

# Town of Middleton Comprehensive Zoning Review

PREPARED FOR

Town of Middleton  
48 S Main St.  
Middleton, MA 01949  
978.777.8917

PREPARED BY

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260 Arsenal Place, #2  
Watertown, MA 02472  
617.924.1770

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# 1 Zoning Audit Overview

This Comprehensive Zoning Review aims to update and streamline the Town of Middleton's [zoning bylaw](#) by assessing how the current zoning bylaw aligns with the Town's current goals and needs. Given that Middleton last completed a comprehensive update to its zoning bylaw in 2008, this audit identifies outdated and inconsistent provisions, along with regulatory barriers, and presents recommendations to streamline the zoning code to make it easier for Town stakeholders to access and understand.

While the zoning audit aims to make the zoning bylaw easier to use, it will not significantly change the built environment or character of the town. It does not include substantial updates to zoning districts, density, or type of development allowed. In addition, most changes apply only to new construction or major renovations that trigger a zoning approval, and will not change existing buildings.

To conduct this zoning audit, the project team reviewed existing documentation, including findings from a 2022 Zoning Audit and previous Town planning documents. The team met with stakeholder groups and Town boards to get input on challenges and opportunities related to the zoning bylaw and suggested changes. These included a group of Town staff, developers who frequently work in town, the Planning Board, Zoning Board of Appeals (ZBA), and the Affordable Housing Trust. The Town also held a public forum on September 30, 2025, to get input on proposed zoning changes. Finally, the team reviewed zoning bylaws in peer communities in Massachusetts to identify best practices and strategies that could be implemented in Middleton.

Middleton recently passed two zoning bylaw updates which were approved by the Massachusetts Attorney General's Office in 2025:

- The Accessory Dwelling Unit (ADU) bylaw aligns with state requirements and allows ADUs by right in residential districts, limited to one per lot, with a maximum size of 900 square feet or ½ the primary home. The bylaw also sets out the process for site plan review for ADUs.
- The Floodplain Overlay District regulates development in FEMA-designated flood hazard areas to protect public safety, property, and natural resources. All projects require permits, must meet elevation and floodway standards, and are overseen by the Town Administrator to ensure compliance with local, state, and federal regulations.

Given the recent nature of these zoning bylaw updates, this zoning audit does not provide recommendations on these topics.

This report summarizes the key findings from the zoning audit across the following topics:

- Zoning districts and uses
- Dimensional requirements, including lot width, setbacks, and lot size
- Site design, including parking, signage, landscaping, and performance standards
- Administration and procedures, such as requirements for site plan review, special permits, and variances, and the roles of the Planning Board and Zoning Board of Appeals

- Miscellaneous items, including definitions and outdated information

For each topic, the report describes key issues identified in the zoning audit and recommended changes to the zoning bylaw to address these issues.

## 2 Zoning Districts and Uses

Zoning districts are established in Section 2 of the bylaw, while Section 3 outlines the use regulations for each district. The bylaw and accompanying zoning map include four residential districts, two business districts, and one industrial district, along with several overlay districts that provide additional regulations on top of the existing base zoning rules for specific purposes. Requirements for the different zoning districts are included throughout the zoning bylaw, including Section 7, Special Residential Regulations, and Section 8, Special District Regulations.

### 2.1 Residential Districts

#### 2.1.1 Village Residential District

The Village Residential (R-2) District requires a special permit granted by the Planning Board for multifamily or attached dwellings, and Section 7.1 of the bylaw specifies dimensional requirements for multifamily and attached dwellings in the R-2 District. Single-family and two-family dwellings are also allowed in the R-2 District (two-family dwellings are allowed by special permit), but there are no dimensional requirements listed, and the dimensional requirements for multifamily are not realistic for one- and two-family dwellings (e.g., 100,000 square feet for an attached dwelling or townhouse complex). If the Town wishes to allow single- and two-family dwellings in the R-2 District, the zoning code should specify dimensional requirements, for example by aligning them with the R-1a requirements.

**Recommended change:** Modify Section 7.1 and the Table of Dimensional Requirements to state that dimensional requirements for single-family and two-family dwellings in the R-2 District align with the requirements in the R-1a District.

#### 2.1.2 Interstate Highway Business (IH) District

Section 4.2.1.7 states that, "The total number of apartment dwelling units in an IH District shall not exceed 416 of such units." However, in the Table of Use Regulations, no residential uses are permitted in the IH District. Therefore, section 4.2.1.7 should be removed. This change would not affect the existing apartment units in the IH District, which are already considered non-conforming uses.

If the Town wants to allow multifamily dwellings in the IH District, the Table of Use Regulations should be updated accordingly, and there should be a discussion about appropriate dimensional requirements for the district rather than a unit cap.

**Recommended change:** Remove section 4.2.1.7.

#### 2.1.3 Accessory Uses and Structures

Town Counsel recommended a minor wording change to Section 3.2.1.6 of its Zoning Bylaws by substituting the word "room" with "rooms".

**Recommended change:** Modify Section 3.2.1.6 to state: "Renting of rooms to not more than two boarders."

## 2.2 Overlay Districts

### 2.2.1 Institutional Overlay District

Several stakeholders recommended removing the Institutional Overlay District (IOD) from the zoning bylaw, as in practice most of the uses allowed in the IOD are protected under the Dover Amendment (Massachusetts G.L. c. 40A, § 3), meaning that the IOD is redundant.

**Recommended change:** Remove Section 8.3, Institutional Overlay District (IOD). Remove mentions of the IOD in Sections 2.2, 6.5, and 9.5, and the zoning districts map.

## 2.3 Flexible Development

### 2.3.1 Flexible/open space development

Middleton added flexible development regulations (Section 7.3) to its zoning bylaw in 2009. The flexible development provisions are intended to offer an alternative to standard subdivision development in a way that can meet Town goals around preservation of open land, development of affordable and senior housing, and better overall site planning. Developers have the option to use the flexible development regulations anywhere in town (including but not limited to subdivisions) and must seek a special permit from the Planning Board in order to do so.

Currently, the baseline number of dwelling units allowed in a flexible development cannot exceed the number of lots which could reasonably be expected to be developed upon the site under a conventional development. In other words, the number of units in a flexible development and conventional development would be the same, based on the buildable land area of the site. Additional density bonuses, up to 40% additional units, are provided for conserving additional open space, constructing age restricted units, or providing additional amenities to the town (section 7.3.8). These units must be two-bedroom units with deed restrictions in perpetuity.

In addition, a minimum of 15% of the total number of dwelling units in a flexible development must be deed-restricted affordable housing units.

Several stakeholders shared that these flexible development provisions are not frequently used and should be updated to better meet the Town's goals. No developments using the flexible zoning have been permitted since 2019. Many municipalities have adopted "Open Space Residential Development" bylaws with similar goals as Middleton's flexible development regulations. The VHB team reviewed model open space design bylaws from the [Massachusetts Smart Growth/Smart Energy Toolkit](#) and the [Pioneer Valley Planning Commission Smart Growth Toolkit](#), as well as the Town of Wakefield's [open space development regulations](#), and identified several recommendations to streamline and improve Middleton's flexible development regulations.

**Recommended change:** Consider the following changes to section 7.3, Flexible Development, to encourage more residential development that aligns with town goals around open space and site planning:

- Make flexible development projects by-right with site plan review (rather than requiring a special permit), to encourage any development on rural land/open space to be completed in a way that is compact, sustainable/efficient in its use of town and natural resources, and helps preserve community character.

- Consider zoning incentives, such as density bonuses, for projects that use the flexible development zoning and preserve open space rather than standard zoning provisions. The total maximum density bonus could remain the same (up to 40% unit count increase), but be distributed differently (e.g., 20% increase for using flexible development over standard zoning, and up to 20% for the open space and affordability incentives currently in the zoning bylaw).
- Consider removing the requirement that all of the units constructed under the density bonus must be deed restricted 2-bedrooms, which may make the density bonuses less attractive to developers due to the lower profit margins for building affordable housing. Maintaining the 15% affordability requirement for flexible development would encourage affordable housing construction in a more feasible way.
- Add detail about the application and design review process for flexible development projects to provide consistency for applicants. Consider adding a pre-application consultation and site visit to get early input from the Town on a proposed project, which currently happens in practice but is not codified in the zoning bylaw. Add more details on building design, as specified in the state's model bylaw and adapted for Middleton as appropriate, to create certainty for applicants and reduce subjectivity in reviews.

## 2.4 District Boundaries

### 2.4.1 Boundaries of zoning districts

Town Counsel and other stakeholders recommended minor changes to section 2.4, Boundaries of districts, to align with current practice and reduce confusion.

**Recommended change:** Replace section 2.4.2 to state that the boundary lines of zoning districts shall be based on the Town's GIS zoning map and parcel data.

Replace section 2.4.5 with the following language: "2.4.5 Lot split by district lines. Where a district boundary line divides any lot existing at the time such line is adopted, the regulations that apply to the larger part of the area of such lot may, at the option of the lot owner, apply in the smaller part beyond such district boundary for a distance not to exceed 30 linear feet, if the smaller part has frontage on a public way. Any discrepancies or ambiguities with respect to the location of the district boundary and the other dimensional components of this section may be resolved by reference to a certified survey or available GIS data."

# 3 Dimensional Requirements

Section 4.0 of the Zoning Bylaw and its accompanying Table of Dimensional Requirements outlines dimensional requirements for buildings and structures, including lot coverage, lot area, land area per dwelling unit, lot width, front, side and rear setbacks, and maximum height.

## 3.1 Lot Width

### 3.1.1 Lot width measurement

In the current zoning, lot width is measured as the shortest distance between side lot lines taken through the dwelling, and for irregularly shaped lots the matter is decided by the Building Commissioner with the advice of the Planning Board. Since most new lots are not abnormally shaped, Town Counsel recommended simplifying this provision.

**Recommended change:** Modify section 4.1.2.1 to state: "Lot width. Lot width shall be measured as the shortest distance between side lot lines. At no point shall the lot be narrower than 75% of the required lot frontage."

## 3.2 Setbacks

### 3.2.1 Residential front setbacks

The front yard setback in the R-1a, R-1b, and RA Districts is 25 feet to the lot line or 50 feet to the street center line, whichever is greater (Section 4.1.2.2). This could lead to a situation where similar types of dwelling units have different setback requirements depending on the width of the road. To streamline the zoning code and align with common practice, it is recommended to measure the setback from the lot line only.

**Recommended change:** Modify section 4.1.2.2 to state: "Front yard. In the R-1a, R-1b, and RA Districts the required front yard is 25 feet to the lot line."

### 3.2.2 North Main Street front setback

For lots with frontage on North Main Street in the Business and Light Industrial District, the required front setback is 100 feet. There is some ambiguity about this requirement, as the Table of Dimensional Requirements states 100 feet, while section 4.1.2.4 states 100 feet from the center line of the street. In either case, the 100-foot setback leads to buildings being pushed back extremely far from the lot line, limiting opportunities for an engaging streetscape and restricting development to large lots (with enough depth after the 100-foot setback to construct a building). Several stakeholders recommended reducing the front setbacks on North Main Street to be more in line with those elsewhere in town, which are 30 feet from the lot line in the B and M-1 district. In addition, the setback in North Main Street just over the town line in North Andover is 30 feet in the business and residential districts, and 50 feet for a small segment of an industrial district.<sup>1</sup>

<sup>1</sup> Town of North Andover, Summary Of Dimensional Requirements. <https://ecode360.com/attachment/NO1118/NO1118-195c%20Tb%20%20Summary%20of%20Dimensional%20Reqs.pdf>



**Recommended change:** Modify the setback on North Main Street in the B and M-1 districts to 30 feet from the lot line to be consistent with setbacks elsewhere in town. To make the requirements for North Main Street consistent with the rest of town, remove section 5.1.3, which states that no parking shall be located in the required front yard along the frontage of North Main Street.

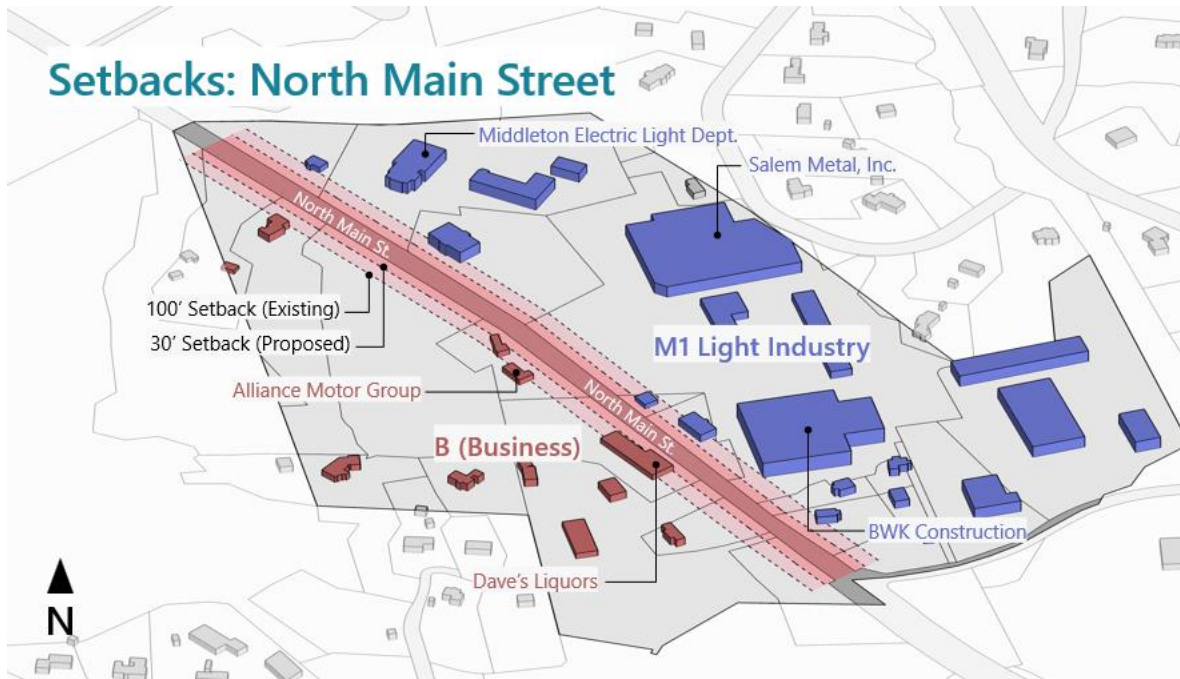


Figure 1: Comparison of existing and proposed front setbacks for North Main Street.

### 3.2.3 Setbacks in Table of Use Regulations

The Table of Use Regulations includes specific setback and access requirements for particular districts and uses. A \* indicates that a commercial use is allowed, "only with frontage on South Main and North Main Street and not more than 500 feet back from the center line of South Main Street on either side of the street." \*\* indicates that an industrial use is allowed, "only with frontage on South Main south of the intersection with Meadow Drive." These provisions are arbitrary and add complication to the zoning bylaw. These provisions should be removed, and the Town should instead assess setback and access requirements through the site plan review and/or special permit process.

**Recommended change:** Remove the \* and \*\* and associated key from the Table of Use Regulations.

## 3.3 Lot Size

### 3.3.1 Minimum lot size

Town Counsel recommended minor wording changes to clarify section 6.6.1, which discusses minimum lot size for industrial parks.

**Recommended change:** Replace section 6.6.1 with the following language: "General. An industrial park shall have a minimum lot size of at least 320,000 square feet (7.346 acres). This

requirement does not prohibit the construction of more than one building on a lot of less than 320,000 square feet in the M-1 District or applicable Business districts, provided that the lot meets all other requirements of the M-1 District or applicable Business district.”

### 3.4 Additional Structures

#### 3.4.1 Setbacks for accessory structures

Section 3.2.3 of the zoning bylaw describes the dimensional requirements for accessory buildings that are slightly different from the requirements for the primary structure (e.g., the front setback for the accessory building is 25 feet from the street but 25 feet from the lot line for the primary structure; side setbacks are 20 feet vs. 15 or 30 feet in the main residential district). To streamline the zoning code and reduce confusion, it is recommended that accessory buildings have the same setback requirements as the principal building.

**Recommended change:** Modify section 3.2.3 to state: “Accessory building. An accessory building, including a detached garage, located on any lot shall have the same setback requirements as the primary structure. No accessory building shall be located closer than 20 feet to any dwelling or main structure on a lot unless both structures conform to regulations relative to fire safety.”

#### 3.4.2 Multiple uses and structures

The zoning code is unclear on how many structures/uses can be allowed on one lot. If the town wants to allow multiple uses on a lot (i.e., mixed-use development), this would require clarification in the zoning code.

**Recommended change:** To align with current practice, update section 3.1, Principal Uses, to state that only one principal use is allowed on a lot, and multiple structures are allowed in all non-residential districts (in residential districts, only one principal structure is allowed on a lot).

# 4 Site Design

The zoning bylaw provides specifics for site design in Section 5, General Regulations, which lays out requirements related to parking, signage, landscaping, and performance standards.

## 4.1 Parking

### 4.1.1 Parking requirements

Stakeholders shared that the parking requirements in the zoning bylaw are not working well, with some uses requiring too much parking and others too little. VHB reviewed the parking requirements in the zoning bylaws of nearby towns of a similar size – Littleton, Topsfield, Georgetown, and North Reading – to understand how Middleton could update its parking requirements to align with common practice.

Middleton's minimum requirements for residential dwellings, retail establishments, hotels and motels, and places of assembly are consistent with these communities and seem to be meeting Middleton's needs.

The minimum requirement for business/professional offices is more stringent in Middleton than in neighboring communities. Middleton requires 1 space per 200 square feet of gross floor area, while Topsfield and Georgetown require 1 space per 300 square feet and Littleton requires 1 space per 250 square feet. Similarly, while Middleton requires 1 space per 200 square feet of gross floor area for uses not specified in the zoning bylaw, other communities require 1 space per 250-350 square feet or defer to the appropriate reviewing authority's discretion. To be more in line with neighboring communities and ensure that it is not overbuilding parking, Middleton could change its parking requirements for business/professional offices and any uses not specified to 1 space per 300 square feet of gross floor area.

Middleton's zoning bylaw specifies the number of parking spaces required for banks (1 space per 200 square feet gross floor area exclusive of storage area by not fewer than 5 spaces per separate enterprise). Since this amount is the same as retail sales, Middleton could remove the specific listing for banks in the Table of Parking Requirements. This would simplify the zoning code and align with nearby communities, which don't have specific requirements for banks.

Middleton does not set minimum parking requirements for schools or educational facilities, while other communities set minimums based on the number of classrooms, students, teachers, and employees, or a combination thereof. For example, Topsfield's requirements for schools are:

- For pre-school through Grade 8: 1 space per employee plus 1 space per classroom
- For High School: 1 space per employee and 1 space per 3 students

Table 1 shows the parking requirements for conventional (non-fast food) restaurants in Middleton and other towns in the region. While Middleton requires a set number of spaces per square feet of a restaurant (1 space per 250 square feet), most other communities base the required number of spaces on seating capacity (on average 1 space per 4 seats of seating capacity, although some

communities require 1 space per 3 seats). While some towns require parking for restaurant employees as well, this is not the norm. Stakeholders shared that restaurants often don't have enough parking, so updating the requirement to be based on restaurant seating capacity would help to address this issue.

To have a straightforward requirement that is enforceable even when restaurant staffing levels change over time, it is recommended that Middleton require 1 space per 3 seats of seating capacity, with the understanding that this would cover parking for both customers and employees. This would be a significant increase over Middleton's current requirement, which is the equivalent of about 1 space per 12-17 seats (assuming 15-20 square feet per seat as an average for restaurants).

**Table 1: Comparison of Parking Requirements for Restaurants**

<b>Town</b>	<b>Minimum Parking Requirement for Conventional Restaurants</b>
Middleton (current)	1 space per 250 SF GFA
Littleton	1 space per 4 seats, plus 1 space per employee on the larger shift.
Topsfield	1 space per 5 seats with a minimum of 12 spaces in the Business District Village  1 space per 3 seats with a minimum of 20 spaces in the Business District Highway, Business District Highway North and the Business Park District
Georgetown	1 space per 4 seats
Peabody	1 space per 3 seats or 2 spaces per 150 SF GFA, excluding basement storage area, whichever is greater.
North Reading	1 space per 4 seats
North Andover	15 spaces per 1,000 SF GFA (1 space per 67 SF GFA)
Wakefield	1 space per 3 employees in the maximum working shift, plus 1 space per 4 seats
Burlington	1 space per 3 seats

**Recommended change:** Make the following changes to the Table of Parking Requirements in section 5.1.2 of the zoning bylaw:

- Business or professional office - 1 space per 300 square feet gross floor area
- Bank – remove (banks fall under retail sales/service and have the same requirement)
- Restaurant - 1 space per 3 seats of seating capacity
- Remove Restaurant, fast-food (see section on Definitions below for more information)

- Add Schools and educational facilities – For pre-school through Grade 8: 1 space per employee plus 1 space per classroom; For High School: 1 space per employee and 1 space per 3 students
- All other uses - 1 space per 300 square feet gross floor area or such number of spaces in accordance with anticipated needs as determined by the Board of Appeals with the advice of the Planning Board

#### 4.1.2 Parking lot design

The zoning bylaw lacks information on parking lot design and layout, such as required dimensions for parking spaces and aisle width for one-way and two-way traffic to ensure sufficient passing distance. Most zoning bylaws include more detail about parking lot layout to ensure safety as well as consistency across the town. Middleton could add a new subsection under Section 5.1 to specify dimensional and layout requirements for parking lots.

**Recommended change:** Add a new subsection 5.1.5 (and adjust numbering accordingly) to specify parking space dimensions for angled and parallel parking, and aisle widths for one- and two-way traffic for different parking lot configurations.

#### 4.1.3 Parking lot landscaping

Section 5.1.5 specifies parking lot landscaping requirements on North Main Street, but to provide consistency this should be expanded townwide for all lots with 10 or more spaces.

**Recommended change:** Modify 5.1.5 to remove the reference to North Main Street frontage. Section 5.1.5 should state the following: "Parking lot plantings. Parking lots containing 10 or more parking spaces shall have at least one tree per eight parking spaces, such trees to be located either within the lot or within five feet of it. At least 5% of the interior of any parking lot having 25 or more spaces shall be maintained with landscaping, including trees, in plots of at least eight feet in width; trees shall be so located as to provide visual relief and sun and wind interruption within the parking area and to assure safe patterns of internal circulation."

#### 4.1.4 Compact cars

Stakeholders suggested that Middleton require a certain percentage of spaces for compact cars. While zoning bylaws do not typically *require* compact car parking spaces, some allow for a certain percentage of spaces to be designated for compact cars. For example, Millis, Manchester-By-The-Sea, and Marlborough allow up to 33% of spaces within a parking lot to be dedicated to compact cars, while Needham allows up to 50% of spaces. The dimensions of a compact car parking space is typically 8 feet wide by 16 feet in depth.<sup>2</sup>

Middleton's zoning bylaw does not specify the required size for standard parking spaces, so if allowances for compact spaces are added the bylaw should also specify the size for standard parking spaces.

**Recommended change:** Add section 5.1.7 to state: "Compact cars. Off-street parking areas may be designed to allow up to a maximum of 15% of the total number of parking spaces to be used by compact cars. Compact car spaces shall not be less than 8 feet by 16 feet."

<sup>2</sup> [Local Examples: Compact Car Spaces – MAPC](#)

Add section 5.1.8 to state, "Parking Space Size. Each parking space, except for the allowable percentage for compact cars, shall measure at least 9 feet in width and 18 feet in length; however, parallel parking spaces shall be at least 20 feet in length. The required parking space dimensions, including those for compact car spaces, shall not be reduced by obstructions, including, but not limited to, light poles and columns."

#### 4.1.5 Shared parking

Stakeholders suggested that the zoning bylaw should include allowances for shared parking, where multiple establishments share parking and total parking requirements may be reduced if the establishments can demonstrate that the parking will be utilized at different times of day and there is sufficient parking. A number of communities in Massachusetts have regulations for shared parking in their zoning bylaws.<sup>3</sup> In general, these regulations allow shared parking by special permit, and require the applicant to demonstrate that the peak parking demand and hours of operation vary enough to accommodate a shared parking facility. Municipalities that allow for shared parking include different levels of detail in their zoning bylaw, which may include:

- What percentage parking may be reduced by (e.g., up to 50 percent)
- Specific uses for which shared parking is allowed
- Methodology for calculating the reduction
- Process for approving shared parking (generally special permit)

**Recommended change:** Add a new section 5.1.7 on Shared Parking, to read as follows<sup>4</sup>: Shared private parking facilities for different buildings or uses may be allowed by Special Permit, subject to the following provisions: (a) Up to fifty percent (50%) of the parking spaces serving a building may be used jointly for other uses not normally open, used or operated during similar hours. The applicant must show that the peak parking demand and principal operating hours for each use are suitable for a common parking facility. (b) A written agreement defining the joint use acceptable to the Zoning Board of Appeals of the common parking facility shall be executed by all parties concerned and approved by the Zoning Board of Appeals as part of the special permit process. Such agreement shall be recorded at the Essex County Registry of Deeds. (c) Any subsequent change in land uses for which the shared parking proposal was approved, and which results in the need for additional parking spaces, shall require a new special permit application under this subsection.

#### 4.1.6 Electric vehicle parking

Town staff noted that requirements around electric vehicle parking are included in the building code, and the zoning bylaw should reference or match this. Middleton follows the state's [Base Energy Code](#), which requires up to 10 percent of parking spaces be "EV ready", with wiring suitable for Level 2 EV chargers (see section C405.13). The zoning bylaw could reference these requirements so that applicants see all of the relevant information about parking in one place.

<sup>3</sup> [Local Examples: Shared Parking – MAPC](#)

<sup>4</sup> This language is based on Stoneham's bylaw [Section 6.3.8](#)

**Recommended change:** Add section 5.1.9 to state: ""Electric vehicle ready spaces. Parking lots must comply with the Massachusetts Base Energy Code as amended or supplanted to provide complying spaces wired for electric vehicle supply equipment."

#### 4.1.7 Parking space banking

ZBA members noted that land banking parking spaces (i.e., keeping some of the required parking as open space with the option to develop into parking in the future if needed) is something that they permit, but this practice is not detailed in the zoning bylaw. The bylaw states "The Zoning Board of Appeals may require the establishment of a reserve area where a reduction in the number of spaces is authorized" (Section 5.1.6). However, it does not detail how much reserved space is allowed or the process for converting it to parking in the future.

Some towns in Massachusetts, including Concord, Framingham, and North Andover, include the option of land banking parking spaces (also referred to as reserved parking spaces) in their zoning bylaws. These bylaws typically include the amount of reserved parking allowed (e.g., no more than 50% of spaces), the process for converting land-banked space to parking, and dimensional and design requirements for the reserved spaces.

**Recommended change:** Add section 5.1.6.1 on ""Reserve Parking" as follows<sup>5</sup>: "a. The Zoning Board of Appeals may require the establishment of a reserve area where a reduction in the number of spaces is authorized.

b. The spaces that are not intended for construction immediately shall be labeled "Reserve Parking" on the site plan and shall be properly designed as an integral part of the overall parking layout, located on land suitable for parking development and in no case located within area counted as buffer, setback, or open space under other provisions of this Bylaw.

c. No more than fifty (50) percent of the total number of required spaces may be reserved for later construction.

d. At the request of the Board of Appeals, the applicant may be required to provide a parking monitoring program in order to determine if and when the land-banked parking spaces are needed.

e. If, after the issuance of a certificate of occupancy, the Board of Appeals or the applicant finds that all or a portion of the reserve parking spaces are needed, the applicant shall submit a written request for a minor modification to the site plan, stating such need and, if approved, denote the revision on the site plan.

#### 4.1.8 Pedestrian Access

Town Counsel recommended adding detail on pedestrian access requirements for parking lots.

**Recommended change:** Add section 5.1.11 as follows: "Pedestrian access: All parking areas or parking lots with five (5) or more spaces shall be designed to safely accommodate pedestrian access and circulation."

<sup>5</sup> Language based on Concord (section 7.7.2.8) and Framingham (section 435-24.E.3) bylaws.



## 4.2 Driveways

### 4.2.1 Driveway access

The Middleton Fire Chief raised concerns about the common driveways policy and emergency vehicle access, and suggested modeling Middleton's policy off of Hopkinton's, which includes specific requirements for emergency vehicle access.

**Recommended change:** Modify 6.3.6.1 to state: "The radius of the driveway where it intersects with the street right-of-way (ROW) must be sufficient to enable emergency vehicles to exit and enter the common driveway without leaving the surface of the common driveway. Moreover, the center line intersection with the street center line shall not be less than 45 degrees."

### 4.2.2 Driveway distance

Section 6.3.3 states that the distance of a driveway from the street line to the principal building cannot exceed 500 feet, but that the ZBA can waive this requirement by special permit. Stakeholders recommended removing the special permit option, so that the 500 feet requirement cannot be waived.

**Recommended change:** Modify 6.3.3 to state: "Maximum distance. The distance of any driveway measured from the street line to the point where the principal building is proposed shall not exceed a distance of 500 feet."

## 4.3 Signage

### 4.3.1 Wording and formatting changes

The Town recommended wording and formatting changes to Section 5.2.11 to clarify the intent of this section.

**Recommended change:** Modify Section 5.2.11 to read as follows:

"5.2.11. Permitted signs — all Business and Industrial Districts.

Accessory signs. A premises shall be allowed to have one accessory ground sign and either one accessory roof or one accessory wall sign, subject to the provisions set forth below and unless otherwise specifically permitted hereby.

1. Ground signs. Only one ground sign is permitted on any premises regardless of the number of buildings on such premises.

a. No ground sign shall extend more than 15 feet above ground level.

b. For single-occupant buildings, the sign area shall not exceed 36 square feet.

c. For multiple-occupant buildings, the sign area shall not exceed 36 square feet plus an additional six square feet for each additional occupant up to a maximum area of 96 square feet.

d. Sign areas larger than 96 square feet and signs in excess of 15 feet above ground level may be allowed by special permit of the Board of Appeals in accordance with Section 5.2.7.

2. Roof signs and wall signs. Each building located at a premises shall be entitled to only one roof sign or only one wall sign.



- a. The total sign area of any wall or roof sign shall not exceed more than one square foot for every one linear foot of the building frontage. See Exhibit 3, attached hereto, for an example of how to compute sign area.
- b. A building that is situated on lot where the main public entrances of the majority of its occupants face a parking lot shall be entitled to use the linear footage of the side of the building wall that faces the parking lot in determining the permissible sign area.
- c. The center line of any roof sign shall not exceed the midline of the roof and shall not extend above the ridge of the roof. See the figure shown on Exhibit 2, attached hereto, for a depiction of permitted roof signs.
- d. All allowed wall signs and roof signs shall be limited to the designs shown on Exhibits 2 and 3, attached.
- e. Subject to the issuance of a special permit by the Board of Appeals in accordance with Section 5.2.7, a multi-occupant building may be permitted to erect multiple roof and wall signs for each occupant, provided in addition to all other criteria listed herein and in Section 9.4 of the Zoning Bylaw the owner or interested party is able to demonstrate to the Board that:
  - (1) The combined sign area shall not exceed the sign area as determined under Subsection 2.a above.
  - (2) In no event shall a building have a combination of wall and roof signs.
  - (3) Wall signs on a single building, or multiple buildings within a premises, shall be consistent in size, color, and character providing for a uniform design.
- f. Subject to the issuance of a special permit by the Board of Appeals in accordance with Section 5.2.7, a building may have wall or roof signs on more than one side of a building, provided in addition to all other criteria listed herein and in Section 9.4 of the Zoning Bylaw the owner or interested party is able to demonstrate to the Board that:
  - (1) The building is located on a corner lot with legal frontage on both sides, as determined for the applicable zoning district; or
  - (2) The building is situated on a lot where the main public entrances for its occupants face its parking lot and a street on which the premises has legal frontage;and in either situation the sign is to be placed on the side of the building with legal frontage or that faces its parking lot; and the combined sign area of all such signs shall not exceed sign area as determined under Subsection 2.a above."

#### **4.3.2 Unenforceable requirements**

Town Counsel recommended deleting several sections relating to signage that are not enforceable or practical. Section 5.2.12, Temporary signs not requiring a permit, is not enforceable, as it includes requirements for temporary signs but no way to verify if the requirements are met. Similarly, Section 5.2.14 provides guidelines for the content and design of signs that are difficult to enforce/verify and leaves discretion to the Zoning Board of Appeals and the Building Commissioner in considering compliance. In particular, stakeholders mentioned issues with Section 14.1.a-c, which includes detailed guidelines about the content of signs that are difficult to verify. In the interest of streamlining the zoning code and making it more user-friendly, these sections could be deleted without substantively changing the requirements.

**Recommended change:** Delete Section 5.2.12 and Section 5.2.14.

## 4.4 Landscaping

### 4.4.1 Business District landscaping

Section 4.1.2.6 includes landscaping requirements for the Business District. Town Counsel recommended minor wording changes to this section.

**Recommended change:** Modify section 4.1.2 to state: "Front yard; Business District. Front yards shall be suitably landscaped, be unbuilt upon, be unpaved and not parked on. Adequate entrances and exits shall be allowed in this front yard."

## 4.5 Performance Standards

### 4.5.1 Multifamily housing

Section 5.4 describes performance standards for nonresidential developments, which are intended to control the size, scale, and impacts of nonresidential developments. These performance standards are considered during the special permit or site plan review process, and include requirements related to lighting, noise, site development, and pedestrian and vehicular access. Stakeholders recommended adding multifamily residential development to uses that require adherence to the performance standards.

**Recommended change:** Rename section 5.4 "Performance Standards for Nonresidential and Multi-family Residential Development." Replace Section 5.4.1 with the following: "Purpose. The following performance standards have been adopted in order to control the size, scale, and impacts of nonresidential and multi-family residential developments. The Board of Appeals and Planning Board shall ensure that such standards are met during the course of any special permit application or site plan review for a nonresidential or multi-family use."

### 4.5.2 Traffic study

Section 5.4.5.7 states that "The Board of Appeals may require a traffic study, prepared by a qualified traffic engineer, detailing the expected traffic impacts." Members of the ZBA noted that there should be more information in the zoning code about when a traffic study is required to make the decision less subjective. The [ZBA regulations](#) (section 260-4.B.2.c) provides detail about when a traffic study is required and how it should be conducted. The ZBA regulations could be modified in the future, or these requirements could be incorporated into the zoning bylaw update.

**Recommended change:** Modify section 5.4.5.7 to reference the ZBA regulations, as follows: "The Board of Appeals may require a traffic study, prepared by a qualified traffic engineer, detailing the expected traffic impacts, as specified in the Town of Middleton Zoning Board of Appeals Rules, section 260-4.B.2.c."

#### 4.5.3 Pedestrian access and sidewalks

Stakeholders suggested adding language to section 5.4.5 to address pedestrian access and sidewalks. The ZBA passed a Pedestrian Improvement Policy in 2022, which aims to promote sidewalk construction and rehabilitation and on-site pedestrian improvements for projects that require site plan approval. The Pedestrian Improvement Policy is included in the [Zoning Board of Appeals Rules](#), but elements of this policy could be incorporated into the zoning bylaw as well.

**Recommended change:** Add section 5.4.10 that states, "Each development must demonstrate that it provides adequate on-site pedestrian amenities, and construction of new sidewalks and/or rehabilitation of an existing sidewalk along the frontage of the subject property."

# 5 Administration and Procedures

Section 9 of the zoning bylaw addresses Administration and Procedure, including the roles and responsibilities of the Planning Board and Zoning Board of Appeals, as well as the processes for special permits and site plan review.

## 5.1 Site Plan Review

### 5.1.1 Activities requiring site plan review

Stakeholders suggested requiring site plan review for several additional activities and uses.

**Recommended change:** Add the following uses requiring site plan review to Section 9.5.2.:

3. An addition to or alteration of an existing building for commercial or industrial use
4. Any changes to commercial uses in residentially zoned districts
5. Any educational use, as defined under G.L. c. 40A, §3.
6. Accessory Dwelling Units, as described in Section 7.5.5 of this Zoning Bylaw.
7. Two-family dwellings
8. Any other use or structure for which Site Plan Approval is prescribed under these Zoning Bylaws.

### 5.1.2 Childcare facilities

Stakeholders suggested adding site plan review for childcare facilities. The zoning bylaw permits childcare facilities in all zoning districts. The bylaw (section 10.1) includes definitions for childcare facility, family day care, and adult day care. Family day care is defined as any private residence operating a facility as defined in G.L. c. 28A, § 9, and is considered an accessory use under section 3.2.1. Adult day care is also considered an accessory use.

Given that childcare facilities are allowed in all districts, adding site plan review for childcare facilities would help ensure that these facilities fit in with the surrounding context. Since family day cares operate out of existing homes and are considered an accessory use, site plan review is not necessary for family day cares. Similarly, site plan review could be required for adult day care facilities, other than those that operate as an accessory use in a residence.

**Recommended change:** Add childcare facility (not including family day care) and adult day care to the list of activities requiring site plan review under section 9.5.2. In other words, require site plan review for any daycare not operating out of an existing residence as an accessory use.

### 5.1.3 Screening requirements

Town Counsel recommended adding a site plan review process related to screening where a lot in the Business or Light Industrial District abuts a Residential District. Section 4.1.2.5 describes additional setback requirements in this situation (side and rear setbacks of 35 feet, and no

parking in the setback areas unless buffer screens are provided). Screening could be added to the one of the considerations for site plan approval described in Section 9.5.11.

**Recommended change:** Add to the list of site plan approval considerations listed in section 9.5.11 language stating: "Where a lot in the Business or Light Industrial District abuts a Residential District, compliance with requirements for setbacks and screening."

#### 5.1.4 Contents of plan

Town Counsel recommended one addition to the list of items required as part of a site plan.

**Recommended change:** Add a new Section 9.5.5.f that states: "The Board may adopt regulations requiring additional information consistent with this Bylaw, and may require filing via electronic means."

## 5.2 Special Permits

### 5.2.1 Special Permit Granting Authority

The Table of Use Regulations details which uses are allowed by-right and which by special permit, and who is the special permit granting authority (SPGA). Currently, the Zoning Board of Appeals is the SPGA in most cases, but Planning Board is responsible for special permits for 2-family dwellings, multifamily in R-2 district, and Flexible Development. Since 2019, the Planning Board has issued 8 special permits, primarily for the development of two-family dwellings, and no denials.

Middleton staff and board members expressed a desire to consolidate reviews and approvals and make the process more transparent for those seeking a special permit. To do so, the SPGA could be changed to the Zoning Board of Appeals in all cases. Section 9.4.1. states, "Unless specifically designated otherwise, the Board of Appeals shall act as the special permit granting authority." The Table of Use Regulations would need to be updated to indicate that the ZBA is the special permit granting authority for all uses.

The Planning Board would still review and make a recommendation to the ZBA on all projects requiring site plan approval, as is current practice.

**Recommended change:** Modify the Table of Use Regulations to note that the Zoning Board of Appeals is the special permit granting authority for all uses.

### 5.2.2 Approved street plan

Town Counsel recommended wording changes to clarify that a special permit is required when a lot will be built on an unconstructed way.

**Recommended change:** Modify section 6.7.1 to state, "General. No building permit shall be issued unless the lot to be built upon has frontage on a street, as defined in this Zoning Bylaw, or, if it is on an unconstructed way, such way shall be constructed in accordance with the Planning Board Subdivision rules and regulations providing adequate access to existing lots, with said plan being subject to receipt of Special Permit approval."

### 5.2.3 Lapse of special permits

The current zoning bylaw states that special permits lapse if substantial use or construction has not begun within 24 months of the special permit approval. Stakeholders recommended extending this timeline to 36 months.

**Recommended change:** Modify section 9.4.8 to state, "Lapse. Special permits shall lapse if a substantial use thereof or construction thereunder has not begun, except for good cause, within 36 months following the filing of the special permit approval (plus such time required to pursue or await the determination of an appeal referred to in G.L. c. 40A, § 17, from the grant thereof) with the Town Clerk."

### 5.2.4 Wireless telecommunication facilities

Section 6.5 of the zoning bylaw outlines requirements for wireless telecommunication facilities, including a requirement for a special permit issued by the Board of Appeals in the M-1 and IH districts. Wireless telecommunication facilities are not allowed in other zoning districts. "Wireless communication systems" are defined in section 10 of the bylaw. Middleton should review these sections to determine if it needs to be modernized to align with current technologies. Towns that have recently updated the wireless communication aspects of their zoning bylaws, such as [Lexington](#) or [Somerville](#), could be a good model for Middleton to follow.

**Recommended change:** No current changes proposed.

### 5.2.5 Earth removal

The zoning bylaw contains contradictory information about whether a special permit is required for earth removal. Section 3.2.1 lists "Removal of sod, loam, sand, gravel or other earth product in connection with the construction of a building" as an accessory use for residential districts. Section 6.2 states that the removal of sod, loam, sand, gravel, or other products from a lot is prohibited except by special permit granted by the ZBA. Section 3.2.1 should be modified to clarify that a special permit is required, and the table of use regulations should also be modified to note that a special permit is required. This would align with the Town's general bylaws Chapter 130, which state, "No sod, loam, clay, sand, gravel, quarried stone or other earth material which forms a part of the real estate of the Town of Middleton shall be carried, conveyed or moved outside the boundaries of the Town of Middleton for any purpose whatsoever, except for new building construction, at which time the Board of Appeals may grant a special permit for removal of clay, sand, gravel, or quarried stone from the Town of Middleton."

**Recommended change:** Modify section 3.2.1.3 to state, "Subject to receipt of approvals as required under Section 6.2 of this Bylaw, removal of sod, loam, sand, gravel or other earth product in connection with the construction of a building for which a building permit has been issued, subject to the Town bylaws, and further provided that the amount of such material removed does not exceed the amount contained, before construction, in the particular space to be occupied by the foundation of said building."

Modify Table of Use Regulations (row G.4) to clarify that earth removal requires a special permit by the ZBA.

### 5.2.6 Temporary Uses

Under Section 3.4, temporary uses for amusement and recreation require the issuance of a special permit from the Select Board. This is the only activity where the Select Board is involved in granting of a special permit. To streamline the zoning bylaw and have fewer approvals involved, Middleton could consider changing this responsibility to the ZBA. Alternatively, Middleton could consider an administrative, staff-level approval for temporary uses rather than requiring a special permit.

**Recommended change:** Modify section 3.4 to state, "Temporary uses for amusement and recreation shall require the issuance of a special permit from the Board of Appeals, and may be subject to appropriate conditions." Modify the Table of Use Regulations to replace Select Board with Board of Appeals for the special permit granting authority for temporary uses.

### 5.2.7 Activities requiring a special permit

The zoning bylaw outlines numerous uses requiring a special permit in the Table of Use Regulations. In addition, special permits are required for specific activities described throughout the zoning bylaw. **Error! Reference source not found.** in the Appendix summarizes these activities and the entity responsible for granting a special permit (note that it does not address the use requirements covered in the Table of Use Regulations). To make it easier for applicants to understand the activities that require a special permit, this table could be added to Section 9 of the zoning bylaw.

In addition, some activities that are fairly routine currently require a special permit, and could instead be allowed by right, while retaining the other requirements in the bylaw (size, number, placement of these signs). These include:

- Section 5.2.10.2. Nonaccessory signs: Directional signs located on private property
- Section 5.2.11.3. Canopy signs

Other activities require a special permit but should be prohibited:

- Section 5.4.2. Searchlights. The operation of laser shows or searchlights for advertising purposes.

**Recommended change:** Add table summarizing activities requiring a special permit to Section 9 of the zoning bylaw. Revise Section 5.2.10.2, Nonaccessory signs and Section 5.2.11.3. Canopy signs, to remove the special permit requirement (allow by-right). Revise Section 5.4.2, Searchlights, to prohibit this activity.

## 5.3 Nonconforming Uses and Structures

### 5.3.1 Alterations to nonconforming uses and structures

Section 3.3 of the zoning bylaw includes allowances for changes to nonconforming uses and structures, including when a special permit or variance is required to change a nonconforming use or structure. In general, a permit from the ZBA is required to change a nonconforming use or structure, and a variance is required to increase or add a new nonconformity. For single and two-

family residential structures, changes can be made at the determination of the building inspector, provided that the changes do not increase nonconformities.

Town Counsel recommended minor edits to Sections 3.3.2, 3.3.4, 3.3.5 to reflect court cases and clarify language.

**Recommended change:** Modify section 3.3.2 to read as follows: "Nonconforming uses. The Board of Appeals may award a special permit to change, alter or modify a nonconforming use in accordance with this section only if it determines that such change or extension shall not be substantially more detrimental than the existing nonconforming use to the neighborhood, and provided that such change, alteration or modification is not different in kind, character or degree. The following types of changes to nonconforming uses may be considered by the Board of Appeals:

1. Change or substantial extension of the use;
2. Change from one nonconforming use to another, less detrimental, nonconforming use."

**Recommended change:** Modify section 3.3.4 to read as follows: "Nonconforming structures; variance required. (1) Except as provided in Subsection 3.3.5, below, the reconstruction, extension or structural change of a nonconforming single or two-family residential structure in such a manner as to create a new nonconformity shall require the issuance of a variance from the Board of Appeals; and (2) The reconstruction extension or structural change of all other structures in such a manner as to increase an existing nonconformity, or create a new nonconformity shall require the issuance of a variance from the Board of Appeals, provided, however, the extension of an exterior wall at or along the same nonconforming distance within a required yard shall require only the issuance of a special permit from the Board of Appeals."

**Recommended change:** Modify section 3.3.5 to read as follows: "Nonconforming single and two-family residential structures. Nonconforming single- and two-family residential structures may be reconstructed, extended, altered, or structurally changed upon a determination by the Building Inspector that such proposed reconstruction, extension, alteration, or change does not increase the nonconforming nature of said structure. In the event that the Building Inspector determines that the nonconforming nature of such structure would be increased by the proposed reconstruction, extension, alteration, or change, the Board of Appeals may, by special permit, allow such reconstruction, extension, alteration, or change where it determines that the proposed modification will not be substantially more detrimental than the existing nonconforming structure to the neighborhood, provided that a variance will be required for all new non-conformities. The following circumstances may, at the Building Inspector's reasonable discretion, not be deemed to increase the nonconforming nature of said structure:

1. Alteration to a structure located on a lot with insufficient area which complies with all current setback, yard, building coverage, and building height requirements,
2. Alteration to a structure located on a lot with insufficient frontage which complies with all current setback, yard, building coverage, and building height requirements.
3. Alteration to a structure which encroaches upon one or more required yard or setback areas, where the alteration will comply with all current setback, yard, building coverage and building height requirements."



### 5.3.2 Reconstruction after catastrophe

The zoning bylaw includes a process for reconstructing a nonconforming structure after a catastrophe or demolition. Town Counsel recommended wording changes to this provision to clarify that a variance will be required if a new non-conformity is proposed.

**Recommended change:** Modify section 3.3.7.3 to read as follows: "In the event that the proposed reconstruction would (a) cause the structure to exceed the volume or area of the original nonconforming structure or (b) exceed applicable requirements for yards, setback, and/or height or (c) cause the structure to be located other than on the original footprint, a special permit shall be required from the Board of Appeals prior to such demolition, provided however that a variance shall be required in the event that a new non-conformity is proposed."

## 5.4 Roles and Responsibilities

### 5.4.1 Affordable Housing Trust

Members of the Affordable Housing Trust suggested that the Trust could play a formal role in the development review process by advising the Planning Board and ZBA on projects related to multifamily housing. This could be similar to the role of the Industrial and Commercial Design Review Committee in making advisory, non-binding recommendations to the ZBA, and would codify current practice.

**Recommended change:** Add section 9.7 detailing the roles and responsibilities of the Affordable Housing Trust in making non-binding, advisory recommendations to the ZBA on multifamily housing or Flexible Development projects requiring a special permit or site plan approval.

## 5.5 Other Administration and Procedures Changes

### 5.5.1 Minor wording changes

Town Counsel and other stakeholders recommended several minor wording changes to clarify items related to administration and procedures.

**Recommended change:** Modify section 9.3.1 to read as follow: "Establishment. There shall be a Board of Appeals under these bylaws which shall be appointed by the Select Board of Selectmen. The Select Board may appoint two associate members to the Board of Appeals."

# 6 Miscellaneous

## 6.1 Definitions

### 6.1.1 Restaurants

There are currently four definitions in the zoning bylaw for restaurants, each with slightly different use and parking requirements (restaurant, restaurant with entertainment, fast-food restaurant, and drive through restaurant/retail establishment). These could be streamlined to reduce confusion and duplication. In particular, the definition of “fast-food restaurant” could be removed since fast-food restaurants are allowed in the same districts as conventional restaurants.

The other types of restaurants – restaurants with entertainment and drive through restaurants – require a special permit from the ZBA, which makes sense given their potential impact. Therefore, the zoning bylaw should retain separate definitions for restaurants with entertainment and drive-throughs. In addition, the definition of restaurant in the zoning bylaw is overly specific, and should be modified to align with the commonly understood definition of restaurants.

**Recommended change:** Remove “Restaurant, Fast-Food” from Section 10.1 (Definitions), as well as the Table of Use Regulations and Table of Parking Requirements. Fast-food restaurants will now have the same requirements as conventional restaurants.

Modify the definition of Restaurant to state: “A commercial establishment where food and beverages are prepared, served, and consumed. Take-out and delivery are allowed.”

## 6.2 Outdated Information

### 6.2.1 Outdated sections

Two sections of the zoning code have expired and should be deleted:

- Section 6.8, Marijuana establishment temporary moratorium: This section expired in 2018.
- Section 7.4, Development Schedule: This section expired in 2015.

**Recommended change:** Delete Sections 6.8, Marijuana establishment temporary moratorium and Section 7.4, Development Schedule in their entirety.