



**MIDDLETOWN**  
Rhode Island

## PLANNING DEPARTMENT

**TOWN OF MIDDLETOWN**

350 East Main Road, Middletown, RI 02842  
(401) 849-4027 | MiddletownRI.com

To: Paul A. Croce, Chairman  
Planning Board members

From: Ron Wolanski, Town Planner

Date: May 3, 2022

Re: Draft ordinance - Incentive program to promote preservation of historic buildings and resources.

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The Middletown Comprehensive Community Plan lays out a goal and action item as follows:

**Goal C-I:** “Save National Register and other historically or architecturally significant properties and natural heritage sites.”

**Action Item C-I.A.1:** “Adopt ordinances to require historically correct restoration of historic buildings and to discourage demolition or inappropriate use of valuable historic resources.”

The Planning Board formed a subcommittee to consider options for implementation, which resulted in a recommendation to proceed with a voluntary, incentive-based program, rather than a regulatory approach. The Planning Board hosted two advertised public workshop meetings on May 1<sup>st</sup> and November 19, 2019 to present and discuss the proposed program. Owners of potentially eligible properties were notified by mail. Public input helped the Board prepare the attached draft for the Town Council’s consideration. Also attached is a sheet summarizing the program, which would result in the following:

- Establish a new historic preservation board tasked with inventorying the town’s historic resources, developing criteria for participation in the program, and issue certificates of appropriateness to eligible properties and projects.
- Provide tax incentives for eligible properties to enroll in the preservation program – a 10-year commitment to not inappropriately alter the historic resource.
- Provide tax incentives for historically appropriate renovations to eligible properties, with the incentive based on the cost of the renovation or restoration.

The Board forwarded the proposal to the Town Council for consideration in February 2020. With the onset of the COVID-19 pandemic, and resulting uncertainty over impact on Town finances, the Board requested that the discussion be tabled for future consideration. If the Board wishes to proceed with the request for the Town Council to adopt the program, given the amount of time that has passed, the Board should consider whether an additional public workshop meeting is necessary before asking the Council proceed.



# Town of Middletown

## Proposed Voluntary Historic Preservation Ordinance, Summary

**Purpose:** To incentivize property owners to preserve historic resources, including structures, landscapes, sites, landmarks, and archeological sites, as called for in the comprehensive plan. The ordinance does not create a regulatory historic district. This would be a completely voluntary program.

**Administration:** The Town Council would appoint a 5-member Historic Resources Preservation Board (Board) to inventory the Town's historic resources, create criteria for participation in the program, review incentive applications, ensure compliance, and perform other responsibilities included in the ordinance.

**Eligible Properties:** The Board will establish a Historic Resources List that includes all significant historic resources located within the town. Properties with historic resources will be eligible for the incentives described below. Historic resources will be divided into primary resources (structures) and secondary resources (such as designed landscapes, landmarks, stone walls, and archeological sites). Primary resources will be eligible for more and greater incentives than secondary resources. Owners of properties not included in the inventory may petition the Board to be added to the Historic Resources List.

### Incentives:

1. *Annual Historic Resource Preservation Property Tax Exemption:* Property owners enter a 10-year contract with the Town to preserve a historic resource in return for an annual property tax exemption. Maintenance projects during the term of the contract must meet the Board's standards. The Town shall recoup lost tax if a contract is broken. Sale of the property results in the end of the contract without penalty to the seller or buyer. The buyer will be encouraged to consider continued participation in the program.

Owners of primary resources are eligible for an exemption of 20% of the total assessed value of the property associated with the resource. Owners of secondary resources are eligible for a 10% exemption. However, no exemption shall exceed 20% of the town-wide median residential property valuation.

**Example:** Max exemption (primary resource)<sup>1</sup>: \$69,000 of assessed value, which results in a \$948 property tax reduction. Impact on annual tax revenue<sup>2</sup>: ~\$136,512 @ 100% participation | ~\$68,256 @ 50% | ~\$34,128 @ 25%.

2. *Historic Resource Rehabilitation Property Tax and Fee Reduction:* Property owners performing historically appropriate restoration or maintenance on a historic resource are eligible for a one-time property tax reduction equal to 20% (for Primary Resources) or 10% (for Secondary Resources) of the cost of the restoration or maintenance project, and a 50% reduction of the construction permit fee. Exemption that results in tax reduction exceeding 100% of the total property tax owed would be carried over the succeeding year.

**Example:** A property assessed at \$300,000 pays \$4,122 in tax annually (assumed \$13.74 mill rate). If the owner did a \$40,000 renovation, they would get an \$8,000 tax reduction. First year no tax due. Second year \$244 tax due. Impact on annual tax revenue<sup>3</sup>: ~\$84,000

3. Property owners may receive both historic resource tax incentives simultaneously.

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<sup>1</sup> Assumes a median total assessed value of \$345,000 and mill rate of \$13.74.

<sup>2</sup> Assumes ~144 historic structures on Historic Resource List, each receiving the maximum exemption. Structure count estimated using the RI Historical Preservation Commission's 1979 "Preliminary Report" on historic resources.

<sup>3</sup> Assumes 14 rehab projects annually, half at a cost of \$20,000 and half at \$40,000.

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# Town of Middletown

## Planning Department

350 E. Main Rd., Middletown, RI | 401.849.4027

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### Historic Resources Preservation Ordinance

#### X.1 Purpose

The Town of Middletown and its residents recognize cultural and historic preservation as a key component to the town's economy, character, and future growth. They are committed to preserving historical and architecturally significant properties, historical landscapes, and natural heritage sites. Additionally, the Town and its residents support the development of programs to raise awareness of the town's cultural and historic resources to ensure the history and culture of the town remain a vital part of the community.

The purpose of this article is to encourage the preservation of the Town's cultural and historic resources, including the voluntary preservation of privately-owned residential and commercial structures and other resources of historic and architectural value, and to encourage preservation of Town-owned historic buildings and resources for present and future generations.

#### X.2 Definitions

"Archeological site" shall mean a site where evidence of historic or pre-historic activity that is of interest to the archeological record is preserved.

"Architecturally significant structure" shall mean a structure built in 1940 or later that is rare in kind or includes rare elements, has not been inappropriately altered, and exemplifies a specific architectural style. The Rowe House (1982), featured in the Middletown Historical Society's *Houses History Heritage*, is a local example of an architecturally significant structure.

"Certificate of Appropriateness" shall mean the document awarded by the Board certifying that any maintenance or rehabilitation project to the exterior of an historic or architecturally significant structure or other historic resource included on the town's Historic Resources List is consistent with the Board's standards and guidelines.

"Certificate of Completeness" shall mean the document awarded by the Board certifying that a project previously awarded a Certificate of Appropriateness has been completed in the manner agreed upon between the property owner and the Board and the cost of the project has been reported to the Board.

"Complete application or petition" shall mean an application for an Historic Resource Preservation Incentive or Certificate of Appropriateness or a petition to be added to the Historic Resources List that is deemed to contain all the required information for the Board to render a decision.

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“Construction permit fee” shall mean the fee imposed by Chapter 36 of the Code of Ordinances of the Town of Middletown.

“Designed landscape” shall mean a historic landscape for which a conscious, aesthetics-driven design effort was pursued. The Gray Craig Estate, north of Nelson’s Pond, is a local example of a designed landscape.

“Historic landmark” shall mean a natural or man-made object that has been historically used to mark a locality or boundary. The town’s many stone walls and the mile marker at two-mile corner are local examples of historic landmarks.

“Historic resources” shall mean historically or architecturally significant structures, landscapes, sites, landmarks, archeological sites, and historic documents, photos and records as designated by the Historic Preservation Resources Board.

“Historic Resources Preservation Board” or “Board” shall mean the board appointed by the Town Council to administer and promulgate the various programs developed under this ordinance.

“Historic Resources Preservation Board of Appeal” or “Board of Appeal” shall mean the Town Council.

“Historic site” shall mean a site of historic significance, including, but not limited to, cemeteries and American Revolution sites.

“Historic structure” shall mean a structure built before 1940 that has not been inappropriately altered. The structure should exemplify a specific architectural style or include rare architectural features. A structure built after 1940 may be considered a historic structure if it is associated with an important historical event or person.

“The Middletown Historic Resources List” or “Historic Resources List” shall encompass the significant historic resources throughout the town as identified by the Board.

“Minor modification” means a revision to approved plans that is deemed to be minor in nature and not incongruous with all other approved elements of that plan.

“Primary Historic Resource” shall mean the structures included on the Historic Resources List.

“Secondary Historic Resource” shall mean the designed landscapes, sites, landmarks, and archeological sites included on the Historic Resources List.

### **X.3 The Middletown Historic Resources List**

**X.3.A. Establishment.** The Middletown Historic Resources List (Historic Resources List) is hereby established. All significant primary and secondary historic resources located within the town boundary, as identified by the Board in its inventories of primary and secondary historic resources, shall be included on the Historic Resources List.

**X.3.B. Amendments.** The Historic Resources List may be amended by a vote of the Board. The list shall be amended when structures on the list have been demolished, renovated in such a manner as to have lost their historic or architectural value, or after a successful petition by a property owner to have their resource added to the list.

X.3.C. Petitions to be Added to the Historic Resources List. A property owner may petition the Board to have their property added to the Historic Resources List. Petitions shall be filed with the Department of Planning and Economic Development. The director, or their designee, shall determine if said petition is complete and shall forward complete petitions, together with all supporting materials, to the Board, which shall vote to approve or reject the petition at a meeting. Petitioners shall be notified of an incomplete petition within ten working days of receipt by the Department of Planning and Economic Development.

### X.4 Historic Resource Preservation Incentives

X.4.A. Incentives. The following incentives shall be available to the owners of Primary Historic Resources and, where specified, Secondary Historic Resources included on the Historic Resources List.

**X.4.A1 Annual Historic Resource Preservation Property Tax Exemption.** Property owners of Primary and Secondary Historic Resources included on the Historic Resources List are eligible for this incentive. If approved by the Board, the property owner shall enter into a contract with the Town that requires the property owner to maintain their historic resource for ten years. In return, the real property associated with a primary historic resource shall be exempt from taxation to the amount of ~~40~~ 20 percent of total assessed value. Real property associated with a secondary historic resource shall be exempt from taxation to the amount of ~~5~~ 10 percent of total assessed value. No exemption shall exceed ~~40~~ 20 percent of the median assessed value of a single family dwelling in Middletown as determined by the Middletown Tax Assessor. The exemption shall be recalculated annually for the duration of the contract's term to account for changes in the real property's assessed valuation.

Applications for the incentive shall be filed with the Department of Planning and Economic Development. The director, or their designee, shall determine if said application is complete and shall forward complete applications, together with all supporting materials, to the Board, which shall vote to approve or reject the application at a meeting. Applicants shall be notified of an incomplete application within ten working days of receipt by the Department of Planning and Economic Development.

Any maintenance or rehabilitation project performed on the exterior of an historic or architecturally significant structure or on an historically significant designed landscape, site, landmark, or archeological site within the term of the contract must be approved by the Board in the manner described under the incentive titled Historic Resource Rehabilitation Property Tax and Fee Reduction.

A property owner applying for or receiving the incentive shall submit photographs of their historic resource to the Board during the application process, after the fifth year of the contract, and after the tenth year of the contract to ensure the property owner meets the terms of the agreement. If the Board determines the property owner has failed to meet the terms, the contract shall be terminated, and the Board shall notify the Tax Assessor's Office, which will recoup the exempted property taxes from the years the credit was already awarded under the contract. The owner may appeal the termination of a contract to the Board of Appeal.

**Commented [KP1]: EX. OF OTHER MIDDLETOWN TAX EXEMPTIONS**

Age 65+ Tax Exemption: \$33,949 w/ progressive scale up to \$100,239 for lowest income rung.  
Age 75+ Tax Exemption: \$37,344 w/ progressive scale up to \$110,263 for lowest income rung.  
Annual increase based on Consumer Price Index

Veterans: \$25,777  
Disabled Vets: \$106,083  
Parent of Vet killed in action: \$38,676  
Prisoner of war: \$31,293

Blind Persons: \$38,866

**Commented [KP2]: MAXIMUM TAX REDUCTION POSSIBLE**

Median assessed valuation = \$345,000  
Tax rate = \$13.75/1000

10% of median assessed valuation = \$34,500  
Tax reduction = \$474.38

THE TAX EXEMPTION IS SIMILAR IN SIZE TO THOSE NOTED ABOVE FOR THE BLIND, ELDERLY, AND VETERANS

**Commented [RW3R2]:** If max. exemption is doubled to 20% of median assessed value = \$69,000  
Tax reduction = \$948.75

**Commented [KP4]: INCENTIVE IMPACT ON BUDGET**

~ number of historic structures = 144  
Maximum credit = \$474.38

If every historic structure participated:  
Lost tax revenue = \$68,310

If 50% participated: \$34,155

If 25% participate: \$17,078

**Commented [RW5R4]:** If 20% exemption  
Est. lost tax revenue = \$136,620  
If 50% participation = \$68,310  
If 25% participation = \$34,155

The property owner may terminate the contract by notifying the Town and agreeing to repay all property tax exemptions already granted under the contract. The Town may terminate the contact by notifying the property owner. Where a property under contract is sold to a new owner, the contract shall be dissolved without penalty; the Tax Assessor's Office shall contact the new owner to determine whether they want to begin a new 10-year contract.

The following historic resources shall be ineligible for this incentive:

1. Stone walls protected by the town's stone wall ordinance (Title IX, Chapter 97) or that have shared ownership between neighboring properties.
2. Historic cemeteries, which are offered significant protection under State regulation.
3. Historic Resources already protected by deed restrictions, easements, or other preservation methods.

**X.4.A2 Historic Resource Rehabilitation Property Tax and Fee Reduction.** A

property owner planning to perform historically appropriate maintenance or rehabilitation on a Primary or Secondary Historic Resource included on the Historic Resources List is eligible to apply to the Board to receive this incentive. Owners of Primary Historic Resources are eligible for a one-time property tax reduction equal in value to ~~40~~ **20** percent of the cost of the maintenance or rehabilitation project. Owners of Secondary Historic Resources are eligible for a one-time property tax reduction equal in value to ~~5~~ **10** percent of the cost of the maintenance or rehabilitation project. In a single year, No reduction shall exceed 100 percent of the total property tax owed for the property associated with the historic resource or 100 percent of the total property tax owed for the median real property in Middletown, whichever is less. If the incentive exceeds this amount, the remainder of the tax reduction shall be applied in the subsequent tax year. Fifty (50) percent of construction permit fees directly related to the preservation or rehabilitation of a historic resource shall be refunded upon verification of compliance with the agreed upon plans. Regarding historic or architecturally significant structures, only exterior maintenance or rehabilitation projects are eligible for the incentive.

Property owners must apply for and receive a Certificate of Appropriateness from the Board prior to beginning the maintenance or rehabilitation project. Applications for Certificates of Appropriateness shall be filed with the Department of Planning and Economic Development. The director, or their designee, shall determine if said application is complete and shall forward complete applications, together with all supporting materials to the Board, which will vote to approve or reject the application at a meeting. Applicants shall be notified of an incomplete application within ten working days of receipt by the Department of Planning and Economic Development. A Certificate of Appropriateness shall be valid for four years from the date of approval.

Applicants shall submit information necessary to evaluate the proposed maintenance or rehabilitation project. The Board shall identify the information it requires in its rules, procedures, and standards and guidelines. The Board shall issue a Certificate of Appropriateness if it determines, after a public hearing on an application, that the planned maintenance or rehabilitation project conforms with the Middletown Standards and Guidelines for the Maintenance and Rehabilitation of Historic and Architecturally Significant Structures or the Middletown Standards and Guidelines for the Maintenance

**Commented [KP6]:** Warren, RI: four (4) percent of the cost of the maintenance or rehabilitation project, not to exceed twenty (20) percent of the total annual amount of the real estate tax for the property for varying amounts of years depending on the size of the investment  
<40000 =20% of the overall cost paid over 5 years (8000 on a \$40000 project)  
<60000 = 28% of the overall cost paid over 7 years (16,800 on a \$60000 project)  
>60000 = 36% of the overall cost paid over 9 years (28,800 on a \$80,000 project).

Note: a \$350,000 home at a \$15.42/\$1000 tax rate will pay \$5397 in a given year, which is probably why warren does 4% over multiple years instead of 20%, 28%, or 36% over 1 year.

**Commented [KP7]:** The taxes on a \$345,000 home are \$4743.75

10% of a \$40,000 project is \$4,000 so the property owner would receive the full \$4,000 tax reduction.

10% of a \$60,000 project is \$6,000 so the property owner would receive a \$4743.75 tax reduction.

**Commented [RW8R7]:** The taxes on a \$345,000 home are \$4743.75

If the incentive is raised to 20%:  
20% of a \$20,000 project is \$4,000 so the property owner would receive the full \$4,000 tax reduction.

20% of a \$40,000 project is \$8,000 so the property owner would receive a \$4743.75 tax reduction in the first year, and the remainder \$3,256.25 in the following tax year.

**Commented [KP9]:** BUDGET IMPACT

Assuming 14 projects annually, half at \$15,000, half at \$50,000.

$$\$1500 * 7 + \$4744 * 7 = \$43,708$$

Note: data obtained from Warren Planning Dept.: 12-15 projects per year, half between 10-20K, half higher. STILL WAITING ON NUMBER OF ELIGIBLE STRUCTURES. Then ca

**Commented [RW10R9]:** Assuming 14 projects annually, half at \$20,000, half at \$40,000.

$$(\$4,000 * 7) + (\$8,000 * 7) = \$84,000$$
 applied over two tax years for the 7 larger projects.  
Year-one impact \$61,208, year-two \$22,792.  
In second and subsequent years of the program, assuming 14 new applications at the same cost, total tax impact equals \$84,000 per year.

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and Rehabilitation of Historically Significant Designed Landscapes, Sites, Landmarks, or Archeological Sites as appropriate. If a certificate is not awarded, the owner may appeal the Board's decision to the Board of Appeal.

Applicants shall submit photographs of the existing conditions of the historic resource during the application phase and photographs of the new conditions after the project is completed. The Board shall compare the photographs to determine whether the project was completed as agreed upon. The applicant shall also submit itemized receipts to the Board that indicate the project's total cost after the project is completed. If the Board determines the project was not completed as agreed upon, the Board shall not grant the tax and fee reduction. If the Board determines the project was completed as agreed upon, the Board shall issue a Certificate of Completeness to the applicant, notify the Tax Assessor's Office that the property owner shall receive the tax reduction, and notify the Building Official's Office that the property owner shall be refunded for 50 percent of the construction permit fees directly associated with the historic preservation or rehabilitation project.

Property owners of an historic or architecturally significant structure that was damaged or destroyed by fire, storm, or other disaster may rebuild, in-kind, and then apply for the Historic Resource Rehabilitation Property Tax and Fees Reduction retroactively. To be eligible, reconstruction must begin within one year and be continued to completion without substantial interruption. Sufficient evidence, such as detailed as-built drawings or reasonable photo documentation of the exterior of the structure prior to the disaster, must be presented to the Board to prove the reconstruction was in-kind.

The purpose of the Historic Resource Rehabilitation Property Tax and Fee Reduction incentive is primarily to preserve the craftsmanship and structural integrity of the town's historic resources. Therefore, cosmetic projects are not guaranteed to receive incentives. Examples of projects that are ineligible for incentives include:

1. The addition of window flower boxes to an historic structure.
2. The replacement or addition of exterior lighting or flagpoles to an historic structure.
3. The replacement or addition of fencing or gates on the property of an historic structure.

Examples of cosmetic-type projects that might be considered for incentives include:

1. The painting of the exterior of the house in a historically appropriate color.
2. The purchase and installation of storm windows to preserve the structure's historic windows.

~~**X.4.A3 Density Bonus.** Where a developer agrees to preserve and rehabilitate a structure on the Historic Resources List in accordance with the Middletown Standards and Guidelines for the Maintenance and Rehabilitation of Historic and Architecturally Significant Structures as part of a Major Conservation Land Development Project (i.e. a conservation development with six or more dwellings) the Planning Board may allow the applicant to exceed the basic maximum number of permitted dwelling units in the development by one. During the development review process, the Historic Resources Board shall communicate the minimum rehabilitation improvements required to receive~~

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~~this incentive. Prior to construction of the bonus housing unit, the developer shall submit photographs to the Historic Resources Board that document adherence to the rehabilitation improvements required. Besides permitting an additional dwelling unit beyond what would be allowed by the Zoning Ordinance, this section does not grant the developer relief from the Town's land development regulations (e.g. the Zoning Ordinance, Subdivision Regulations, and Stormwater Management Ordinance). Any dwelling preserved because of this provision shall be subject to deed restrictions prohibiting the removal of the dwelling and prohibiting alterations to the dwelling not approved by the Historic Resources Board unless said removal or alteration is approved by the Planning Board.~~

X.4.B. Amendments. The Town Council may amend this ordinance, but changes shall not affect property tax reductions conferred prior to the amendment.

X.4.C. Enforcement. The Historic Resources Board shall review property owner's actions for compliance with the terms associated with the incentives in this ordinance. Where a property owner receiving a tax incentive does not comply with the terms, the Historic Resources Board shall work with the Tax Assessor's Office to withhold tax exemptions or recoup tax revenue already lost. Where a developer receives a density bonus but fails to rehabilitate a historic or architecturally significant structure as agreed upon, the Board shall work with the building official to force compliance.

The Building Official's Office shall assist with enforcement by flagging permit applications for properties that are receiving the Annual Historic Resource Preservation Property Tax Exemption or for deed restricted structures resulting from the granting of a density bonus. In these circumstances, the Building Official's Office shall inform the applicant that they must obtain a Certificate of Appropriateness from the Historic Resources Board prior to beginning work. This shall not apply to interior renovations of structures.

X.4.D. Multiple Tax Exemptions. The reduction of a property's gross assessed value pursuant to the incentives in this section shall not diminish, impair, or nullify any other property tax reduction, abatement or credit to which the owner of an historic structure is otherwise eligible. Any other property tax reduction, abatement or credit shall be applied to the gross assessed value of the property prior to the application of the reduction pursuant to this section.

An owner of Primary or Secondary Historic Resources may receive both the Annual Historic Resource Preservation Property Tax Exemption and the Historic Resource Rehabilitation Property Tax and Fee Reduction. No reduction shall exceed 100 percent of the total annual amount of the property tax owed.

X.4.E. Transfer of Ownership of Historic Resources. Upon the transfer of ownership of a Primary or Secondary Historic Resource included on the Historic Resources List, the seller shall inform the buyer of the property's eligibility for the incentives in this Article. The seller shall also inform the buyer if a structure has deed restrictions resulting from the density bonus incentive.

The Town shall also inform the buyer of the property's eligibility for the incentives in this Article and whether a structure has deed restrictions resulting from the density bonus incentive.

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## **X.5 Standards and Guidelines**

### **X.5.A.Middletown Standards and Guidelines for the Maintenance or Rehabilitation of Historic and Architecturally Significant Structures**

The U.S. Department of the Interior's Standards for the [Treatment of Historic Properties](#), with [Guidelines for Preserving, Rehabilitating, Restoring, and Reconstructing Historic Buildings](#) shall serve as the Middletown Standards and Guidelines for the Maintenance or Rehabilitation of Historic and Architecturally Significant Structures. From time to time, the Board may choose to amend the document to better suit Middletown's local context.

### **X.5.B.Middletown Standards and Guidelines for the Maintenance and Rehabilitation of Historically Significant Designed Landscapes, Sites, Landmarks, and Archeological Sites**

The Board shall research and adopt standards and guidelines for the maintenance and rehabilitation of these historic resources. The board shall collaborate with the Middletown Historical Society, which may already have standards for some historic resources, including stone walls.

## **X.6 Publicly Owned Historic Resources**

Publicly-owned historic resources identified on the Historic Resources List should be preserved by the Town in an historically appropriate manner, to the greatest practical extent. Should a publicly-owned historic resource on said list be sold to a private owner after this ordinance is adopted, the Town shall ensure the exterior of the historic or architecturally significant structure or the historic aspects of other types of historic resources will be preserved by the new owner in perpetuity. Such property, once transferred to a private owner and preserved in perpetuity, is not eligible for the incentives under x.4.A1 and x.4.A3, but is eligible for the incentive under x.4.A2.

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**Appendix A. Properties on the Middletown Historic Resources List.**

Map – historic resources will be designated with numbers that correspond to a row on the table with more information about the resource. Two maps will be included, one for primary resources and one for secondary.

Map no.	Resource Type	Address	Year Built	Style/Description

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## **Zoning Ordinance, Article 19—Conservation Development**

### **Section 1904 (C) Density Bonus for Historic Preservation**

Where a developer agrees to preserve and rehabilitate a structure on the Historic Resources List in accordance with the Middletown Standards and Guidelines for the Maintenance and Rehabilitation of Historic and Architecturally Significant Structures as part of a Major Conservation Subdivision/Land Development Project the Planning Board may allow the applicant to exceed the basic maximum number of permitted dwelling units in the development by one. Prior to Preliminary Plan approval, the Historic Resources Board shall make as a condition of approval the minimum rehabilitation improvements required to receive this incentive. Upon completion of an approved project the developer shall submit photographs to the Historic Resources Board that document adherence to the rehabilitation improvements required. Besides permitting an additional dwelling unit beyond what would be allowed by the Zoning Ordinance, this section does not grant the developer relief from the Town's land development regulations. Any dwelling preserved because of this provision shall be subject to deed restrictions prohibiting the removal of the dwelling and prohibiting alterations to the dwelling not approved by the Historic Resources Board unless said removal or alteration is approved by the Planning Board.

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## Rules and Regulations Regarding the Subdivision and Development of Land

### Article 3

#### Section 304 – Basic Maximum Number of Dwelling Units

A. Yield Formula - The basic number of lots or units to be allowed in a proposed CSD project is defined as the maximum number of lots or units which could reasonably be expected to be developed upon the parcel based on the requirements of the zoning district and other requirements of the Zoning Ordinance. The following formula shall be used in determining the basic number of lots/units:

$$\text{Lots/units} = (\text{Developable Land Area} * 0.8) \div \text{Minimum lot or land area required by the Zoning Ordinance for the proposed development. Results of the formula calculation shall be rounded to the nearest whole number using standard mathematical principles. (e.g. 5.50, round up to 6; 5.44, round down to 5.)}$$

B. Yield Plan - If the applicant believes that the yield formula does not accurately reflect the actual development potential of the subject property, a Yield Plan may be submitted for consideration by the Planning Board in accordance with the requirements of this section. The proponent shall have the burden of proof with regard to the reasonableness and feasibility of the design and the engineering specifications for the Yield Plan; provided, however, that the Planning Board's determination of the basic maximum number of lots or units shall be conclusive.

1. Yield Plans shall be prepared as conceptual layout plans in accordance with the Pre-application Checklist (Appendix A, § 2). Yield plans shall show proposed streets, lots, rights-of-way, land unsuitable for development and other pertinent features. The Yield Plan must be drawn to scale, and must be a realistic layout reflecting a development pattern that could reasonably be expected to be implemented, taking into account the presence of land unsuitable for development (as defined in the Zoning Ordinance), existing easements or encumbrances and the suitability of soils for subsurface sewage disposal where required.

2. The Yield Plan shall also reflect the dimensional standards for uses being proposed, as contained in the Table of Dimensional Regulations in the Zoning Ordinance, or other applicable dimensional requirement of the Zoning Ordinance and these Regulations. The Yield Plan must identify how conventional lots or uses could be developed having the required area, frontage and other dimensional requirements of the Zoning Ordinance. Although lots shown in the Yield Plan may contain land unsuitable for development, only developable land area as defined in the Middletown Zoning Ordinance shall be counted towards the minimum lot area.

3. In determining the maximum number of lots allowed under the Yield Plan the Planning Board shall require the applicant to present evidence, certified by a registered professional engineer, that all lots shown on the Yield Plan are suitable for development under applicable local and state regulations. This certification shall be provided at the master plan stage in the case of a Major Subdivision, and at the Preliminary Plan stage in the case of a Minor Subdivision.

4. On sites not served by public sewer, soil suitability for individual septic systems for lots on the Yield Plan shall be demonstrated. The Planning Board, with the assistance of the Town Engineer, may select a sample of the lots for which the applicant will be required to present specific evidence of septic system suitability. The lots included in the sample will generally be those that are considered to be marginal. If all lots in the selected sample are determined to be suitable then all lots on the Yield Plan shall be deemed suitable for septic system development. If any lots in the selected sample fail, those failed lots shall be excluded from the Yield Plan and the Planning Board shall select an additional number of lots to be tested. This process shall continue until all lots in a selected sample are deemed suitable. The number of lots remaining on the yield plan following the final round of testing shall be the basis for determine the number of lots/units allowed in the CSD project.

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5. Upon completion of their review, the Planning Board shall determine the initial Basic Maximum Number of lots/dwelling units permitted in a development. This initial determination shall be made at the master plan stage of review for major subdivisions and major land development projects, and at the preliminary stage of review for minor subdivisions and minor land development projects. The applicant shall use this initial determination as the basis for submission of more detailed information during subsequent stages of review. Upon further investigation and upon receipt of more detailed soils and environmental information as may be provided in subsequent stages of review, the Planning Board may increase or reduce the number of lots/dwelling units contained in the initial Basic Maximum Number. For all developments, the final Basic Maximum Number shall be established by the Planning Board at the final stage of review.

6. In developments that require alterations to be made to freshwater wetlands, the Board may establish an initial Basic Maximum Number contingent upon confirmation by the RI Department of Environmental Management that such alterations are permitted under the provisions of the Freshwater Wetlands Act.

~~7. In developments where a developer agrees to preserve and rehabilitate a structure on the Historic Resources List in accordance with the Middletown Standards and Guidelines for the Maintenance and Rehabilitation of Historic and Architecturally Significant Structures as part of a Major Conservation Subdivision/Land Development Project the Planning Board may allow the applicant to exceed the basic maximum number of permitted dwelling units in the development by one. Preservation must comply with the X.4 Historic Resource Preservation Incentives.~~

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## **Chapter 32.95 Historic Resources Preservation Board**

The Historic Resources Preservation Board (Board) is hereby established

The Historic Resources Preservation Board (Board) is hereby established consisting of five members and two alternates who are to be residents of Middletown and appointed by the Town Council. The initial appointees shall be appointed for the following terms: Two members shall be appointed for four-year terms, two members shall be appointed for two-year terms, and one member shall be appointed for a three-year term. Thereafter, as terms expire, appointments, other than interim appointments, shall be for terms of four years. The two alternates shall be appointed to three-year terms. Upon the expiration of their terms, members shall be eligible for reappointment and shall continue to hold their respective offices until replacements are appointed. In the event of a vacancy on the Board, the Town Council shall promptly make an interim appointment for the remainder of the unexpired term.

The Board shall include at least one member of the Middletown Historical Society if a member of that group is willing to serve. All members of the Board should have expertise or, at least, a strong interest in the preservation of historic and architecturally significant resources.

Members of the Board shall serve without compensation.

### **32.96 Organization.**

The Board shall organize annually and, by election, shall select from its membership a chairperson, vice-chairperson chairman and secretary. The chairperson chairman shall preside over all Board meetings and shall have the right to vote. The vice-chairperson shall, in the case of absence or disability of the chairperson, perform the duties of the chairperson. The secretary shall be responsible for recording the minutes of the Board's meetings.

Meetings. The Board shall meet monthly, or as necessary, to consider applications and petitions. The Board shall adopt rules for the transaction of business and shall keep permanent and complete records of its proceedings, meetings, hearings and recommendations. Four members of the board shall constitute a quorum at any regular or special meeting and no action shall be taken unless by the concurring vote of a majority of the members present and voting.

Decisions and Appeals. A quorum of the Board for the transaction of business shall consist of a majority of appointed board members.

To approve an application for Historic Resource Preservation Incentives, award a Certificate of Appropriateness, decide on a petition to be added to the Historic Resources List, or establish or amend Board rules, procedures, and standards and guidelines, a majority of appointed board members must vote in favor of the motion. Complete applications for Historic Resource Preservation Incentives and Certificates of Appropriateness and petitions to be added to the Historic Resources List must be received at least two weeks before a Board meeting to be considered at that meeting to allow time for review. Decisions shall be rendered based on the rules, procedures, and standards and guidelines adopted by the Board. The applicant shall receive a written version of the Board's decision with an explanation of the decision within two weeks of the meeting at which the decision was reached.

If an application or petition is rejected by the Board, the decision may be appealed to the Historic Resources Preservation Board of Appeal. The Town Council shall serve as the Board of

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Appeal. Members of the Board of Appeal shall not be members of the Historic Resources Preservation Board.

Staff. The Historic Resources Board shall be staffed by the Department of Planning and Economic Development.

Delegation of Responsibilities to Staff. The Board may delegate to the Director of Planning and Economic Development, or their designee, authority to issue a Certificate of Appropriateness for in-kind replacements and approve minor modifications to plans previously approved by the Board. However, the staff member shall not deny a Certificate of Appropriateness or minor modification but shall refer such action to the Board for consideration and decision.

### **32.97 Responsibilities of the Board**

Initial Responsibilities. The Board shall:

1. Review the definitions of "historic structure," "architecturally significant structure," "designed landscape," "historic sites," "historic landmarks," and "archeological site" and recommend amendments to the definitions to the Town Council if necessary.
2. Consider whether the definitions of Primary Historic Resource and Secondary Historic Resource appropriately categorize the town's historic resources and recommend amendments to the definitions to the Town Council if necessary.
3. Based on the definitions in this ordinance, create an inventory of the town's Primary Historic Resources. Review the Rhode Island Historical Preservation Commission's 1979 report, Historic and Architectural Resources of Middletown, Rhode Island: a preliminary report, and the Middletown Historical Society's 1990 publication, Houses History Heritage, during this process.
4. Based on the definitions in this ordinance, create an inventory of the town's Secondary Historic Resources. Review the Rhode Island Historical Preservation & Heritage Commission's 2001 report, Historic Landscapes of Rhode Island, during this process.
5. Develop, adopt, and publish all rules, procedures, and forms necessary to carry out the provisions of this chapter, including the application processes and forms for Historic Resource Preservation Incentives and Certificates of Appropriateness and petition process and forms for petitions to be added to the Historic Resources List.
6. Adopt and publish standards for the historically appropriate maintenance or rehabilitation of historically significant designed landscapes, sites, landmarks, and archeological sites to inform owners of properties included on the Historic Resources List of those criteria by which the Board shall determine whether to issue a Certificate of Appropriateness if the property owner chooses to apply for an incentive. The Board may, from time to time, amend these standards as reasonably necessary, and it shall publish all such amendments.

Ongoing Responsibilities. The Board shall:

1. Maintain the town's inventories of Primary and Secondary Historic Resources over time.
2. Implement the Historic Resource Preservation Incentives program, including reviewing and deciding on applications.

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3. Ensure property owners who are awarded Historic Resource Preservation Incentives follow the terms of agreement associated with the incentives.
4. Upon request, provide technical assistance to property owners undertaking maintenance or rehabilitation projects on historic resources.
5. Provide expertise and advice at the request of Town boards, commissions, staff or council members.
6. During Development Plan Reviews that impact historic resources, review the application and provide an advisory opinion to the Planning Board.
7. Develop and implement non-incentive-based programs to help ensure the preservation of the town's historic resources. Collaborate with the Middletown Historical Society where appropriate.

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