of topography and other physical conditions, the character of existing and contemplated developments, and other pertinent factors. In all cases the minimum distance between street connections on major collectors and access streets shall be five hundred (500) feet.

N. *{Unchanged}*

O. Private Streets. Private streets will not be ~~{approved}~~ **MAINTAINED BY THE TOWN**. This condition will be noted on the final plat. Common driveways leading to individual lots or driveways leading to common parking areas such as in a multifamily residential project shall not be considered **TOWN** streets.

P. Street Names. Street names shall be subject to approval by the planning commission **AND THE BURGESS AND COMMISSIONERS**. Names shall not duplicate or closely approximate existing street names in the town or county except for extension of existing streets.

Q. Right-of-Way Width—Pavement Width. Minimum widths for the right-of-way of streets, alleys and easements shall be as follows (extra widths may be required where necessary):

:

	ROW (feet)	Pavement (feet)
1. Collector streets		
Residential	60—70	34—40
Commercial/industrial	70	40
2. Local access:		
Residential	50—60	32—36
Commercial/industrial	60	36
3. Service roads	40	24
4. Cul-de-sacs	50 Radius	40 Radius

5. Alleys	20	16
6. Crosswalks	10	5 if needed
7. Easements (utility)	6	—
8. Easements (drainage)	What the [planning commission] DIRECTOR OF PUBLIC WORKS feels is necessary	

Note: Residential right-of-way and pavement requirements depend upon density of development. Refer to street design standards table subsection T of this section for specific details.

- R. {Unchanged}
- S. {Unchanged}
- T. Street Design Standards Summary.

Street Design Standards Summary
National standards adopted for use on local, hilly terrain)

	Local Street			Collector Street		
	Low ¹	Med ¹	High ¹	Low ¹	Med ¹	High ¹
Development density ²						
Right-of-way width (ft)	50	60	60	60	60	70
Pavement width (ft)	32	32	36	34	36	40
Vertical face curb	Yes	Yes	Yes	Yes	Yes	Yes
Sidewalk width (ft)	4	5	5	5	5	6
Sidewalk distance from "back to curb" (ft)	5	6	6	6	6	6
Minimum sight distance (ft) (over a hill)	—150 ³ —			—300 ³ —		
Maximum grade	—10%—			—7%—		
Maximum cul-de-sac length (ft) (dead-end street with turnaround)	800	500	500	-	-	-
Maximum center line radii (ft) (around curve)	—150—			—300—		
Minimum curbing radius (ft)	20	20	25	25	30	40
Design speed (MPH)	—25—			—30—		
Off-street parking necessary	Yes	Yes	Yes	Yes	Yes	Yes
Street lighting	Yes	Yes	Yes	Yes	Yes	Yes

¹ Low—1 to 5 dwellings per gross acre
Medium—5.1 to 9.9 dwellings per gross acre
High—10 dwellings per gross acre and greater

² Commercial or industrial subdivision roads must meet the design standards of high density development for either local or collector streets as determined by the ~~{planning commission}~~ **DIRECTOR OF PUBLIC WORKS.**

³ If this is impractical because of topographic conditions, may be decreased to one hundred ten (110) feet for local and two hundred (200) feet for collectors.

16.28.040 - Block design standards.

A. *{Unchanged}*

B. *{Unchanged}*

C. Business and industrial blocks may be specially designed to serve their particular purposes, which designs shall be subject to approval by the planning commission **WITH GUIDANCE FROM THE DIRECTOR OF PUBLIC WORKS.**

D. *{Unchanged}*

16.28.070 - Lot design standards.

A. *{Unchanged}*

B. Residential lots shall comply with at least the minimum size area requirements of the zoning district in which located, except otherwise approved by the planning commission ~~{as described in Chapter 16.24}~~.

C. *{Unchanged}*

D. All lot measurements shall be net measurements, not including any part of any street, alley, or ~~{crosswalkway}~~ **CROSSWALK WAY**. Easements, however, shall be regarded as within the lot.

E. *{Unchanged}*

F. *{Unchanged}*

16.28.090 - Public sites and open spaces.

Where a proposed park, playground, school or other public use shown on the ~~{master development}~~ **COMPREHENSIVE** plan for Middletown is located in whole or in part in a subdivision, such sites shall be indicated on the subdivision plat. School, park and other public sites are to be reserved and negotiated within one year of the recording date of the subdivision.

16.28.100 - Required recreation areas to be dedicated.

In all residential developments ~~{(as defined in Section 16.28.030(T))}~~ at least ten (10%) percent of the entire tract of land to be developed must be reserved for recreational use. Where ten (10) percent would be less than one-half acre, such development may be exempt from this provision. Areas that are reserved shall be shown on the plat and approved by the planning commission.

Chapter 16.32 - IMPROVEMENTS

Sections:

16.32.020 - Minimum requirements.

A. *{Unchanged}*

B. *{Unchanged}*

C. *{Unchanged}*

D. *{Unchanged}*

E. *{Unchanged}*

F. **Street Signs.** A name sign of an approved design shall be erected by the ~~{town}~~ **DEVELOPER, INITIALLY**, at each new street or road intersection. **SUBSEQUENT REPLACEMENTS ARE DONE BY THE TOWN.**

G. *{Unchanged}*

H. *{Unchanged}*

SECTION II. BE IT FURTHER ENACTED AND ORDAINED that this Ordinance shall take effect twenty (20) calendar days following its approval by the Burgess and Commissioners.

INTRODUCED ON THE _____ DAY OF _____, 2015

PASSED ON THE _____ DAY OF _____, 2015

EFFECTIVE DATE: _____, 2015

ATTEST:

**BURGESS AND COMMISSIONERS
OF MIDDLETOWN**

Andrew J. Bowen, Town Administrator

By: _____
John D. Miller, Burgess



MEMORANDUM

DATE: October 22, 2015

TO: Burgess and Commissioners

CC: Andrew J. Bowen, Town Administrator

FROM: Cindy Unangst, Staff Planner

SUBJECT: Planning Commission comments for changes to Chapters 17.36 and 17.44 of the Zoning Code

The Planning Commission has reviewed Chapter 17.36 and has the following comments for updates to this section.

Additions:

- 1) Include language that all signs be located within the owner's property boundaries and not within the right-of-way. (Section 17.36.030)
- 2) Include language in relation to subdivision and community identification signs that the PC shall have the authority to approve the location and orientation of the sign. (Section 17.36.090)
- 3) Include language that all temporary signs be removed when the circumstances leading to their existence no longer apply. (Section 17.36.150.E)

Deletions:

- 1) Reference to owners of pre-existing nonconforming signs to provide the zoning administrator with information regarding the sign in order to catalog the existence of the sign. (Section 17.36.120)

The Planning Commission proposes the following changes:

- 1) Change the definition of political signs (Section 17.36.020)
- 2) Change the height requirement for subdivision and community identification signs and other freestanding signs in residential districts from a maximum of 8 feet to a maximum of 4 feet. (Section 17.36.090 and Section 17.36.100)
- 3) Change the maximum size of freestanding signs in residential districts from a maximum of 50 square feet to a maximum of 32 square feet. (Section 17.36.100)
- 4) In regards to sign permit procedures, change approval and enforcement authority from the planning commission to the zoning administrator. (Sections 17.36.130 and 17.36.160)
- 5) Remove political signs and garage/yard sale signs from the Exempt signs section (Section 17.36.140) and relocate them to the Temporary signs that do not require a permit section (Section 17.36.150.B)

Other minor edits were primarily for non-substantive and grammatical purposes.

The Planning Commission has reviewed Chapter 17.44 and has the following comments for updates to this section.

- 1) Change number of times that the Board of Appeals meets from 6 times per year to as needed.
- 2) Other minor edits were primarily for non-substantive and grammatical purposes.

Chapter 17.36 - SIGNS ¹³¹

Sections:

[17.36.010 - Purpose and intent.](#)

[17.36.020 - Definitions.](#)

[17.36.030 - General sign standards.](#)

[17.36.040 - Signs permitted in any districts.](#)

[17.36.050 - Signs for individual businesses.](#)

[17.36.060 - Signs for multiple businesses other than shopping centers.](#)

[17.36.070 - Signs for commercial shopping, office and industrial centers.](#)

[17.36.080 - Signs for motor vehicle service stations.](#)

[17.36.090 - Subdivision and community identification signs.](#)

[17.36.100 - Design standards for permitted sign types.](#)

[17.36.120 - Pre-existing non-conforming signs and historic signs.](#)

[17.36.130 - Sign permit procedures.](#)

[17.36.140 - Exempt signs.](#)

[17.36.150 - Temporary signs.](#)

[17.36.160 - Removal of signs.](#)

17.36.010 - Purpose and intent.

Much valuable information can be and is conveyed by the signs of local retail and service establishments to the mutual benefit of both the business establishments and the public. It is the policy of the burgess and board of commissioners and the intent of this chapter to promote signs which are compatible with the landscape/streetscape and architecture of surrounding buildings, which are not distracting to motorists, which are constructed and maintained in a structurally sound and attractive condition, and which are consistent with the terms and conditions of the regulations set forth in this chapter.

(Ord. No. 10-11-01, § I, 11-8-2010)

17.36.020 - Definitions.

"A-frame/sandwich board/T-frame sign." A sign that is constructed in the shape of an "A" also referred to as a "sandwich board" sign, or an upside-down "T", and which is composed of two back to back sign faces oriented in opposing directions aligned in the shape of the letter "A" or an upside-down "T" and which is generally at the business establishment or other entity displaying or sponsoring the sign.

"Awning/canopy sign." a sign placed directly on or attached to the surface of an awning or canopy.

Title 17 - ZONING

Chapter 17.36 - SIGNS

"Barber pole." A traditional symbol used to identify the place of business of a barber. For purposes of this ordinance, a barber pole is not considered to be an animated, moving or illuminated sign, but a traditional symbol of a service profession.

"Building frontage." The architecturally designed front of a building on a public street, parking lot, or pedestrian walk. In the case of a building located on the corner of two rights-of-way, and where the primary entrance is located on the corner of the building, the "building frontage" is the longer of the two sides which front along the rights-of-way.

"Directional sign." A secondary or incidental sign designed to guide vehicular and/or pedestrian traffic by using such words as "entrance," "exit," "parking," or similar directional instruction. The name or logo of the business or use to which the sign is giving direction may also be included on the sign.

"Directory sign." A sign on which the names and locations of occupants within a building or property is identified.

"Freestanding sign." Any sign mounted on supports that are placed on, or anchored in, the ground and that are independent from any building or other structure.

"Garage/yard sale sign." A temporary sign advertising private sales of personal property within the town limits (such as garage sales or rummage sales).

"Grade plane." Grade plane means a reference plane representing the average of finished ground level adjoining the sign structure.

"Illuminated sign." a sign which is illuminated in any manner by an artificial light source, whether internally or externally lit.

"Incidental sign." A sign, generally informational, that has an incidental purpose to the use of the lot on which it is located, such as "No Parking," "Entrance," "Exit," "Loading Only," and other similar directives. These signs shall include, but not be limited to signs on automatic teller machines, gas pumps, vending machines or newspaper delivery boxes.

"Lot frontage." The length of the property abutting a street right-of-way, measured as a straight line between the extreme property corners along a street right-of-way.

"Monument sign." A freestanding sign attached to a contiguous structural base or berm, which base shall be of the same width as or greater than the message portion of the sign, and is permanently affixed to the ground.

"Political sign." A political sign is a temporary sign for a legally recognized election at the municipal, county, state or federal level or for special elections or districts.

"Projecting sign." Any sign that is wholly or partly dependent upon a building for support and which projects more than twelve (12) inches from the building; angle of projection shall be 90° from the building.

"Roof line." The top of a flat roof or the ridge of a gable, hip or gambrel roof.

"Sandwich board sign." See A-frame sign.

Title 17 - ZONING

Chapter 17.36 - SIGNS

"Temporary sign." Any sign or banner which has for its purpose the advertising, announcement or display of information pertaining to an event, condition or situation that is intended to be limited in scope, duration of time not to exceed forty-five (45) days, including, but not limited to, commercial sales events, concerts, plays and other commercial or cultural events. ~~A political sign is a temporary sign announcing or supporting political candidates or issues such as bonds or referendums in connection with any national, state or local election. (Forty five (45) days limitation not applicable to political signs).~~

"Wall sign." Any sign attached to any part of a building and which does not project more than twelve (12) inches from such building.

"Window sign." Any permanent sign, pictures, symbol, or combinations thereof, designed to communicate information about the business that is placed inside a window or upon the window panes or glass and is visible through the window.

(Ord. No. 10-11-01, § I, 11-8-2010)

17.36.030 - General sign standards.

All signs which are painted, constructed, erected, remodeled, relocated or expanded shall comply with the following standards:

- A. **Illuminated Signs.** Signs which are illuminated shall be shaded so as to avoid casting bright light upon any property which is located in any residential district or upon any public street. Any illuminated sign which is facing any residential district and which is visible from such residential district, shall only be illuminated when the business is open for business or to the public. For the purposes of this section, the term "illuminated sign" shall include, but not be limited to, illuminated window signs.
- B. **Flashing or Moving Signs.** No flashing sign, rotating or moving sign, animated sign or sign with moving lights or lights which create the illusion of movement are permitted. A sign on which the current time and/or temperature is indicated by intermittent lighting shall not be deemed a flashing sign if the lighting changes are limited to the numerals indicating the time and/or temperature. For the purposes of this article, the term "flashing, rotating, animated or moving signs" shall include, but not be limited to, flashing, rotating, animated or moving window signs.
- C. **Determination of Sign Height.** The height of a sign shall be measured from grade plane to the average height of the highest sign surface. If a sign is located on a mound, berm, or other raised area for the purpose of increasing the height of the sign, the height of the mound, berm, or other raised area shall be included in the height of the sign.
- D. **Measurement of Sign Area.** Each face of a sign shall be counted when computing the total sign area for a site except that, when two sign faces are placed back to back so that both faces cannot be viewed from any point at the same time and each contains identical text and graphics, the area of only one side shall be counted when computing the area of that sign.
- E. **Number of Sign Faces.** No sign shall have more than two (2) sign faces.

Title 17 - ZONING

Chapter 17.36 - SIGNS

- F. Determination of Monument Sign Area. The surface area of the largest face of a monument sign will be used to determine the total square footage of the monument sign. This calculation will exclude the first eighteen (18") inches of the base if it does not include any sign copy or other graphic. In addition, a planter structure which does not exceed one foot (1') in height or include sign copy or graphics will also be excluded from the area calculation.
- G. Condition of Signs. All signs and its component parts which are authorized by this chapter shall be maintained in good repair and in a safe, clean and attractive condition. Signs shall not be maintained or permitted to exist in such a condition as to constitute a public nuisance or other hazard to the public health, safety or welfare. In addition to any other lessee, owner or other person responsible for a sign, the owner of the property on which a sign is located shall also be responsible for the maintenance of the sign as required herein.
- H. Unless otherwise permitted by law, all signs shall be erected, installed or otherwise located on the property which is used for the purposes which are associated with or which relate to the content of the sign. Sign applicants must have approval of property owner. Each sign shall be located within the owner's property boundaries and shall not be located within the public right-of-way.

(Ord. No. 10-11-01, § I, 11-8-2010)

17.36.040 - Signs permitted in any districts.

The following signs are permitted in any zoning district subject to the provisions and requirements of this chapter:

- A. A personal service sign for professional office or a home occupation subject to the following. Such signs shall be either unlighted or indirectly lighted, shall not exceed two (2) square feet in size, and shall be attached to the building in which the professional office or home occupation is operating.
- B. A sign identifying the use of the property on which it is located as a nonprofit organization, which contains no commercial advertising, and which does not exceed sixteen (16) square feet in size.
- C. One bulletin board-style sign on property used for churches and other places of worship and on school or college property provided that such signs shall not exceed thirty-two (32) square feet in size.
- D. Signs not exceeding six (6) square feet in size which are directional, informational, or warning in character and which contain no advertising.

(Ord. No. 10-11-01, § I, 11-8-2010)

17.36.050 - Signs for individual businesses.

A single business located on one lot may erect signs subject to the following:

Title 17 - ZONING

Chapter 17.36 - SIGNS

- A. Each business may have a maximum number of three (3) signs for each street or public right-of-way on which the property fronts.
- B. Types of signs permitted. Wall, monument, projecting, window, or canopy/awning.
- C. Maximum size of signs. See design standards for sign type.

(Ord. No. 10-11-01, § I, 11-8-2010)

17.36.060 - Signs for multiple businesses other than shopping centers.

Where there are multiple (more than one) businesses located on a single lot, other than a shopping center, signs may be erected and installed on the lot subject to the following:

- A. No lot shall be permitted to have erected both a projecting sign and a monument sign or more than one monument sign.
- B. Each business on the lot shall be entitled to a maximum of two (2) signs per business.
- C. Wall, projecting, window, or canopy/awning signs shall be permitted.
- D. The maximum size of each sign shall be in accordance with the design standards set forth in this chapter.
- E. One wall mounted directory sign for each wall of a building on which wall there is one or more entrances to a business, up to sixteen (16) square feet in area. Identification of a business on the directory sign will not be included with the number of signs permitted in subsection B. above.
- F. Directional signs are permitted, shall not exceed twelve (12) square feet in size, and shall be consistent in construction and appearance with the materials used on the building(s) on the premises.

(Ord. No. 10-11-01, § I, 11-8-2010)

17.36.070 - Signs for commercial shopping, office and industrial centers.

- A. An identification sign for a commercial shopping center, office or industrial park or other integrated group of commercial buildings shall not exceed one hundred twenty (120) square feet in size, shall be subject to the setback requirements for the district in which it is located, and shall comply with any other restrictions applicable thereto within its individual zoning district.
- B. Commercial shopping, office or industrial centers or parks which are five (5) acres in size or greater and which have been planned as an integrated development may erect signs subject to the following:
 - 1. Signs for Individual Establishments Within Center. Same as for individual or multiple businesses, as applicable, provided that no monument signs shall be permitted for individual businesses in the principal building of a shopping center. One monument

Title 17 - ZONING

Chapter 17.36 - SIGNS

sign may be erected for each detached principal building within an office or industrial center. No such sign shall exceed fifty (50) square feet in area or eight (8) feet in height.

2. Shopping Center Identification Sign and Courtesy Signs. Same as for individual or multiple businesses, as applicable, provided that no monument signs shall be permitted for individual businesses in the principal building of a shopping center. One monument sign with an area of one square foot per five (5) linear feet of lot frontage on which the sign is to be erected, up to a maximum of one hundred twenty (120) square feet and a maximum height of eight (8) feet. Only the name and address of the center and the names of establishments shall be displayed. In addition, shopping center courtesy signs are permitted, one (1) sign at each entrance/exit only, located at least five (5) feet from the public right-of-way. Each sign is restricted to no more than three (3) square feet in area and three (3) feet in height. No advertisements or phone numbers are permitted on courtesy signs.
3. Office or Industrial Signs. One monument sign at each major entrance of an office or industrial center identifying the name of the center only. No such sign shall exceed fifty (50) square feet in area or eight (8) feet in height.
4. Directional signs are permitted, shall not exceed twelve (12) square feet in size, and shall be consistent in construction and appearance with the materials used on the building(s) on the premises.

(Ord. No. 10-11-01, § I, 11-8-2010)

17.36.080 - Signs for motor vehicle service stations.

Motor vehicle service stations may erect signs as follows:

- A. Maximum Number of Signs. A motor vehicle service station may display a total of three (3) signs excluding signs which, by law, are required to be displayed.
- B. Types of Signs Permitted. Wall, canopy/awning, window or monument signs are permitted for a motor vehicle service station.
- C. Maximum Size of Signs. The maximum size of a sign shall be the same as that for individual businesses; provided, however, that signs which are required by law to be displayed may be of the minimum size required in order to comply with the applicable law.
- D. Location. A monument sign shall not be positioned or located in such a manner as to obstruct or otherwise interfere with the sight of motorists or pedestrians and their ability to safely enter or exit the premises.

(Ord. No. 10-11-01, § I, 11-8-2010)

Title 17 - ZONING

Chapter 17.36 - SIGNS

17.36.090 - Subdivision and community identification signs.

Subdivision and community identification signs are permitted in the right-of-way of monumented, public streets or in locations approved by the Middletown Planning Commission. In addition, the following conditions shall be met:

- A. Signs shall not be positioned or located in such a manner as to obstruct or otherwise interfere with the sight of motorists or pedestrians and their ability to safely enter or exit the premises or traverse the rights of way, nor shall they be located within utility easements or in a location which will adversely impact utility lines; the Planning Commission shall have the authority to approve the location and orientation of the sign;
- B. The sign shall be of a permanent nature, such as brick, stone or concrete, and shall be kept in good repair and in safe, neat, clean and attractive condition by the community association, if existing;
- C. If a sign is located in a median strip or monumented island, no portion of the sign may be located within ten (10) feet of ~~the~~ any end of the median strip or monumented island;
- D. Subdivision and community identification signs shall not exceed seventy (70) square feet in size, four (4) ~~eight (8)~~ feet in height, and shall be subject to any other restrictions within individual zones.

(Ord. No. 10-11-01, § I, 11-8-2010)

17.36.100 - Design standards for permitted sign types.

All new signs and all existing signs which are replaced, reconstructed, extended or changed structurally shall comply with the following development standards.

- A. Freestanding Sign—Design Standards.
 1. Road Frontage Requirements. Monument signs shall be permitted only on lots with one hundred (100) feet or more of road frontage, with one sign per road frontage for corner lots.
 2. Minimum Separation Distance. No monument sign shall be permitted to be erected within seventy-five (75) feet of an existing monument sign.
 3. Maximum Height. Eight (8) feet, except that in Residential districts freestanding signs shall be a maximum of four (4) feet in height.
 4. Maximum Size. One (1) square foot per five (5) linear feet of street frontage, up to a maximum size of fifty (50) square feet, except that in Residential districts freestanding signs shall be a maximum of 32 square feet.
 5. Freestanding signs in the town commercial (TC), general commercial (GC), mixed business (MB), and service commercial/light manufacturing (SC/LM) districts shall have a minimum setback of ten (10) feet from any public right-of-way, service drive or entrance and shall be so located as to allow clear and ample visual sight lines for driveways leading into a street and at intersecting streets and alleys.

Title 17 - ZONING

Chapter 17.36 - SIGNS

B. Projecting Sign—Design Standards.

1. A projecting sign may project no more than four feet (4') from the building from which it projects.
2. A projecting sign shall be located at least seven and one-half feet (7'6") above the surface of the ground, may not exceed a height of fourteen feet (14'), and may not extend above the highest point of the roof.
3. Maximum Size. One (1) square foot per linear foot of building frontage on which the sign is to be attached, up to twelve (12) square feet.
4. For a lot located on the corner of two roads or rights of way, one projecting sign shall be permitted for each road or right-of-way frontage.

C. Wall Sign—Design Standards.

1. A wall sign may not exceed a height of twenty-five feet (25'), may not extend above the highest point of the roof, and may not project beyond twelve inches (12") from the wall on which it is installed.
2. The maximum size of a wall sign shall be based upon the length by linear foot of the front of the building on which it is installed. A wall sign may not exceed one (1) square foot for each linear foot of building frontage on which the sign is installed, and no sign shall exceed one hundred (100) square feet regardless of the length of the building frontage.
3. One wall sign shall be permitted on each side of a building which fronts upon a road, street or other public right-of-way.

D. Awning and Canopy Signs—Design Standards.

1. Location. The lettering, graphics or other sign content on an awning or canopy shall be placed parallel to and shall not project above or below the face of the awning or canopy.
2. Limit on Projection. An awning or canopy with a sign shall not extend beyond the vertical line measured one (1) foot in from the edge of the sidewalk or right-of-way curb and shall not be situated in a location which interferes with or obstructs pedestrian or vehicular traffic.
3. Maximum Size. One square foot per linear foot of the awning or canopy, up to a maximum twelve (12) square feet. Sign area shall be counted as part of the total allowable area for signs.

E. Permanent Window Sign—Design Standards. The maximum area for a window sign, as determined by measuring the width and height of the outermost edges of the sign lettering or graphics shall not exceed twenty-five percent (25%) of the entire window area or sixteen (16) square feet, whichever is less.

(Ord. No. 10-11-01, § I, 11-8-2010)

17.36.120 - Pre-existing non-conforming signs and historic signs.

- A. Any sign which was lawfully established in accordance with all applicable regulations in effect at the time of its establishment but which does not conform to the requirements set forth in this chapter shall be deemed a lawful non-conforming sign.
- ~~B. The owner of a pre-existing non-conforming sign must provide the zoning administrator, or other town official designated by the burgess or town administrator, information regarding the sign in order to catalog the existence of the sign. Once the information is received, pre-existing signs that fail to meet the requirements of this chapter will be duly recorded and receive certification in the form of a letter. In any action to enforce the provisions of this chapter, it shall be a rebuttable presumption that a sign is not a lawful non-conforming sign if the sign has not been certified and recorded as such.~~
- BC. A lawful non-conforming sign may lawfully remain at its location, subject to the following conditions:
1. Lawful non-conforming signs shall be maintained in good repair and condition. Any such sign which is determined by the town zoning administrator, town administrator or other authorized town official not to be so maintained or to be unsafe shall be restored, repaired, rebuilt, or removed.
 2. Except as otherwise provided herein, lawful non-conforming signs may not be enlarged, extended, relocated, structurally altered, or changed in nature or character.
 3. The wording and content of a lawful non-conforming sign may be changed to accommodate and reflect a change in use of the property from one business to a similar business occupying the same property.
 4. A lawful non-conforming sign shall either be removed or altered to comply with the requirements of this chapter when there is a substantial change in the use of the property on which the sign is located, when there is a substantial alteration to the primary structure on the property on which the sign is located or when there is a change in nature or character of the sign.
- CD. The owner of or other person responsible for a lawful non-conforming sign which sign is in violation of any of the conditions set forth in this section shall correct such violation or remove such sign within ninety (90) days of being given notice of the violation.
- DE. Historic Signs. The burgess and board of commissioners may designate individual signs at its discretion as historic signs. Historic signs shall be exempt from the provisions of this chapter subject to the following conditions:
1. Historic signs shall be kept in good repair and condition. Any such sign which is determined by the town zoning administrator, town administrator or other authorized town official not to be so maintained or to be unsafe shall be restored, repaired, rebuilt, or removed.
 2. Historic signs may not be enlarged, extended, relocated or structurally altered.

Title 17 - ZONING

Chapter 17.36 - SIGNS

3. Historic signs may not be displayed on any other portion of the property or building other than its location on the date of the enactment of the ordinance codified in this chapter, and may not be displayed on another property.

(Ord. No. 10-11-01, § I, 11-8-2010)

17.36.130 - Sign permit procedures.

- A. Except as otherwise provided in this chapter, all signs being erected, constructed, installed, attached, altered, relocated or reconstructed must be approved prior thereto by the zoning administrator ~~planning commission~~ or its delegate for compliance with the provisions of this chapter including the location, placement and size of the sign.
- B. Except as otherwise provided in this chapter, a sign permit shall be required for all signs erected or installed after the effective date of this ordinance.
- C. An application for a sign permit shall be submitted on a form provided by the zoning administrator, shall contain the information required as set forth herein, and shall be accompanied by the required application fee.
- D. An application for a sign permit shall contain, or have attached thereto, the following information in either written or graphic form:
 1. Name, address and telephone number of the sign erector and the sign owner.
 2. A site location plan showing the street name and street number of the location or building where the sign is to be placed and the position of the sign in relation to adjacent lot lines, buildings, sidewalks, streets and intersections.
 3. The type of sign and a general description of the structural design and construction materials to be used.
 4. One set of drawings and/or photos of the proposed sign which shall contain specifications indicating the height, perimeter and area dimensions, means of support, method of illumination, colors, and any other significant aspect of the proposed sign.
 5. Any other information requested ~~by the planning commission or its delegate~~ in order to carry out the purpose and intent of this chapter.
- E. A signage plan identifying the location, height, and size of all signs shall be included on all site plans reviewed by the planning commission.
- F. Any sign which is erected, constructed, installed, attached, altered, relocated or reconstructed without a permit and for which a permit is required shall be deemed a violation of this chapter and the owner or other person responsible for the sign shall be subject to a fine and enforcement measures as provided for in Chapter 17.08 of this title. In addition, the zoning administrator ~~town~~ may order the owner or other person responsible for the sign to remove the sign at the sole cost of such person.
- G. Upon a showing that an owner, lessee or other person seeking to display a sign is unable to effectively display one or more signs in compliance with the requirements of this chapter

Chapter 17.36 - SIGNS

due to unusual conditions on the property such as size, location, topography or other situation, ~~then with the authorization of the planning commission,~~ the zoning administrator may issue a sign permit authorizing the displaying of a sign not in strict compliance with the requirements of this chapter if, in doing so, the intent of this chapter may still be met.

(Ord. No. 10-11-01, § I, 11-8-2010)

17.36.140 - Exempt signs.

A sign permit shall not be required for the following signs; provided, however, that all such signs shall comply with the other applicable requirements of this chapter:

1. Any public notice or warning required by a valid and applicable federal, state, or local law, regulation or ordinance;
2. Signs erected by the town, county, state, or federal government in furtherance of their governmental responsibility;
3. Signs prepared by or for the local, state or federal government marking sites or buildings of historical significance;
4. ~~Political signs that do not exceed six (6) square feet in size;~~
5. ~~Garage/yard sale signs that do not exceed six (6) square feet in size. Such signs may be displayed only one day prior to the sale and must be removed within one day after the sale;~~
6. Incidental signs as defined herein;
7. Ballfield/sports complex signs and scoreboards that face the inside of a playing field;
8. Government sponsored banners affixed to light standards promoting community events.

(Ord. No. 10-11-01, § I, 11-8-2010)

17.36.150 - Temporary signs.

- A. Temporary commercial advertising signs of any size are not permitted in any district unless they comply with the requirements of this chapter, and such signs are deemed to be and shall constitute a public nuisance. The town may immediately remove any such sign(s), without prior notice to the owner or other responsible person(s). The erection or installation of such signs shall be deemed a violation of this chapter and the owner or other person responsible for the sign shall be subject to a fine and enforcement measures as provided for in this chapter.
- B. A permit is not required for the following types of temporary signs:
 1. A temporary real estate sign advertising the sale or lease of the property on which the sign is displayed. For residential property, the sign shall not exceed six (6) square feet in size. For commercial and industrial property, the sign shall not exceed thirty-two (32) square feet in size.

Title 17 - ZONING

Chapter 17.36 - SIGNS

2. Signs advertising subdivision openings, open houses or other real estate events being held within the town limits. Such signs may not exceed four (4) square feet in size per sign, and such sign(s) may only be displayed between the Friday before the event after 12:00 noon and 8:00 a.m. on the following Monday morning after the event. In the event that the Monday is a legal holiday, the sign must be removed by 8:00 a.m. on the following Tuesday morning. In the event that Friday is a legal holiday, the sign may be placed on the Thursday before the event after 12:00 noon.
3. Temporary and seasonal produce stand signs. Such signs shall not exceed twenty-four (24) square feet in size and no such sign shall exceed six (6) feet in height.
4. Construction signs. Such signs may only be installed after the issuance of a zoning permit, may not exceed one sign per street frontage, may not exceed six (6) feet in height and may not exceed twenty-four (24) square feet in size. A construction sign shall be removed prior to the issuance of a certificate of occupancy.
5. Contractor/artisan job site sign. Such signs shall not exceed six (6) square feet in size, shall be installed only on the property at which the work is being performed and shall be removed upon completion of the job or construction.
6. Temporary non-profit signs advertising events, activities, recruiting or fundraising efforts by community service groups, religious groups, children's or youth organizations, or student organizations. Such signs shall not exceed twenty-four (24) square feet in size and six (6) feet in height, and shall be removed upon completion of the effort being advertised.
7. Political signs that do shall not exceed six (6) square feet in size;
85. Garage/yard sale signs that do shall not exceed six (6) square feet in size. Such signs may be displayed only one-day prior to the sale and must be removed within one day after the sale;
97. A-frame/sandwich board/T-frame signs which are placed in front of or adjacent to a business establishment for the announcement of daily specials or featured promotions provided that the following conditions are met:
 - a. The sign is situated on the same property as the business which it is advertising;
 - b. The sign is only displayed during the business hours of the establishment and is removed and stored within the principal or covered accessory building of the establishment during non-business hours;
 - c. The sign is not placed in a location that impedes vehicular or pedestrian traffic, impedes access to parking or obstructs the sightlines of either;
 - d. The sign is not fastened to or erected on a sign pole;
 - e. The sign is only placed at grade and is not elevated or suspended above grade and does not protrude or project from any other structure;

Title 17 - ZONING

Chapter 17.36 - SIGNS

f. The placement of the sign complies with the setback requirements of its respective zoning district;

g. The sign is no greater than thirty (30) inches wide and forty-eight (48) inches high in size.

C. A permit is required for the following types of temporary signs:

1. Temporary Residential Subdivision Signs. A temporary real estate sign advertising a subdivision within which the sign is located not exceeding seventy (70) square feet in size and located no closer than twenty-five (25) feet to the property line. Temporary shall be until construction is complete.

2. Special Event Sign. A temporary sign noting an event of general interest, such as a locally sponsored carnival or grand openings. Such signs shall be removed within five (5) days after the conclusion of the event. A permit shall be valid for a period of no longer than ninety (90) days from the date of issuance. Such signs shall not exceed thirty-two (32) square feet in size.

3. Temporary Business Identification. A temporary sign which identifies the opening or existence of a new business. Such signs shall not exceed twenty-four (24) square feet in size and shall be valid for a period of no longer than two (2) months from the date of issuance.

4. [A-Frame/Sandwich Board/T-Frame Signs.] A-frame/sandwich board/T-frame signs which are placed at a location other than the property location of the business sponsoring the sign and which announces daily specials, featured promotions, or the location of the business. The issuance and holding of a permit for such signs is subject to the following conditions being met:

a. The sign is situated in a TC town commercial district or a GC general commercial district and is situated within a one thousand five hundred (1,500) feet radius of the business which it is advertising;

b. Only one sign is permitted for any one street;

c. Only two off-site signs are permitted for any one business establishment;

d. The individual, owner, or other person or entity sponsoring the sign must provide to the town written authorization from the property owner permitting the placement of the sign on the owner's property;

e. The sign is only displayed during the business hours of the establishment sponsoring the sign, after which hours the sign must be removed;

f. The sign is not placed within any public right-of-way and is not placed in a location that impedes vehicular or pedestrian traffic, impedes access to parking or obstructs the sightlines or either;

g. The sign is not fastened to or erected on a sign pole;

h. The sign is only placed at grade and is not elevated or suspended above grade and does not protrude or project from any other structure;

Title 17 - ZONING

Chapter 17.36 - SIGNS

- i. The placement of the sign complies with the setback requirements of its respective zoning district;
- j. The sign is no greater than thirty (30) inches wide and forty-eight (48) inches high in size.

D. Signs shall not be mounted on any type of utility pole or pole used to display or support traffic control signs or devices.

E. A sign shall be removed when the circumstances leading to its erection no longer apply.

(Ord. No. 10-11-01, § I, 11-8-2010)

17.36.160 - Removal of signs.

Any sign which ~~advertizes~~advertises, identifies, or is otherwise related to or associated with a business, group, event or activity which is no longer in existence or active shall, within ninety (90) days from the time such business, group, event or activity ceases, either be removed from the premises or altered or resurfaced by the owner of the property on which the sign is located so that the sign will not display letters, numerals, symbols, figures, designs or any other device for visual communications pertaining to the former business, group, event or activity. Upon petition of the owner of the property on which the sign is located, the zoning administrator~~planning~~commission may, but is not required to, permit such sign to remain on the premises for an additional ninety (90) days.

Title 17 - ZONING

Chapter 17.44 BOARD OF APPEALS

Chapter 17.44 BOARD OF APPEALS

Sections:

[17.44.010 Authorization and appointment.](#)

[17.44.020 Meetings of the board.](#)

[17.44.030 Powers of the board of appeals.](#)

[17.44.040 Appeals.](#)

[17.44.050 Variances.](#)

[17.44.060 Special exceptions.](#)

[17.44.070 Public hearings.](#)

[17.44.080 Appeals to court.](#)

[17.44.090 Permits issued by the board.](#)

[17.44.100 Board of appeals fees.](#)

17.44.010 Authorization and appointment.

- A. The board of appeals is authorized. Such board shall consist of three members, all of whom shall be residents of the Town of Middletown. The members of the board of appeals shall be appointed by the burgess with the consent of the commissioners. The terms of office of the members of the board of appeals are three years; provided, however, that the respective term of each member of the board of appeals in office on the effective date of the ordinance codified on this chapter shall remain unchanged and shall expire on the date previously established for that term. The burgess shall appoint a new member to fill the unexpired term of any member who leaves the board of appeals.
- B. Members of the board shall serve with such compensation as may be established from time to time by resolution of the burgess and commissioners. The commissioners shall designate one alternate member for the board of appeals who may sit on the board in the absence of any member of the board and when the alternate member is absent, the commissioners may designate a temporary alternate.
- C. A member of the board of appeals shall recuse himself or herself from participating in a matter in which the member may have a conflict of interest or an appearance of a conflict of interest.
- D. A member of the board of appeals may be removed:
 - 1. for cause;
 - 2. on written charges; and
 - 3. after a public hearing.
- E. The board of appeals shall have the powers and shall comply with and follow the requirements and procedures for boards of appeal as set forth in Article 66B, Section 4.07, Maryland code, as same may be amended from time to time.

(Ord. 04-12-01 § 1, 2005; Ord. 182 § 10.0, 1976)

Title 17 - ZONING

Chapter 17.44 BOARD OF APPEALS

17.44.020 Meetings of the board.

The members of the board of appeals shall meet at least ~~six~~ times each year at such time and place as they may fix by resolution. They shall select one of their members as chairperson and one vice-chairperson, who shall serve one year and until their successors have been selected. Special meetings may be called at any time by the chairperson or in his or her absence, by the vice-chairperson. A majority of the board shall constitute a quorum for the transaction of business. The board of appeals shall make a transcript of all its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact, which shall be immediately filed in the town office of the board and shall be a public record. Copies of the transcript shall be forwarded to the burgess and planning commission. All meetings of the board of appeals shall be open to the public. The chairperson, or in his or her absence the vice-chairperson, may administer oaths and compel the attendance of witnesses.

(Ord. 04-12-01 § 2, 2005; Ord. 182 § 10.1, 1976)

Commented [MSOffice1]: The last few years, the BOA only had 3-5 public hearings. This should be changed to 'as needed' instead of at least six times.

17.44.030 Powers of the board of appeals.

Powers of the board of appeals include:

- A. To hear and decide appeals where it is alleged there is an error in any order, requirement, decision, or determination made by an administrative official in the enforcement of this title or any ordinance adopted pursuant to Article 66B;
- B. To hear and decide special exceptions in the terms of this title as required under this title;
- C. To authorize upon appeal in specific cases a variance from the terms of this title.

(Ord. 182 § 10.2, 1976)

17.44.040 Appeals.

An appeal to the board of appeals may be taken by any person aggrieved by any officer, department, bureau of the Town of Middletown affected, or by any order, requirement, decision or determination by any governmental officer, department, board or bureau based in whole or in part upon the provisions of this title.

Such appeal shall be filed with the zoning administrator and the board of appeals within thirty (30) days from the decision being appealed from. Upon appeal, the zoning administrator shall transmit to the board of appeals all papers constituting the record upon which the action appealed from was taken. An appeal stays all proceedings in furtherance of the action appealed from unless the zoning administrator certifies to the board that a stay would, in his or her opinion, cause imminent peril to life or property.

(Ord. 182 § 10.3, 1976)

17.44.050 Variances.

- A. Filing of Variance. An application may be made to the board of appeals for a variance where it is alleged that the provisions of the zoning ordinance inflict unnecessary hardship upon the applicant. The application must be on a form provided for that purpose by the town. The applicant must provide all the information requested on the form, together with any other information and data that may be required to advise the board on the variance, whether such information is called for by the official form or not.

Title 17 - ZONING

Chapter 17.44 BOARD OF APPEALS

Unless otherwise specified or extended by the board, a variance authorized by it expires if the applicant fails to obtain a building permit or use certificate within twelve (12) months from the date of authorization of the variance.

- B. Standards for Variances. Where there is unnecessary hardship, the board may grant a variance in the application of the provisions of this title provided that the following findings are made where relevant in a given case:
1. That there are unique physical circumstances or conditions including irregularity, narrowness, or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property, and that the unnecessary hardship is due to such conditions, and not the circumstances or conditions generally created by the provisions of the zoning ordinance in the neighborhood or district in which the property is located;
 2. That because of such physical circumstances or conditions, there is not possibility that the property can be developed in strict conformity with the provisions of the zoning ordinance and that the authorization of a variance is therefore necessary to enable the reasonable use of the property;
 3. That such unnecessary hardship has not been created by the applicant;
 4. That the variance, if authorized will not alter the essential character of the neighborhood or district in which the property is located, nor substantially or permanently impair the appropriate use or development of adjacent property, nor be detrimental to the public welfare;
 5. That the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least modification possible of the regulation in issue.
- C. No grant of a variance shall be authorized unless the board specifically finds that the condition or situation of the specific piece of property or intended use of such property, for which the variance is sought, is not of so general or recurrent a nature as to make reasonably practicable the formulation of a general regulation for such conditions or situation.
- D. Conditions. In granting any variance, the board may attach such reasonable conditions and safeguards as it considers necessary to implement purposes of this zoning ordinance.

(Ord. 182 § 10.4, 1976)

17.44.060 Special exceptions.

- A. Filing of Special Exception. For any use permitted by special exception, a special exception must be obtained from the board of appeals. In addition to the information required on the building permit application, the special exception application must show:
1. Site plans, ground floor plans and elevations of proposed structures;
 2. Names and addresses of adjoining owners.
- Unless otherwise specified or extended by the board of appeals, a special exception authorized by the board expires if the applicant fails to obtain, where required to do so, a building permit or use certificate within twelve (12) months of the date of the authorization of the special exception.
- B. Temporary Special Exceptions. A temporary special exception must be obtained from the board for any nonconformity which is or will be seasonal or is or will be in the public interest. The board may grant a temporary special exception for a nonconforming use or structure, existing or new, which:
1. Is beneficial to the public health or general welfare;
 2. Is necessary to promote the proper development of the community;

Title 17 - ZONING

Chapter 17.44 BOARD OF APPEALS

3. Is seasonal in nature.

The temporary special exception may be issued for a period not exceeding one year, and may be renewed for an aggregate period not exceeding three years. The nonconforming structure or use must be completely removed upon the expiration of the special exception without cost to the town.

- C. Referral to Planning Commission. All applications for a special exception shall be referred to the town planning commission for a recommendation.
- D. Conditions. The board of appeals, in passing upon special exception applications, may attach conditions considered necessary to protect the public welfare and the comprehensive plan, including conditions which are more restrictive than those established for other uses in the same zone.
- E. Application of Extent-of-Use Regulations. The lot area, lot width and yard requirements as set forth in this title must be followed as the minimum by the board of appeals. Where no extent-of-use regulations are set forth for the particular use, the board must impose extent-of-use requirements as necessary to protect the public welfare and the comprehensive plan.
- F. General Standards. A special exception may be granted when the board of appeals finds from a preponderance of the evidence produced at the hearing that:
1. The proposed use, including its nature, intensity and location, is in harmony with the intent of the district;
 2. That adequate water supply, sewage disposal, storm drainage and fire and police protection are or can be provided for the use;
 3. That the use of adjacent land and buildings will not be discouraged and the value of adjacent land and buildings will not be impaired by the location, nature and height of buildings, walls and fences;
 4. That the use will have proper location with respect to existing or future streets giving access to it, and will not create traffic congestion or cause industrial or commercial traffic to use residential streets;
 5. That the specific standards (Chapter 17.48) set forth for each particular use for which a special exception may be granted have been met.
- G. Burden of Proof. The applicant for a special exception shall have the burden of proof, which shall include the gathering and forwarding of evidence and the burden of persuasion on all questions of fact which are to be determined by the board of appeals.

(Ord. 182 § 10.5.1—10.5.6, 1976)

17.44.070 Public hearings.

All appeals, applications for variance and special exceptions shall be decided in a public meeting and after a public hearing has been conducted. The board shall fix a reasonable time, give not less than ten (10) days' public notice thereof by the posting of not less than one sign of at least three square feet in area, continuing notice of the hearing in a conspicuous place on or near the property. The zoning administrator or agents may require additional posting in a place of common use or entrance to the community if in the judgement of the zoning administrator such posting is needed to adequately notify interested parties. All public hearings to be held by the board of appeals shall be advertised in a weekly or daily paper of general circulation in the town as well as due notice to the parties in interest including all adjoining and confronting property owners and decide the same within thirty (30) days of the public hearing. It shall be the responsibility of the applicant to provide the names and addresses of all confronting and adjoining property owners.

Title 17 - ZONING

Chapter 17.44 BOARD OF APPEALS

Upon the hearing, any party may appear in person, by agent or by attorney. The concurring vote of two members of the board shall be necessary to reverse any order, requirement, decision or determination of the zoning administrator, or to decide in favor of the applicant upon any matter upon which it is required to pass under any such ordinance, or to effect any variation in such ordinance.

(Ord. 182 § 10.6, 1976)

17.44.080 Appeals to court.

Any person or persons, jointly or severely aggrieved by any decision of the board of appeals, or by any reclassification by the burgess and commissioners, or any taxpayer, or any officer, department, board, bureau of Middletown, may appeal the same to the circuit court of the county. Such appeal shall be taken according to the Maryland Rules as set forth in Chapter 1100, Subtitle B.

An appeal from any decision of the circuit court reviewing a decision of the board of appeals may be taken to the Court of Appeals of Maryland during the period and in the manner prescribed by rules of the Court of Appeals.

(Ord. 182 § 10.7, 1976)

17.44.090 Permits issued by the board.

- A. **Construction Permitted by Board to be Undertaken Within Twelve Months.** No order of the board permitting the erection or alteration of a building shall be valid for a period longer than twelve (12) months, unless a zoning certificate for such erection or alteration is started and proceeds to completion in accordance with the terms of such permit.
- B. **Use of Building Permitted by Board to be Established Within Twelve Months.** No order of the board permitting a use of a building or premises shall be valid for a period longer than twelve (12) months, unless such use is established within such period; provided, however, that where such use permitted is dependent upon the erection or alteration of a building, such order shall continue in force and effect if a zoning certificate for the erection or alteration is obtained within such period and such erection or alteration is started and proceeds to completion in accordance with the terms of such permit.

(Ord. 182 § 10.8, 1976)

17.44.100 Board of appeals fees.

A fee shall be paid to the town at the time that the notice of appeal is filed. The amount of the fee shall be as established from time to time by resolution of the burgess and commissioners. See Chapter 17.52 for fees. (Amended during 2000 supplement; Ord. 00-04-04 § 4, 2000)