

WHEREAS, the Common Council wishes to allow limited residential usage of the first floor of a commercial, mixed-use building in the DMU Downtown Mixed Use zoning district.

Resolved, and be it Ordained, by the Common Council of the City of Middletown, New York, as follows:

Section 1 - The Code of the City of Middletown, N.Y., Chapter 475, Zoning, be and is hereby amended by replacing Paragraph (2) of Subsection C of Section 475-21.1, DMU Downtown Mixed Use District, to read as follows:

(2) The first floor (street level) of any building located in the DMU zone must be a commercial use as allowed in this § 475-21.1 (as the same may be amended from time to time). Residential uses of the first floor of any building or structure located in the DMU district are prohibited, unless waived by the Planning Board in its sole discretion, subject to the following conditions and restrictions:

(a) A waiver can only be granted if the size of the footprint of the building is 35,000 square feet or more; this minimum size requirement cannot be achieved by adding more physical space to a building; and

(b) A waiver can only be granted if all one-bedroom dwelling units in the building each consist of at least 750 square feet; and

(c) A waiver can only be granted if all two-bedroom dwelling units in the building each consist of at least 850 square feet; and

(d) The Planning Board can only grant a partial first floor waiver; the waiver cannot create an entirely residential first floor; and

(e) Subparagraphs (a) and (d), above, shall not apply to waiver requests for the conversion of an existing building which does not have street frontage because there is a structure between the subject building and the street, provided, however, that such a waiver must comply with the conditions set forth in Subparagraphs (b) and (c), above.

Section 2 - This ordinance shall take effect immediately.