

SECTION IV: SPECIAL LAND USE REGULATIONS

4.0 PARKING REQUIREMENTS

- 4.0.1 Any building hereafter constructed for business use shall be so located upon its parcel of land that there may be provided an off-street parking area equal to twice the floor area of the buildings to be constructed.
- 4.0.2 All parking areas shall provide handicapped accessible parking spaces as required by the Federal Americans with Disabilities Act (ADA)

4.1 REFUSE DISPOSAL

- 4.1.1 No person shall deposit or cause to be deposited refuse of any kind on any of the Town ways or Town property, except in the Public Dump or transfer station especially provided for that purpose. No person shall place, store, or dump material equipment or junk on their property if in the judgment of the Building Inspector it is detrimental to the general appearance of the neighborhood. This refuse must be removed permanently from the premises within 60 days if a written complaint is received by the Building Inspector and the said Building Inspector, determines that the refuse is a public nuisance.
- 4.1.2 Radioactive waste disposal. No land within any use district in the Town of Middlefield may be used for the collection, treatment, storage, burial, incineration, or disposal of radioactive wastes, including but not limited to wastes classified as low level radioactive wastes, except as any such specific restriction may be precluded under present or subsequently enacted state law. This section shall be implemented under the conditions set forth in M.G.L. C.111H and M.G.L. C.21D as cited in M.G.L. C.40A. s.9.

4.2 ABANDONED, WRECKED, JUNKED, OR DILAPIDATED MOTOR VEHICLES

No person shall keep in the open on any , public or private land, any abandoned, wrecked, junked, or dilapidated motor vehicle and/or parts thereof, except for a maximum of two unregistered vehicles screened from view to be stored at a residence, or unless said person has been licensed to do so in accordance with Massachusetts General Laws, Chapter 140, Section 57. Working farm equipment, including trucks, on a producing farm shall be exempted from this regulation.

- 4.2.1 If the Building Inspector finds any vehicle and/or parts thereof in violation of this Ordinance, he or she shall make inquiry to determine both the record owner of the land upon which the vehicle and/or parts thereof are located and the record owner of the vehicle, and shall notify them in writing by certified mail, return receipt requested, at their last known addresses, that he or she has found such violation and the nature thereof, and he or she shall demand that, and it shall be the joint and several duty of, such record owner of such land the record owner of such vehicle to cause said vehicle to be removed from premises within fourteen (14) days of notice as hereinafter provided. If after diligent search, the mailing address of the owner of the land upon which the vehicle is located is not known, and the land is not occupied; or if the owner of the vehicle or his or her address is not known, said notice shall be posted upon said land and said vehicle and shall be deemed to be notice to the owner thereof.

4.3 MOBILE HOMES, TRAVEL TRAILERS and CAMPING

- 4.3.1 Storage and Parking
 - (a) A travel trailer, tent trailer, pick-up coach or camper, motorized camper, as defined in Section VII Definitions, may be stored on private on which a conforming residence exists property. Such stored equipment shall not be used for living purposes.

4.3 MOBILE HOMES, TRAVEL TRAILERS and CAMPING continued

(b) A trailer or camper, as defined in Section VII Definitions, to be stored or parked outdoors must be located at least twenty (20) feet from the rear and side lot lines. Such parked equipment shall not be used for living purposes except in the following case:

1. An owner of a trailer or camper may occupy such equipment on private property, with the property owner's permission, for a period of two (2) weeks without a permit, except in the Business District. For a period of occupancy greater than two (2) weeks, the property owner must obtain a permit from the Board of Selectmen.

4.3.2 Mobile Homes, as defined in Section VII, shall not be used for any purpose within the limits of the Town except in the following cases:

(a) Uses which may be permitted by the Zoning Board of Appeals

The Zoning Board of Appeals, after approval by the Board of Health, may issue a Special Permit for a Mobile Home whether or not placed on or affixed to a foundation for temporary office or residence use during the construction of a building on the premises. The permit may be used for a period of not more than six (6) months from the date of the permit.

(b) "No tent, travel trailer, or camper, as described in section 4.3.1 (a) (Hereinafter called camper) may be stored or parked on undeveloped land except by Annual Camping Permit from the board of Selectmen. Permit is limited to a maximum of one camper per existing conforming lot. Camper must be located at least forty (40) feet from lot lines. Camper must be removed at the end of the permitted camping period. The maximum period allowed for camping permits is 24 consecutive days per annum. The yearly granting of a camping permit shall be contingent on approval of sanitary facilities and presentation of a valid registration. A camper in violation of any term of this article is subject of daily fine per camper, and may be towed and impounded at the violators' liability and expense."

4.3.3 Camping (Definition: To reside on any land, public or private, for more than 24 hrs without a certificate of occupancy.)

(a) Non recreational camping will require a Building Permit. The duration of the camping shall not exceed the duration of the Building Permit. Sanitary facilities are required.

(b) All recreational camping will require possession of written permission from the land owner, and is subject to inspection by the Board of Health for proper sanitary and waste disposal procedures.

4.4 REMOVAL OF EARTH MATERIALS

Removal of earth materials for commercial purposes, including gravel, loam, sand or stone, may be permitted subject to the following special requirements:

4.4.1 No excavation, processing, loading or other operations, structures or facilities shall be closer than 50 feet of any property line.

4.4.2 No permit shall be issued under this section until a plan for the rehabilitation of the land, showing the existing and proposed final contours, and time schedule for completing the operation and restoring the land for its ultimate reuse, has been submitted to the Zoning Board of Appeals (and has been reviewed by the Planning Board).

4.4.3 Bond with surety has been furnished to the Town and approved as to form by the Town Counsel in the amount sufficient in the opinion of the Board of Appeals, to secure performance of the restoration of

the land in accordance with approved plans, and for preserving the sightliness of the area, and for meeting the requirements of public safety.

- 4.4.4 The Board of Appeals may impose conditions and restrictions with regard to length of time the permit will remain in force; the hours of the day during which activities related to the removal of earth materials may be conducted; the method of excavating earth materials; the routes of transporting excavated earth materials from the premises; the control of underground and surface drainage; the disposal of rocks, trees, stumps, and other debris; the provision for landscaping, screening, fencing or other barriers against nuisances and hazards to the public safety and welfare and in order to protect the area from becoming an eyesore.

4.5 SIGNS

One sign may be erected at each place of business or industry with an area not in excess of 12 square feet advertising the type of business, occupation or trade carried on at the premises or within a structure thereon or the principal product or service sold thereat; provided that no sign shall extend or protrude over public property and that, for the purposes of this section, two similar signs, back to back, so as to face in opposite directions, shall be considered one sign provided, further, that no sign shall violate any of the following limitations:

- 4.5.1 There shall be no blinking illuminated signs.
- 4.5.2 No signs shall have moving parts.
- 4.5.3 No signs shall be hung from or in any way be affixed to, any other sign.
- 4.5.4 No sign shall be of a noise-making variety.
- 4.5.5 No spotlight illuminating a sign shall be located so as to cast its beam into the eyes of oncoming motorists.
- 4.5.6 Political signs not to exceed six (6) square feet in area shall be permitted by right. Election signs must be removed within 14 days of election results.
- 4.5.7 Signs for Accessory uses are subject to the following requirements:
- a. Display of signs is limited to one sign pertaining to a permitted use.
 - b. The total area of a sign shall not be more than six (6) square feet.
 - c. No sign is to be erected that is less than ten (10) feet from a traveled way.

4.6 DRIVEWAYS

A permit must be obtained from the Town Highway Department for constructing any driveway which connects to a Town Road. This applies to any curb cut on a public way, not just to residence driveways. A Driveway Permit is a prerequisite to obtaining a Building Permit.

4.6.1 The permit application includes the permit fee, a lot plan with the proposed driveway indicated upon it, and a description of: 1) the location of the driveway on the lot plan, which location shall not be less than 25 feet from adjoining lot lines. 2) the intended driveway construction materials; 3) overall length, 4) estimated elevation over the distance of 60 feet from the Town Road surface; 5) angle of entry to the road; 6) number of feet of unobstructed view of road in all directions from a driveway position 6 feet off the road surface; and 7) any applicable drainage specifications --culverts, ditches, crowning of the driveway, etc. The Highway Department can require additional information as needed. The applicant shall also mark the actual location of the intended driveway for on-site review by the Highway Department.

4.6.2 In granting the permit, the Superintendent of Roads --with the approval of the Select Board-- may impose design or location changes appropriate to achieving closer conformance to desirable conditions such as: 90 degree angle of entry; 2% slope within 30 feet of road surface; not greater than a 10% slope in any portion of the remaining length of driveway; having a culvert parallel to the roadway; drainage grading to prevent ice, sand and gravel run-off onto the Town Road surface; unobstructed visibility of road in each direction; an unobstructed area near entry for piling snow sufficient to prevent snow being pushed onto roadway, obstructing visibility of roadway, or blocking culverts. The driveway width and the wide angle of any curves must be sufficient for fire engines and emergency vehicles to reach any buildings or proposed building sites.

4.7 HOME-BASED BUSINESS USE

Home-based business uses which exceed the definitions of Accessory Use 3.052 and 3.054 require a Special Permit issued by the Zoning Board of Appeals as Special Permit Granting Authority (SPGA), in accordance with this Section and Section 6.4 of this Bylaw.

4.7.1 Purposes:

To permit residents the use of their homes as places of livelihood and employment, while protecting the Town and neighbors from any adverse impacts associated with home-based businesses, and maintaining the rural agricultural and residential appearance of the Town.

4.7.2 Criteria:

Following the criteria elaborated in Section 6.4.4 the SPGA shall deem the proposed use is: 1) Suitably located and appropriate; 2) Reasonably compatible with the character and scale of uses permitted by right; 3) Not going to constitute a nuisance; And, 4) Provides adequate facilities; 5) Meets other bylaw regulations; 6) Won't cause traffic congestion; 7) Provides an adequate off-street loading area; 8) Won't adversely impact water quality; 9) Provides for adequate disposal of waste; 10) Minimizes visually degrading elements and screens potentially detrimental or offensive uses; 11) Ensures protection from flood and erosion hazards.

4.7.3 Additional Standards:

The proposed use is also subject to the following requirements:

(a) Permanent Alterations made for the Business Use: The SPGA shall have design and materials input on alterations made to a residence or its accessory buildings in connection to the business use. The purpose of maintaining the traditional rural and residential character of the Town shall be of major consideration in design choices, and the intent of minimizing visual impact on the neighborhood shall guide placement of any proposed new buildings.

(b) Lighting: Any outdoor lighting shall be shielded so that it does not produce a strong, direct light beyond the property boundaries.

(c) General Nuisances: Any activity that might result in excessive noise, electrical interference, smoke, dust, odors, heat, or glare beyond that which is common to the residential character of the district is prohibited.

(d) Hazardous Materials: No highly toxic, explosive, flammable, combustible, corrosive, radioactive or similar hazardous materials shall be used, stored, or manufactured on the premises in amounts exceeding those which are typically found in normal residential use.

(e) Traffic associated with a home-based business shall not place an unreasonable burden on the town, the roads, or the neighborhood.

4.7.4 Conditions, Safeguards, Limitations:

The SPGA may set conditions upon the Special Permit in writing as elaborated in Section 6.4.9 concerning: a) Increased setbacks; b) Screening; c) Limitations on size, number of occupants, time of operation; d) Modification of exterior appearance; e) Parking or traffic requirements; f) Measures to protect against pollution; g) Performance bond.

The SPGA is not limited to, but may also set, the following conditions:

(1) Set a renewal period for review of the Special Permit. The renewal process shall follow the same procedures as an original Special Permit application.

(2) Set thresholds of change or expansion of the business use at which Special Permit renewal is required.

(3) Require residency of the business operator on the same premises as the business use.

(4) Limit the scope of items, or floor area used, for retail sales

4.8 WIRELESS COMMUNICATIONS FACILITIES

Construction of wireless communications facilities shall be in compliance with the provisions of this Section and Section 6.4 (Special Permits), and requires a Special Permit issued by the Zoning Board of Appeals as designated Special Permit Granting Authority (SPGA). An amendment to the Special Permit must be received from the SPGA prior to any modifications of such facilities --such as extension, addition of cells, antenna, satellite dishes, or replacement of towers or transmitters. The procedure for amendment shall be the same as for an original Special Permit. This section does not apply to satellite dishes and antennas for individual residential use.

4.8.1 Use Restrictions

4.8.1.1 **Tower type:** Only monopoles and associated antenna and/or panels are allowed. Lattice style towers and facilities requiring three or more legs and/or guy wires for support are prohibited.

4.8.1.2 **Height:** The total height of the facility, including attached accessories, shall not exceed 120 feet as measured from ground level at the base of the structure.

4.8.1.3 **Setback:** The facility shall be located a minimum of 500 feet from the nearest residential lot line or residential building. And it shall have a minimum setback equal to the maximum allowed height (120 feet distance) from any abutting lot line or Town Way.

4.8.1.4 **Visibility and impact:**

(a) All wireless communications facilities shall be sited in such a manner that the view of the facility from abutters, residences, and other areas of Town shall be as limited as possible. The structures and antennas or dishes shall be painted or otherwise colored so they will blend in with the landscape. A different coloring scheme shall be used above and below the tree line.

(b) Facilities shall be sited, designed, constructed, and accessed in a manner that preserves existing vegetation to the maximum extent practicable.

(c) Fencing provided to control access to the facility shall have a landscape buffer of evergreen shrubs or trees planted outside the fenced area with a mature height at least equivalent to the fence height. Fencing material shall not be of razor wire or spun barbed wire.

(d) Lighting shall be limited to that needed for emergencies and / or as required by the FAA.

(e) Signs shall be limited to no trespassing signs and / or an announcement sign, giving a phone number where the facility owner can be reached on a twenty-four hour basis.

(f) The facility's site, access drive, or parking area cannot be used for long-term storage of vehicles or other equipment.

(g) To the extent technologically feasible, all network interconnections from the facility shall be via land lines.

4.8.1.5 **Continued Use:**

(a) Annual certification demonstrating continuing compliance with the standards of the FCC, FAA, the National Council for Radiation Protection, and the American National Standards Institute, along with verification of continued use and maintenance, shall be filed by the Special Permit holder with the Zoning Enforcement Officer or designee.

(b) All unused parts of the facility or accessory structures which have not been used for one year shall be dismantled and removed at the owner's expense.

4.8.2 Application Procedures

Application for a Special Permit shall require all items in Section 6.4.3, plus the following:

4.8.2.1 The site plan shall also include:

- (a) A list of other feasible sites in town.
- (b) Topography of chosen site, including the percent slope of the tower location and 150 foot radius around it.
- (c) Areas to be cleared of vegetation or trees.
- (d) Location and type of fencing, landscaping, and lighting.
- (e) A photo or rendition of the proposed facility &/or additions, panels, antennas, dishes, etc.
- (f) All other items required by Department of Public Health, 105 CMR 122 Fixed Facilities Which Generate Electromagnetic Fields in the Frequency Range of 300kHz to 100 GHz and Microwave Ovens.

4.8.2.2 Reports prepared by professional engineers, which shall:

- (a) Describe the facility and the technical, economic and other reasons for the tower location, height, and design.
- (b) Describe the capacity of the tower, including the number and type of transmitters and receivers that it can accommodate and the basis for the calculation of capacity.
- (c) Detail the assessment of anticipated future use of wireless telecommunications facilities within Middlefield, and the minimum height and structure necessary to accommodate co-location of anticipated service providers on the proposed tower.
- (c) Demonstrate that the tower and its attachments and transmissions comply with all applicable standards of the Federal and State governments.
 - (d) Demonstrate that the proposed sources of non-ionizing electromagnetic radiation will comply with the standards of the National Council of Radiation Protection, and the Massachusetts Department of Health, whichever is stricter.
- (e) Describe the exposures from electromagnetic field (EMF) measured at the property line, and the design or technology choices which most contribute to, and would minimize, such exposures.

4.8.2.3 Provide written official statements of compliance with, or exemption from, the regulations of agencies governing wireless telecommunications facilities or uses, including but not limited to: the FAA, FCC, Massachusetts Aeronautics Commission, and Massachusetts Department of Public Health.

4.8.2.4 Provide a visual demonstration of impact on Town views by placing a balloon at the height of the proposed tower, from the time of Special Permit Application submittal through the date of the advertised public hearing. The balloon shall be of a size and color that can be seen for a distance of one mile.

4.8.2.4 The applicant shall pay the costs for the Town to have an independent expert review the application materials.

4.8.3 Special Permit Criteria

The SPGA must find that the proposed wireless telecommunications facilities or modifications comply with those criteria specified in Section 6.4.4, plus the following:

4.8.3.1 That the proposed facilities are designed to accommodate the co-location of multiple users to the maximum extent technically practicable. The intent of this requirement is to reduce the number of facilities which will be required to be located within the community.

4.8.3.2 New towers shall only be considered after a finding by the SPGA that existing or approved towers cannot accommodate the wireless communications equipment planned for the proposed new tower.

4.8.3.3 No wireless telecommunications tower shall be located closer than two miles to any other such tower.

4.8.3.4 Construction shall not be on unstable soils, slopes greater than 5% within 150 feet of tower base, or in a manner and location failing to minimize erosion.

4.8.3.5 The proposed technology is the safest and least obtrusive to the landscape currently available. If new technology is developed which is determined by the SPGA to be safer and less obtrusive, the SPGA may require its substitution for the older technology.

4.8.4 Performance Guarantees

4.8.4.1 **Insurance:** Annual proof of insurance to cover damage from the structure, damage from transmissions, and other site liabilities shall be filed with the Town Clerk.

4.8.4.2 **Discontinuance:** The SPGA may, at its discretion, require the applicant or Special Permit holder to post a bond or other form of financial security with the Town Treasurer in an amount deemed sufficient to cover demolition and removal of the facilities in the event of discontinuance of use. The Town shall give the Special Permit holder 45 days notice in advance of any demolition action. If the posted amount does not cover the cost of demolition, the Town may place a lien on the property covering the difference in cost.

To be added to Section VII Definitions:

Wireless Communications Facility - Commercial or public-utility operated equipment or infrastructure designed to facilitate wireless communications, including cellular telephone service, personal communications service, enhanced specialized mobile radio service, and similar uses through a tower, monopole, antenna, satellite dish, or other transmitting and receiving equipment.